

# **BOROUGH OF MONTROSE**

SUSQUEHANNA COUNTY, PENNSYLVANIA

## **ZONING ORDINANCE**

ADOPTED

DECEMBER 17, 2012

## GUIDE TO USING THIS ZONING ORDINANCE

- ☛ **Contact the Zoning Officer** to ensure you have the latest version of the Zoning Ordinance and Zoning Map and to help you find what you are looking for.
- ☛ The **Table of Contents** should help you find the sections applicable to your situation.
- ☛ The **Zoning Map** shows all of the **Zoning Districts** in the 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.
- ☛ 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 Agency, action by Borough Council. (See §112-1008)
  - **Special Exceptions** - review by Planning Agency, action by Zoning Hearing Board. (See §112-1008)
- ☛ The requirements for **Permit Applications** are found in §112-1002.
- ☛ 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 VIII governs **Residential Uses** -- two-family dwellings, multi-family dwellings group homes, etc.
  - §112-514 includes performance standards for **Commercial and Manufacturing Uses** and **Environmental Standards**.
  - Article VII includes standards for **Specific Uses** ranging from the keeping of animals to wind energy.
- ☛ **Signs** are governed by Article VI and a business sign will require a permit.
- ☛ Applications for **Variances** are heard by the Zoning Hearing Board. The application must document *unnecessary hardship* and meet all of the applicable criteria in §112-1007.
- ☛ 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. The section also governs the reuse of abandoned and damaged nonconforming structures and uses. Nonconforming lots, lots which do not meet the minimum size and dimension requirements, can also be used if they meet setback, water supply, sewage disposal and other applicable requirements. (See §112-912.)
- ☛ If a project involves the creation of a new lot or lots, the change of lot lines, the erection of one or more new principal nonresidential buildings, or two or more dwellings on one lot, the **Subdivision and Land Development Ordinance** will also apply.
- ☛ **Fees** are set by Resolution of the Board of Supervisors per §1203 and are shown on the **Fee Schedule** available from the Zoning Officer.

# ZONING PERMIT APPLICATION REVIEW PROCESS

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

## PRINCIPAL PERMITTED

and

## ACCESSORY USES

↓

Zoning Officer issues or denies permit based on ordinance standards

↓

Appeal to Zoning Hearing Board

## CONDITIONAL USES

↓

Planning Commission shall be given the opportunity to review the application

↓

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

↓

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

↓

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

↓

Appeal to Court of Common Pleas

## SPECIAL EXCEPTIONS

↓

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

↓

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

↓

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

↓

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

↓

Appeal to Court of Common Pleas

## VARIANCES

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Zoning Hearing Board may request Planning Commission to review the application

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Zoning Hearing Board reviews application for compliance with variance requirements

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

↓

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

↓

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

↓

Appeal to Court of Common Pleas

## CONSULT MUNICIPALITIES PLANNING CODE

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

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

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BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Montrose, Susquehanna 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," that the Borough of Montrose Zoning Ordinance of February 6, 1978, as amended, is hereby amended and restated in its entirety as hereinafter set forth.

In addition, the provisions of the former Zoning Ordinance, adopted, February 6, 1978, and all amendments thereto, are hereby specifically repealed in their entirety; provided, however, that such repeal shall in no way serve to validate as a nonconforming building or use, as defined in this ordinance. any building or use of property which was unlawful under the provisions of any former zoning ordinance in effect for the Borough of Montrose; and provided further that should this chapter or any portion thereof be declared invalid for any reason, such declaration shall serve to make this repealer of no effect with regard to the provisions of said former zoning ordinance, corresponding to the provisions declared invalid, so that said provisions of the former zoning ordinance shall be deemed in full force and effect.

## ARTICLE I GENERAL PROVISIONS

### §112-101. Title and short title.

- A. 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.
- B. Short Title. This ordinance shall be known and may be cited as the *BOROUGH OF MONTROSE ZONING ORDINANCE*.

### §112-102. Purpose and community development objectives.

- A. Purpose. This Ordinance is adopted in accord with an overall land use control program and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures. This Ordinance is enacted for the following purposes:
- (1) 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.

- (2) 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.
- (3) To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- (4) To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of 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.
- (5) To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

B. Community development objectives. Pursuant to the Pennsylvania Municipalities Planning Code, as amended, the following community development objectives have been established:

- (1) To stimulate economic growth within the community.
- (2) To conserve and promote the public health, safety and general welfare of the present and future inhabitants of the Borough of Montrose.
- (3) To provide for a variety of dwelling types and to provide housing opportunities for a side cross section of the population.
- (4) To sustain a high quality of neighborhoods and to protect individual property values.
- (5) To foster, provide and maintain a sound tax structure.
- (6) To preserve the natural, scenic, historic and aesthetic character of Montrose, while safeguarding it against adverse environmental impacts and controlling and regulating its orderly growth, development and maintenance.

**§112-103. Applicability.**

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

- (1) 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.
  - (2) No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
  - (3) No lot shall be formed from part of a lot already occupied by a building unless such building, all required setbacks and open spaces connected therewith, and the remaining lot conforms with all requirements prescribed by this Ordinance for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this Ordinance.
  - (4) No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- E. Repairs and maintenance. Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provided such activity does not involve 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or 4) any other activity regulated by this Ordinance.
- F. Municipal authorities and water companies. A municipal authority, water company or any other municipality that plans to expand water, sanitary sewer or storm sewer service via a new main extension to a proposed development that has not received any municipal approvals within the Borough shall:
- (1) Notify the Borough by certified mail, return receipt requested, of its intention and shall provide the Borough an opportunity to provide written comment on whether the proposed expansion of service within the Borough is generally consistent with this Zoning Ordinance.
  - (2) Comply with the other applicable requirements of §608.1 of the MPC.
- G. Public utility commission.
- (1) This Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.
  - (2) It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both

the corporation and the Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

**§112-104. Interpretation; specificity; conflict.**

- A. Interpretation. In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and the general welfare of the Borough and its citizens. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances of the Borough 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.
- B. Specificity. Whenever any regulations pertaining to a specific use or activity under authority of this Ordinance require a greater width or size of yards, courts or other open space, or require a lower height of buildings and/or structures or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required for the zoning district or generally required under this Ordinance, the greater or higher standards shall govern.
- C. Conflict.
- (1) Public provisions. These regulations are not intended to interfere with or abrogate or annul any other Ordinance, rules or regulations previously adopted or previously issued by the Borough which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such Ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this Ordinance shall control.
- (2) Private provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of this Ordinance and such private provisions are not with the requirements of this Ordinance, then such private provisions shall be operative and supplemental to these requirements.

**§112-105. Severability.**

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

**§112-106. Effective Date.**

This Zoning Ordinance shall take effect immediately upon its adoption.

## ARTICLE II DEFINITIONS

### §112-201. 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 II, 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.

### §112-202. 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.

### §112-203. Definitions.

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

Abandoned or Junked Vehicle: Any unregistered, unlicensed or abandoned automobile, truck, trailer, motorcycle, bus, farm machinery, or other motor vehicle which are partially dismantled, or wrecked or junked, or held or stored for scrap or for salvage. *Junk vehicle* shall not mean any motor vehicle classified as an antique motor vehicle by the Motor Vehicle Code of the State of Pennsylvania (75 Pa.C.S.A. § 101 et seq.); said classification consisting of any self-propelled vehicle, but not a reproduction thereof, owned and operated as an exhibition piece or collector's item, provided that such vehicle shall have noted on its registration record the fact that it is such a special-purpose vehicle, or any self-propelled vehicle manufactured more than 25 years prior to the current year, which is used for participation in club activities, exhibits, tours, parades, occasional transportation and similar uses, but is not used for general daily transportation.

Abused Person Shelter: See *domestic violence shelter*.

Accessory Use or Structure: A use of land or of a structure, or portion thereof, customarily incidental and subordinate in extent or purpose 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.

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

and *repair*.

**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 regulation by this Ordinance.

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

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

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

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

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

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

- (6) Adult theater
- (7) Escort agency
- (8) Massage parlor
- (9) Nude model studio
- (10) Sexual encounter center

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 entertainment use or facility* shall be considered an *adult business* for regulation by 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*.
- B. Offers sleeping rooms for rent three or more times in one calendar day.

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

After Hours Club: A use that permits the consumption of alcoholic beverages by five (5) or more unrelated persons between the hours of 2 a.m. and 6 a.m. and that involves some form of monetary compensation paid by such persons for the alcohol or for the use of the premises.

Agent: Any person other than the owner who, acting for the owner, submits an application for the purpose

of obtaining approval in accordance with this Ordinance.

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.

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

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

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

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

Amusement Arcade: A building or part of a building in which pinball machines, video games, or other similar player-operated amusement devices are maintained excluding the use of less than five (5) such devices accessory use to any lawful principal use.

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

Animal Husbandry: The raising or keeping of livestock for home use or any commercial purpose.

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

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

Apartment: See *dwelling*.

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

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

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

association.

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

Assisted Living Facility: Residences that provide rooms, meals, personal care, and supervision of prescribed medication and which may provide other services such as recreational activities, financial services, and transportation, and which is licensed as an assisted living facility by the Commonwealth of Pennsylvania.

Auction House: A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

Automobile Rental Operation: An establishment which rents automobiles, but no other types of vehicles or equipment.

Awning or Canopy: An overhanging projection or covering, usually supported on poles, and made of canvas, fabric, plastic or other materials.

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

Basement: An enclosed floor area partly or wholly below the finished grade with at least one-half (0.5) of its floor-to-finished height above the average level of the adjoining finished grade, and with a floor-to-ceiling height of not less than six and one-half (6.5) feet . A basement shall be counted as a story for the purpose of the building height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if it used for business or dwelling occupancy or storage purposes and not solely for heating, mechanical and similar equipment. See *cellar*.

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

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

Bituminous Concrete Batch Plant: An operation which combines asphalt or bituminous materials and aggregates and heat to manufacture a bituminous seal coat or bituminous concrete product. Considered *mineral processing* for the purposes of this Zoning Ordinance.

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

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 and no cooking facilities are provided in any rental room.

Borough: The Borough of Montrose, Susquehanna County, Pennsylvania.

Borough Council: The Borough Council of the Borough of Montrose, Susquehanna County,



Pennsylvania.

**Borough Facilities and Uses:** Any building, structure, service or use under the jurisdiction of the Borough of Montrose, Susquehanna County, Pennsylvania.

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

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

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

**Buffer, Water Quality:** The area of land immediately adjacent to any wetland, lake, pond, vernal pond, or stream, measured perpendicular to and horizontally from the delineated edge of the wetland, lake, pond, or vernal pond, or the top-of-bank on both sides of a stream to provide separation from an intensive land use area (e.g., subdivision, farm) and minimize sediment and other pollutant loading; also referred to as filter strips, vegetated filter strips, and grassed buffers.

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Footprint:** The horizontal ground area enclosed by the walls of a building together with the area of all covered porches and other roofed portions.

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

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

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

**Building Envelope:** An area on a lot or development parcel 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 shall be specifically designated on the development plan and established by deed covenants and restrictions.

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

**Building Permit or Construction Permit:** See *permit*.

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

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

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

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

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

**Business/Commercial Use:** An enterprise, exchange of money, contract, occupation, trade or profession undertaken, either continuously or temporarily, for profit. The term "business" shall include the occupancy or use of a building or premises or any portion thereof for the transaction of a business or the rendering or receiving of professional or personal service.

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

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

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

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

**Camping, Temporary Event:** The limited use of a parcel to rent campsites to patrons of a particular event such as a carnival, circus, concert, parade, race, rallies or sporting or special event. Campsites are offered for a single weekend, or three nights only and not more than twice a year.

**Canopy or Awning:** An overhanging projection or covering, usually supported on poles, and made of canvas, fabric, plastic or other materials.

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

**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.

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

Cellar: An enclosed floor area partly or wholly below the finished grade with at least one-half (0.5) of its floor-to-finished height below the average level of the adjoining finished grade, or with a floor-to-ceiling height of less than six and one-half (6.5) feet . See *basement*.

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

Certificate of Use/Occupancy: A document issued by the Borough stating that a newly constructed or altered building, structure, and/or use complies with this Ordinance and the Uniform Construction Code and may be lawfully used.

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

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

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

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

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

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

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

- A. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
- B. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.

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

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

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

Communications Support Structure Height : The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

Comprehensive Plan: The Borough of Montrose Comprehensive Plan.

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

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

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

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

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

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

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

Conversion: See *change of use*.

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

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

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

County: The County of Susquehanna, Commonwealth of Pennsylvania.

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

Coverage, Lot: See *lot coverage*.

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

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

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

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

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

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

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

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

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

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

DEP: The Pennsylvania Department of Environmental Protection.

Detached Building: See *building, detached*.

Detached Structure: See *structure, detached*.

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

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

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

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

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

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

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

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

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

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

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

Dump: See *solid waste landfill*.

Dwelling or Dwelling Unit: One (1) or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a one (1) family or for the exclusive use of one (1) functional family. Any part of a dwelling structure which is not connected with full unrestricted access to all other parts of the dwelling structure is considered a separate dwelling unit.

- A. Dwelling, Single-Family: A detached building designed for or occupied exclusively by one (1) family or one (1) functional family.
- B. Dwelling, Two-Family: A detached or semi-detached building where not more than two (2) dwelling units are entirely separated by vertical walls or horizontal floors, un-pierced except for access to the outside or to a common cellar, and each dwelling unit is occupied by one (1) family or one (1) functional family living independently of each other.
- C. Dwelling, Mobile Home: See *mobile home*.
- D. Dwelling, Multi-family: A building designed for occupancy by three (3) or more families or functional families living independently of each other and containing three (3) or more dwelling units. Such buildings shall consist of the following types:
  - (1) Limited Apartments: A multi-family dwelling containing three (3) to five (5) dwelling units and not exceeding two and one-half (2 ½) stories in height.
  - (2) Row House: A multi-family dwelling containing three (3) to six (6) dwelling units, and not exceeding two and one-half (2 ½) stories in height having a solid masonry fire wall between each unit and individual separate access from the outside to each unit.
  - (3) Garden Apartment: A multi-family dwelling containing six (6) or more dwelling units and not exceeding three (3) stories in height.
  - (4) Mid-Rise Apartment: A multi-family dwelling originally designed or altered for more than the (10) dwelling units and being not less than four (4) stories in height.

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

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

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

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

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

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

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 regulation by this 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, utility cabinets, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, commercial communication towers, utility company offices, storage of trucks or equipment and bulk storage, and any commercial communications devices and/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: A person living alone or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- A. Any number of people related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship resulting in one of the following relationships: husband, wife, brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law or first cousin;
- B. Two (2) unrelated people;
- C. Two (2) unrelated people and any children related to either of them;
- D. Not more than eight (8) people who are residents of a *group home* meeting the requirements of §112-805.
- E. Not more than eight (8) people who are granted a special exception as a single nonprofit housekeeping unit (a *functional family*) pursuant to §112-806.



The definition of a *family* does not include:

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

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

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

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

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

Flea Market, Outdoor: Any sales activity conducted in the open air or under any pavilion or other building, tent or structure which is not fully enclosed where stalls or sales areas may be set aside and rented or otherwise provided which are intended for use by various unrelated individuals at which articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique are sold, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade.

Flood: A temporary inundation of normally dry land areas.

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

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.

Floodplain Area, Identified: The floodplain area specifically identified on the Borough Flood Insurance Rate Map issued by the Federal Emergency Management Agency as being inundated by the one hundred (100) year flood.

Floodway: The designated area of a floodplain required to carry and discharge flood waters of a given magnitude as shown on the Borough Flood Insurance Rate Map issued by the Federal Emergency Management Agency.

Floor Area, Gross: The sum of the total horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than six (6) feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breeze ways.

Floor Area, Habitable: That portion of the gross floor area within a building having a distance between floor and ceiling of at least seven feet for residential structures and at least seven and one-half (7.5) feet for nonresidential structures, and not including garage or accessory building space.

Floor Area, Net: The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when these are used or intended to be used for human habitation or service to the public.

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

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

Frontage: See *lot frontage*.

Functional Family: Not more than eight (8) unrelated people who are granted a special exception as a single nonprofit housekeeping unit (a *functional family*) pursuant to §112-806.

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

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

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

Garage, Municipal: A structure owned or operated by a municipality and used primarily for the parking, storage and maintenance of municipal vehicles.

Garage, Private Customer and Employee: A structure that is accessory to an institutional, commercial, or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles

operated by the customers, visitors, and employees of such building and that is not available to the general public.

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

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

Garage, Shared Residential: A garage used exclusively for the parking and storage of vehicles owned or operated by residents of nearby dwelling units and their guests, which is not available to the general public.

Garage Sale: See *yard sale*.

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

Gathering Pipeline - A pipeline that transports gas from a current production facility to a transmission line or main. (Reference: Code of Federal Regulations, Title 49, §192.3.)

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

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

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

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

Grade: The average finished ground elevation adjoining a building.

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

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

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

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

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

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 §-112-805, and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental impairment or other handicap\* as defined by applicable Federal law.
- D. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

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

Group Home, Institutional: A use that would otherwise meet the definition of *group home* but which includes more than the permitted number of residents specified in §112-805.

Group Quarters: All buildings used primarily for the housing of persons non-related by blood or marriage including, but not limited to, dormitories, fraternities, sororities, and all other structures occupied by groups of persons sharing a dwelling. Rooming houses, boarding houses, hotels, motels, and resorts, group homes, jails, prisons and detention facilities, medical clinics, health facilities and any use specifically listed in a zoning district in Article IV shall not be considered *group quarters*.

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

Hearing: An administrative proceeding conducted by the Planning Agency, Borough Council, or Zoning hearing Board pursuant the requirements of this Ordinance.

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

Home Occupation: Any activity conducted for gain by a resident in the resident's dwelling unit. (See §112-504 for standards applicable to *home occupations* and §112-505 for *no impact home occupations*.)

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

Homeowners Association: See *property owners association*.

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

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

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

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

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

Improvements: See *development improvements*.

Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new products or materials, including, but not limited to,, the assembly of component parts, the manufacturing or transformation of products for use by other manufacturers, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, mineral processing, and any facility involving processes resulting in the non-incident storage of hazardous materials or the generation of hazardous waste products, or other environmentally hazardous processes.

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

- A. Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances, furniture, plumbing, heating and other fixtures, and pipe and pipe fittings;
- B. Used lumber, boxes, crates and pallets;

- C. Used tires;
- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable;
- E. Mobile/manufactured homes that are not in habitable condition; and,
- F. Abandoned 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 this Ordinance, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

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

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

Kenel: 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:

- A. The improvement of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (1) A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or,
  - (2) The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, condominiums, building groups or other features.

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

Landfill: See *solid waste facility*.

Landowner: The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition) or a lessee if he is authorized under the lease to exercise the rights of the landowner.

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

Livestock Operation: See *animal husbandry*.

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

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

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

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

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

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

Lot, Interior: A lot other than a corner lot, the sides of which do not abut a street.

Lot, Reverse Frontage: A through lot with frontage on two streets with vehicular access restricted to only one of the streets.

Lot, Through: A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

Lot Area: The horizontal land area contained within the property lines of a lot measured in acres or square feet.

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

- A. Grain storage, distribution, processing and milling operations.
- B. Fabrication, processing, assembly, repair, testing, packing and/or storage of products made from previously prepared materials, products, components and parts such as cloth, plastic, food, paper, glass, leather, stones, and electronic components.
- C. Research, engineering or testing laboratories.
- D. Textile and clothing manufacturing.
- E. Furniture or other wood products production.

Light manufacturing does not include:

- A. Basic industrial processing as defined by *industry*.
- B. Processing of raw materials, except for milling and processing of grain.
- C. Slaughterhouses or the production of fish or meat products, or other use as defined by *agricultural products processing*.
- D. Rendering of fats and oils.

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

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

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

Massage Parlor: A person or business association or establishment which furnishes, offers to furnish or advertises to furnish as one of its primary business purposes for a fee, tip or other consideration, a



massage which involves the exposure of any *specified anatomical areas*. A *massage parlor* shall be considered an *adult business* for regulation by this Ordinance.

Mediation: A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

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

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

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

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

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

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

Mineral Processing: The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any

manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products. This shall not include operations typically conducted at a *pipeline compressor station, metering station or operation/maintenance facility*.

Mini-Mart: See *convenience store*.

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

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

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

Motel: A facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, with at least twenty-five (25) percent of the rooms having direct access to the outside. Rooms in the facility shall not be used as a principal residence.

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

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 is also considered a multi-family project. Two-family dwellings in a multi-family project are considered townhouses.

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

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

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

No-impact Home-based Business: See §112-505

Nonconforming Lot: A lot the area or dimension of which was lawful prior to the effective date of this Ordinance, as amended, but which fails to conform to the requirements of the zoning district in which it is located by reasons of the adoption or amendment of this Ordinance.

Nonconforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to

the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use: A use, whether of land or of structure, which does not comply with the applicable use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

Nude Model Studio: Any place, which is not excepted by §112-701.D(10), where a person who appears in a state of nudity or displays *specified anatomical areas* is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A *nude model studio* shall be considered an *adult business* for regulation by this Ordinance.

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

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

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

Nursery, Retail: See *garden center*.

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

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*.

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

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

Official Zoning Map: The Official Zoning Map of the Borough of Montrose, Susquehanna County, Pennsylvania.

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

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

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

PA DOT or PennDOT: The Pennsylvania Department of Transportation.

Parcel: See *lot*.

Park and Ride Facility: A parking lot designed for drivers to leave their cars and share a ride with another driver or use mass transit facilities beginning, terminating, or stopping at or near the park-and-ride facility.

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

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

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

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

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

Patio: An impervious or semi-pervious, uncovered structure with an average elevation no greater than six inches above grade.

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

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

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

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

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

Pipeline Compressor Station, Metering Station or Operation/Maintenance Facilities: A facility at which a petroleum product passing through a pipeline is pressurized by a turbine, motor, or engine, the volume of flow is measured or permanent facilities are installed for pipeline operation/maintenance and which compress, decompress, process, heat, alter or transform the pipeline product. The facility may contain some type of liquid separator consisting of scrubbers and filters that capture any liquids or other undesirable particles from the pipeline. The definition excludes pipeline valves, metering stations, pig launchers/receivers, and other components which are located within the pipeline right-of-way and do not compress, decompress, process, heat, alter or transform the pipeline product.

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

Planning Agency: The Planning Agency of the Borough of Montrose, Susquehanna County, Pennsylvania, appointed in accord with the Pennsylvania Municipalities Planning Code.

Plat or Plat Plan: A map or plan of a subdivision or land development, whether preliminary or final.

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

Potential Impact Radius (PIR) - The radius of a circle within which the potential failure of a pipeline could have significant impact on people or property. PIR is determined by the formula  $r = 0.69 * (\text{square root of } (p * d^2))$ , where 'r' is the radius of a circular area in feet surrounding the point of failure, 'p' is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and 'd' is the nominal diameter of the pipeline in inches. Note: 0.69 is the factor for natural gas. This number will vary for other gases depending upon their heat of combustion. An operator transporting gas other than natural gas must use section 3.2 of ASME/ANSI B31.8S-2001 (Supplement to ASME B31.8) to calculate the impact radius formula as provided by Code of Federal Regulations, Title 49, §192.7 and §192.903. (Reference: Code of Federal Regulations, Title 49, §192.903.)

Power Plant: Any facility, including structures, machinery and associated equipment, which generates electric energy from another source of energy, such as nuclear reactions, hydroelectric dams, or natural gas or coal fired plants, the primary purpose of which is the commercial sale of the energy which is generated. Power plants which produce electric energy, seventy-five (75) percent or more of which is used on the site of production, shall be considered part of the principal permitted use for which the energy is used.

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

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

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

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

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

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

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

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

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

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

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

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

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

Recycling Facility: A center for the collection and/or processing of recyclable materials. Considered *manufacturing, light* for regulation by this Ordinance. A recycling facility does not include municipally operated collection facilities or storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Any facility accepting or processing waste or other

discarded materials which are not recyclables as defined by the Susquehanna County Recycling Center shall be considered a junkyard or solid waste facility as regulated by this Ordinance.

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

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

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

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

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

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

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

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

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

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

Retail Business, Large Scale: A retail business with a gross floor area of 100,000 square feet or more.

Retail Home Heating Fuel Distributors: An establishment that delivers kerosene, home heating oil, and propane to individual dwellings or commercial establishments for use on that premises and not for resale, and where the storage of fuel on the site of the retail home heating fuel distributor does not exceed a combined total of twenty-thousand (20,000) gallons.

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

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

Roof: The outside top covering of a building.

Row House: See *dwelling, townhouse*.

Satellite Dish Antenna or Satellite Antenna : A parabolic in shaped device designed to receive radio wave.

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

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

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

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

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

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

Service Pipeline - A distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter. (Reference: Code of Federal Regulations, Title 49, §192.3.)



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

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

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

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

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

Sewage Disposal System, On-Lot: A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil on the lot.

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

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

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

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

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

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

Slaughter House: An agricultural products processing use involving the killing of animals for the production of food or some other commercial product. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughter house. Considered *agricultural products processing* for regulation by this

ordinance. *Slaughter house* shall not include a custom butcher shop that does not involve killing of animals which is considered a *retail establishment*.

Slope: See *grade*.

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

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

Solar Power Generation, Commercial: A facility where one (1) or more solar collectors and/or other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities are located and are used for the generation of electricity which is sold on the open market.

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

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

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

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

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

Specified Anatomical Areas: Any of the following:

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

Specified Sexual Activities: Any of the following:

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

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

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

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

State: The Commonwealth of Pennsylvania and its agencies.

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

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

Stream: A natural watercourse. See *watercourse*.

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

Structural Alteration: See *alteration*.

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

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

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

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

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

Tavern: A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur. Considered a *restaurant* for regulation by this Ordinance.

Temporary: A period of less than ninety (90) consecutive days.

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

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

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

Townhouse: See *dwelling, townhouse*.

Tract: See *lot*.

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

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

Truck Stop: See *travel plaza*.

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

Truck Wash: Any building or premises or portions thereof used for commercial purposes for washing any vehicle with more than two (2) axles, or more than four (4) tires, or with a trailer.

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

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

Utility, Public: Any agency or entity that, under public ownership, or under certificate of convenience and necessity issued by the Pennsylvania Public Utility Commission, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service.

Variance: Relief granted 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 Auction: An establishment where vehicles and equipment are stored prior to sale, readied and displayed for sale by auction primarily to dealers. Such uses generally only conduct actual sales on one or several designated days of the week.

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

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

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

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

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

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

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

Water Extraction/Bottling: Any use which involves the pumping or removal of water from groundwater or public supply sources, with or without bottling, for retail or wholesale sale or use at another site. *Water extraction and bottling* shall be considered *industry* for the purposes of regulation by 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 source not located on any of the served lots and which may be publicly or privately owned and operated.

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

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

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

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

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

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

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

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.

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

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

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

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

Zoning Hearing Board: The Zoning Hearing Board of the Borough of Montrose.

Zoning Map: The Official Zoning Map of the Borough of Montrose.

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

Zoning Permit: See *permit*.

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

**ARTICLE III  
DISTRICTS; MAP; BOUNDARIES**

**§ 112-301 Districts Established.**

A. Basic zoning districts. The Borough of Montrose is divided into the following districts:

R-1 Residential  
X-1 Office, Institutional, Professional  
C-1 Commercial  
I-1 Industrial

B. 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 *FIRM - Flood Insurance Rate Map* issued by the Federal Emergency Management Agency. In addition to all other applicable standards of this Ordinance, the floodplain regulations in the Borough Floodplain Management Ordinance shall apply.

**§112-302. District intents.**

The intent of each district is as follows:

- A. R-1 Residential. To provide for the continued development of low density, single-family detached and two-family residential neighborhoods, with high quality living conditions, and without the hazards of high traffic volume or conflicts with nonresidential uses.
- B. X-1 Office, Institutional, Professional. To provide for a mix of residential and residential-related, professional, and public and semi public uses in transition areas between R-1 and C-1 Districts.
- C. C-1 Commercial. To provide for the continued development of the established business district, limiting uses to create consistency with its existing small lot, mixed use character, and provide areas for the expansion of business.
- D. I-1 Industrial. To provide for manufacturing and other industrial activities that can be developed and operated with minimal conflict with the natural environment and the character of the Borough while allowing a variety of other commercial uses.

**§112-303 Zoning Map.**

The location and boundaries of the districts are established as shown on the attached Zoning Map of the Borough of Montrose, adopted with this chapter. The Zoning Map is hereby made a part of this chapter, together with all future notations, references and amendments.

**§ 112-304 Interpretation of boundaries.**

If uncertainty exists as the boundary of any district shown on the Zoning Map, the Zoning Officer shall determine the location of such boundary.



**ARTICLE IV  
DISTRICT REGULATIONS**

**§112-401. District Regulations Established.**

The basic regulations governing the use of land, the size of lots, yards and buildings within each Zoning District are established in this Article IV. 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. For certain specific uses or situations, these basic regulations are supplemented by other provisions of this chapter.

**§112-402. Use Regulations.**

A. Schedule of Uses. District use regulations are provided in the Schedule of Uses.

(1) Limitations.

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

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

(3) Special exceptions. Special exceptions are permitted uses which require individual consideration because of their special characteristics and are referred to the Planning Agency for review and preparation of a recommendation to the Zoning Hearing Board. Upon any approval granted by the Zoning Hearing Board, and when all conditions of approval have been satisfied, the Zoning Officer shall issue a zoning permit for the use.

(4) Conditional uses. Conditional uses are permitted uses which require individual consideration because of their special characteristics and are referred to the Planning Agency for review and preparation of a recommendation to the Borough Council. Upon any approval granted by the Borough Council, and when all conditions of approval have been satisfied, the Zoning Officer shall issue a zoning permit for the use.

(5) Prohibited uses. Any use not allowed as a principal permitted use, accessory use, conditional use or special exception, or allowed by the Zoning Hearing Board in accord with §112-402.B within a particular zoning district, shall be deemed to be prohibited within that zoning district.

**B. Uses not specified in schedule of uses.**

- (1) **Jurisdiction.** Whenever a use is neither specifically permitted nor specifically denied in any zoning district established under this chapter 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.
- (2) **Findings.** The use may be permitted only if the Zoning Hearing Board makes all of the following findings; and, the burden of proof shall be upon the applicant:
  - (a) The use is similar to and compatible with the uses listed for the subject zoning district by the Schedule of Use Regulations.
  - (b) The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this chapter.
  - (c) The use is not permitted in any other zoning district.
- (3) **Planning Agency review.** At the time the application is submitted to the Zoning Hearing Board, the Zoning Officer shall also provide a copy to the Borough Planning Agency for its recommendation. The Zoning Hearing Board shall not conduct a public hearing on the application until the comments from the Planning Agency are received or thirty (30) days have passed from the time the application was referred to the Planning Agency.
- (4) **Conditions.** The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the Schedule of Uses, incorporating standards in this chapter 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 chapter and the Pennsylvania Municipalities Planning Code.

**§112-403. Development Standards.**

The Schedule of Development Standards establishes minimum standards for lot area; lot depth, average lot width and front, side and rear setbacks; 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 provisions of this chapter.

<b>SCHEDULE OF USES</b> <b>ACCESSORY USES PERMITTED IN ALL DISTRICTS</b> (Unless otherwise restricted by this Chapter.)	
<ul style="list-style-type: none"> <li>-Accessory uses customary to approved uses</li> <li>-Barns, silos, sheds, and similar agricultural buildings</li> <li>-Carports</li> <li>-Day care, family home</li> <li>-Decks</li> <li>-Essential services not requiring enclosure in a building</li> <li>-Farm stands</li> <li>-Home greenhouses and plant nurseries</li> <li>-Garages, private</li> <li>-Keeping of household pets</li> </ul>	<ul style="list-style-type: none"> <li>-No impact home occupations</li> <li>-Porches</li> <li>-Parking areas accessory to approved uses</li> <li>-Satellite dish antennas or satellite antennas</li> <li>-Sheds</li> <li>-Signs accessory to approved uses</li> <li>-Solar collectors</li> <li>-Swimming pools</li> <li>-Yard, lawn, garage, tag or estate sale</li> </ul>

<b>SCHEDULE OF USES</b> <b>R-1 RESIDENTIAL DISTRICT</b>		
INTENT: To provide for the continued development of low density, single-family detached and two-family residential neighborhoods, with high quality living conditions, and without the hazards of high traffic volume or conflicts with nonresidential uses.		
<p style="text-align: center;"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>-Borough facilities and uses</li> <li>-Bus shelters</li> <li>-Crop production</li> <li>-Forestry</li> <li>-Group homes</li> <li>-Single-family detached dwellings</li> <li>-Two-family dwellings</li> </ul>	<p style="text-align: center;"><b>CONDITIONAL USES</b> (Planning Agency / Borough Council)</p> <ul style="list-style-type: none"> <li>-Agritourism</li> <li>-Assisted living facilities</li> <li>-Cemeteries</li> <li>-Day care centers</li> <li>-Funeral homes</li> <li>-Home occupations</li> <li>-Nursing homes</li> <li>-Places of worship</li> <li>-Religious quarters</li> <li>-Stables, private</li> <li>-Wind turbine generators, accessory</li> </ul>	<p style="text-align: center;"><b>SPECIAL EXCEPTIONS</b> (Planning Agency / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>-Public facilities or uses</li> <li>-Schools, public or private primary or secondary</li> <li>-Semi-public facilities or uses</li> </ul>
NOTE: Uses not specifically listed by this schedule shall not be permitted in the R-1 District except per §112-402.B.		

<b>SCHEDULE OF USES</b> <b>X-1 OFFICE, INSTITUTIONAL, PROFESSIONAL DISTRICT</b>		
<p>INTENT: To provide for a mix of residential and residential- related , professional, and public and semi public uses in transition areas between R-1 and C-1 Districts.</p>		
<p style="text-align: center;"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p> <ul style="list-style-type: none"> <li>-Art studios</li> <li>-Bed and breakfast inns</li> <li>-Borough facilities and uses</li> <li>-Business offices</li> <li>-Clinics</li> <li>-Clubs/lodges, private</li> <li>-Cultural centers</li> <li>-Forestry</li> <li>-Group homes</li> <li>-Offices or office buildings</li> <li>-Nursing homes</li> <li>-Professional offices</li> <li>-Religious quarters</li> <li>-Single-family detached dwellings</li> <li>-Two-family dwellings</li> </ul>	<p style="text-align: center;"><b>CONDITIONAL USES</b> (Planning Agency / Borough Council)</p> <ul style="list-style-type: none"> <li>-Assisted living facilities</li> <li>-Boarding and lodging houses</li> <li>-Day care centers</li> <li>-Funeral homes</li> <li>-Multi-family dwellings</li> <li>-Multiple occupant commercial buildings for X-1 uses</li> <li>-Places of worship</li> </ul>	<p style="text-align: center;"><b>SPECIAL EXCEPTIONS</b> (Planning Agency / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>-Public facilities or uses</li> <li>-Schools, public or private primary or secondary</li> <li>-Semi-public facilities or uses</li> </ul>
<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the X-1District except per §112-402.B.</p>		

**SCHEDULE OF USES  
C-1 COMMERCIAL DISTRICT**

INTENT: To provide for the continued development of the established business district, limiting uses to create consistency with its existing small lot, mixed use character, and provide areas for the expansion of business.

<p align="center"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p>	<p align="center"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p>	<p align="center"><b>CONDITIONAL USES</b> (Planning Agency / Borough Council)</p>
<ul style="list-style-type: none"> <li>-Abused person shelters</li> <li>-After hours clubs</li> <li>-Amusement arcades</li> <li>-Art studios</li> <li>-Assisted living facilities</li> <li>-Auction houses</li> <li>-Bakeries, retail</li> <li>-Banks</li> <li>-Bed and breakfast inns</li> <li>-Billiard halls</li> <li>-Boarding and lodging houses</li> <li>-Borough facilities and uses</li> <li>-Brew pubs</li> <li>-Bus, limousine, taxi terminals/stations</li> <li>-Bus shelters</li> <li>-Business offices</li> <li>-Business services</li> <li>-Car washes</li> <li>-Charging stations</li> <li>-Clinics</li> <li>-Clubs/lodges, private</li> <li>-Colleges</li> <li>-Conference centers</li> <li>-Convenience stores</li> <li>-Cultural centers</li> <li>-Day care centers</li> <li>-Domestic violence shelters</li> <li>-Exercise clubs</li> <li>-Farmer’s markets</li> <li>-Flea markets, indoor</li> <li>-Forestry</li> <li>-Funeral homes</li> <li>-Garages, public parking</li> <li>-Garden centers, retail</li> <li>-Group homes</li> <li>-Health facilities</li> </ul>	<ul style="list-style-type: none"> <li>-Hotels</li> <li>-Motels</li> <li>-Massage facilities, therapeutic</li> <li>-Micro-breweries</li> <li>-Meeting, assembly, or banquet halls</li> <li>-Nightclubs</li> <li>-Nursing homes</li> <li>-Offices or office buildings</li> <li>-Personal care homes</li> <li>-Professional offices</li> <li>-Public facilities or uses</li> <li>-Religious quarters</li> <li>-Restaurants, traditional</li> <li>-Restaurants, outdoor</li> <li>-Restaurants, take-out</li> <li>-Retail businesses</li> <li>-Schools, public or private primary or secondary</li> <li>-Semi-public facilities or uses</li> <li>-Service establishments</li> <li>-Single-family detached dwellings</li> <li>-Studios, radio or television</li> <li>-Tattoo, body piercing, scarifying or branding parlors</li> <li>-Taverns</li> <li>-Theaters, indoor</li> <li>-Trade schools</li> <li>-Two-family dwellings</li> <li>-Veterinary clinics, indoor</li> </ul>	<ul style="list-style-type: none"> <li>-Dormitories</li> <li>-Drive-in stands/uses</li> <li>-Fraternity or sorority houses</li> <li>-Gaming establishments</li> <li>-Group homes, institutional</li> <li>-Group quarters</li> <li>-Homeless shelters</li> <li>-Junk yards</li> <li>-Lumberyards</li> <li>-Multi-family dwellings</li> <li>-Multiple occupant commercial buildings for C-1 uses</li> <li>-Park and ride facilities</li> <li>-Outdoor entertainment</li> <li>-Places of worship</li> <li>-Recreation facilities, commercial</li> <li>-Research, engineering or testing facilities</li> <li>-Shopping centers or malls</li> <li>-Truck washes</li> <li>-Vehicle and equipment rental, repair or sales operations</li> <li>-Warehouses</li> <li>-Wholesale businesses</li> </ul> <p align="center"><b>SPECIAL EXCEPTIONS</b> (Planning Agency / Zoning Hearing Board)</p> <ul style="list-style-type: none"> <li>-None</li> </ul>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the C-1 District except per §112-402.B.

**SCHEDULE OF USES  
I-1 INDUSTRIAL DISTRICT**

INTENT: To provide for manufacturing and other industrial activities that can be developed and operated with minimal conflict with the natural environment and the character of the Borough while allowing a variety of other commercial uses.

<p align="center"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p>	<p align="center"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p>	<p align="center"><b>PRINCIPAL PERMITTED USES</b> (Zoning Officer)</p>
<ul style="list-style-type: none"> <li>-Abused person shelters</li> <li>-After hours clubs</li> <li>-Agricultural products processing</li> <li>-Agritourism</li> <li>-Amusement arcades</li> <li>-Art studios</li> <li>-Assisted living facilities</li> <li>-Auction houses</li> <li>-Bakeries, retail</li> <li>-Banks</li> <li>-Bed and breakfast inns</li> <li>-Billiard halls</li> <li>-Boarding and lodging houses</li> <li>-Borough facilities and uses</li> <li>-Brew pubs</li> <li>-Bus, limousine, taxi terminals/stations</li> <li>-Bus shelters</li> <li>-Business offices</li> <li>-Business services</li> <li>-Car washes</li> <li>-Camps/retreats</li> <li>-Cemeteries</li> <li>-Charging stations</li> <li>-Clinics</li> <li>-Clubs/lodges, private</li> <li>-Colleges</li> <li>-Conference centers</li> <li>-Contractor yards</li> <li>-Convenience stores</li> <li>-Country clubs</li> <li>-Crop production</li> <li>-Cultural centers</li> </ul>	<ul style="list-style-type: none"> <li>-Day care centers</li> <li>-Day care centers for employees</li> <li>-Distribution centers/truck terminals</li> <li>-Domestic violence shelters</li> <li>-Exercise clubs</li> <li>-Farmer’s markets</li> <li>-Flea markets, indoor</li> <li>-Forestry</li> <li>-Funeral homes</li> <li>-Garages, public parking</li> <li>-Garden centers, retail</li> <li>-Golf courses</li> <li>-Golf courses, miniature</li> <li>-Golf driving ranges</li> <li>-Group homes</li> <li>-Group homes, institutional</li> <li>-Group quarters</li> <li>-Health facilities</li> <li>-Hotels</li> <li>-Industry</li> <li>-Laundries, cleaning, dry-cleaning and dyeing plants</li> <li>-Lumberyards</li> <li>-Manufacturing, light</li> <li>-Motels</li> <li>-Massage facilities, therapeutic</li> <li>-Micro-breweries</li> <li>-Meeting, assembly, or banquet halls</li> <li>-Mobile home parks</li> <li>-Monument works</li> <li>-Nightclubs</li> <li>-Offices or office buildings</li> <li>-Nurseries, wholesale</li> </ul>	<ul style="list-style-type: none"> <li>-Nursing homes</li> <li>-Personal care homes</li> <li>-Printing and publishing establishments</li> <li>-Professional offices</li> <li>-Public facilities or uses</li> <li>-Recreation facilities, commercial</li> <li>-Recycling facilities</li> <li>-Religious quarters</li> <li>-Research, engineering or testing facilities</li> <li>-Resorts</li> <li>-Restaurants, traditional</li> <li>-Restaurants, outdoor</li> <li>-Restaurants, take-out</li> <li>-Retail businesses</li> <li>-Self-storage facilities</li> <li>-Semi-public facilities or uses</li> <li>-Service establishments</li> <li>-Studios, radio or television</li> <li>-Tattoo, body piercing, scarifying or branding parlors</li> <li>-Taverns</li> <li>-Theaters, indoor</li> <li>-Trade schools</li> <li>-Truck washes</li> <li>-Vehicle and equipment rental, repair, sales or storage operations</li> <li>-Veterinary clinics, indoor</li> <li>-Warehouses</li> <li>-Wholesale businesses</li> </ul>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the I-1 District except per §112-402.B.

<b>SCHEDULE OF USES I-1 INDUSTRIAL DISTRICT</b>		
<p>INTENT: To provide for manufacturing and other industrial activities that can be developed and operated with minimal conflict with the natural environment and the character of the Borough while allowing a variety of other commercial uses.</p>		
<p style="text-align: center;"><b>CONDITIONAL USES</b> (<u>Planning Agency /</u> <u>Borough Council</u>)</p> <ul style="list-style-type: none"> <li>-Adult businesses</li> <li>-Airports</li> <li>-Amusement parks</li> <li>-Animal husbandry</li> <li>-Animal shelters</li> <li>-Archery ranges, outdoor commercial</li> <li>-Breweries</li> <li>-Bulk fuel storage facilities</li> <li>-Campgrounds or recreational vehicle parks</li> <li>-Commercial communications device sites</li> <li>-Correctional facilities</li> <li>-Crematoriums</li> <li>-Distribution center/truck terminals</li> <li>-Dormitories</li> <li>-Drive-in stands/uses</li> <li>-Flea markets, outdoor</li> <li>-Fraternity or sorority houses</li> <li>-Gaming establishments</li> <li>-Heliports and helicopter landing areas as an accessory use</li> <li>-Homeless shelters</li> <li>-Industrial wastewater treatment facilities</li> <li>-Junkyards</li> <li>-Kennels</li> <li>-Mineral extraction</li> <li>-Mineral processing</li> <li>-Multiple occupant buildings for I-1 uses</li> </ul>	<p style="text-align: center;"><b>CONDITIONAL USES</b> (<u>Planning Agency /</u> <u>Borough Council</u>)</p> <ul style="list-style-type: none"> <li>-Outdoor entertainment</li> <li>-Park and ride facilities</li> <li>-Pipeline compressor station, metering station or operation/maintenance facilities</li> <li>-Places of worship</li> <li>-Power plants</li> <li>-Race tracks</li> <li>-Retail home heating fuel distributors</li> <li>-Shopping centers or malls</li> <li>-Shooting ranges, outdoor commercial</li> <li>-Solar power generation, commercial</li> <li>-Solid waste facilities, commercial and public</li> <li>-Solid waste staging areas, commercial and public</li> <li>-Stables, commercial</li> <li>-Stables, private</li> <li>- Staging areas for equipment/materials</li> <li>-Storage yards for forest products and minerals</li> <li>-Theaters, drive-in</li> <li>-Travel plazas</li> <li>-Vehicle and equipment auctions</li> <li>-Veterinary clinics, outdoor</li> <li>-Water withdrawal facilities</li> <li>-Wind energy facilities, commercial</li> <li>-Wind turbine generators, accessory</li> <li>-Zoos and menageries</li> </ul>	<p style="text-align: center;"><b>SPECIAL EXCEPTIONS</b> (<u>Planning Agency/</u> <u>Zoning Hearing Board</u>)</p> <p>-None</p>
<p>NOTE: Uses not specifically listed by this schedule shall not be permitted in the I-1 District except per §112-402.B.</p>		

<b>DISTRICT REGULATIONS</b>				
<b>Regulation</b>	<b>R-1</b>	<b>X-1</b>	<b>C-1</b>	<b>I-1</b>
Minimum lot size:				
Area (square feet)	15,000	2,000	4,000	10,000
Width (feet)	100	40	40	100
Depth (feet)	150	50	100	100
Minimum yards:				
Front (feet)	25	25	20	25
Rear (feet)	30	20	20	20
Each side (feet)	15	10	0	15
Side abutting R-1 (feet)	-	10	10	15
Maximum height:				
Number of stories	2.5	3	3	3
Feet	35	35	40	35
Maximum building coverage (percent)				
	40	60	60	50



**ARTICLE V**  
**SUPPLEMENTARY DISTRICT REGULATIONS**

**§112-501. Permitted Deviations from Regulations.**

The minimum lot, yard and height requirements of this chapter shall prevail in all cases, except as follows:

- A. Height limitations. District height limitations shall not apply to parapet wall extending not more than four (4) feet above the limiting height of the building, church spires, cupolas and domes, monuments, water towers, chimneys, smokestacks, silos, flagpoles, utility poles, radio, television and utility towers, masts and aerials.
- B. Front yard exception. When an unimproved lot is situated between two (2) improved lots, each having a principal building within twenty (20) feet of the side lot line of the unimproved lot, the front yard of the two (2) adjoining lots; provided, however, that it may be reduced to below ten (10) feet and provided that no building shall be set closer than twenty-five (25) feet from the center of any street.
- C. Projections into yards. Projections into required yards shall be permitted as follows, except that in no case shall a structure or projection be located closer than seven (7) feet to any side or rear lot line or ten (10) feet to any front lot line:
  - (1) Bay windows, carports, fireplaces, fire escapes, chimneys, uncovered stairs and landings, balconies and cornices. Canopies, eaves or other architectural features not required for structural support may project into the required front or rear yard not more than a total of three (3) feet.
  - (2) Porches may project into the required front and rear yards up to ten (10) feet.
  - (3) Patios may be located in the required side and rear yards not closer than seven (7) feet to any adjacent property line and may project into front yards up to ten (10) feet.

**§112-502. Unique Lots and Building Locations.**

- A. Two (2) or more buildings on a lot. Two (2) or more principal buildings located on a parcel in single ownership shall conform to all the requirements of this chapter which would normally apply to each building if each were on a separate zone lot.
- B. Through lots. Where a single lot under individual ownership extends from one street to another parallel or nearly parallel street or alley, the Zoning Officer shall decide which street will be considered as the front street. No principal structure shall be erected on the rear of the lot, except as specified in this chapter.

- C. Lots fronting on an alley. Individual lots, existing at the effective date of this chapter and fronting on an alley shall comply with all the requirements of this chapter and the district in which said lots are located.
- D. Side yard of a corner lot. The side yard of a corner lot which abuts a street shall be equal to the required front yard for that street.
- E. Corner lots. No obstruction to vision (other than an existing building, post, column or tree) exceeding thirty (30) inches in height shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the maintenance right-of-way line of each street extended to a point and a line drawn between two (2) points, each located thirty (30) feet from the street intersection.

**§112-503. Accessory Structures.**

All accessory structures shall conform to the minimum yard regulations established heretofore, except as permitted below:

- A. Unattached structures accessory to residential buildings. Structures accessory to residential buildings which are not attached to a principal structure may be erected within the required side and rear yards of a principal structure, provided that they conform to the following:
  - (1) Maximum height: one and one-half (1 ½) stories or fifteen (15) feet in height.
  - (2) Distance from side lot line: not less than seven (7) feet from the side lot line, except in the case of corner lots, where the full side yard as specified above shall be maintained.
  - (3) Distance from rear lot line: no less than seven (7) feet from the rear lot line.
  - (4) Distance from principal structure: not less than then (10) feet from a principal structure.
- B. Unattached structures accessory to nonresidential buildings. Such accessory structures shall comply with front and side yard requirements for the principal structure and shall have a minimum rear yard of at least then (10) feet.
- C. Unattached structures accessory to residential use.
  - (1) Front yard fences shall be no higher than four (4) feet and be constructed of split rail, picket or decorative iron work.
  - (2) Side and back property lines: maximum height of fence to be eight (8) feet; privacy fencing allowed.
- D. Swimming pools (private). Private swimming pools in districts where permitted shall comply with the following conditions and requirements:

- (1) The pool shall be intended and shall be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
- (2) The pool shall be located at either the rear or side of the property on which it is an accessory use.
- (3) The pool, including any walks or paved areas or accessory structures adjacent thereto, shall not be located closer to the rear or side property lines than the minimum distance required for unattached accessory structures as provided for in §112-503.A.(2) and (3).
- (4) For all pools, the pool area or entire property on which the pool is located shall be so walled or fenced or otherwise protected in accord with the Uniform Construction Code so as to prevent uncontrolled access by children from the street or from adjacent properties.

**§112-504. Home Occupations.**

A home occupation shall conform to the following regulations:

- A. The home occupation shall be carried on wholly within the dwelling or other structure accessory thereto.
- B. The only external evidence of the home occupation shall be a sign not exceeding one and one-half (1 ½) square feet in area.
- C. The home occupation shall be carried on only by the members of the immediate family residing in the dwelling, who may not employ more than (2) additional nonresident persons to assist in the conduct of said home occupation.
- D. Home occupations shall not include the following; animal hospitals, pet shops commercial stables, kennels, restaurants or tourist homes, rooming, boarding-or lodging houses for more than two (2) persons.
- E. No exterior storage of merchandise, materials, equipment or supplies shall be permitted.
- F. No external alterations, additions or changes to the structure shall be permitted to accommodate or facilitate the home occupation.
- G. The floor area devoted to the home occupation shall not exceed twenty-five percent (25%) of the ground floor area of the principal residential structure or four hundred (400) square feet, whichever is less.
- H. No home occupation shall be permitted which alters the residential appearance of the area or creates any objectionable condition or any disturbance which may adversely affect the surrounding area or premises.

**§112-505. No-Impact Home-Based Business.**

It is the intent of this §112-505 to authorize no-impact home-based businesses such as computer connected offices, home offices for personal record keeping, studios for authors or artists, sales representatives who work door-to-door, simple craft making (for which sales shall occur off-premises), and such other activities which have no effect whatever on neighboring residences or on the residential quality of an area.

It is further the intent of this §112-505 to regulate the operation of a no-impact home-based business so that the average neighbor will not be aware of the existence of such business.

- A. A no-impact home-based business shall be a permitted use in all districts.
- B. A no-impact home-based business shall not require a permit. It shall be the decision of the Zoning Officer as to whether an activity is a no-impact home-based business or a home occupation subject to §112-504.
- C. The following criteria shall apply to a no-impact home-based business:
  - (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  - (2) The business shall employ no employees other than family members residing in the dwelling.
  - (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - (4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
  - (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
  - (6) The business activity may not generate any solid waste or sewage discharge in volume or type, which is not normally associated with residential use in the neighborhood.
  - (7) The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable floor area.
  - (8) The business shall not involve any illegal activity.

**§ 112-506. Private Parking Areas and Garages.**

Accessory off-street parking areas or garages serving the residential or nonresidential parking demand created by the principal building are permitted in accordance with this Article. Said parking areas may be

located in any required front, side or rear yard. Accessory garages shall conform to requirements for accessory structures.

**§ 112-507. Home Gardening, Nurseries and Greenhouses.**

Home gardening and accessory structures used for agricultural nurseries or as green houses are permitted in residential areas provided that they shall not include the outdoor storage of equipment or supplies or refuse.

**§ 112-508. Refuse.**

The storage of refuse, waste or garbage exterior to a structure for a period of more than twenty-four (24) hours is hereby prohibited, except that the use of metal storage bins, commercially designed and manufactured specifically for the mechanized handling of such materials, shall be permitted.

**§112-509. 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 required by the manufacturer's standards. Any accessory wind turbine generator which exceeds a height of seventy-five (75) feet as measured from the highest point of the rotor plane or vertical axis shall be considered a conditional use.
- B. Minimum parcel size; setback.
- (1) A minimum lot size of three-fourths (0.75) acres shall be required for an accessory wind turbine generator.
  - (2) No part of the wind turbine generator, support structure, blades or vertical axis shall be located from any property line and any public road rights-of-way less than ten (10) feet plus the total height of the wind turbine as measured from the highest point of the generator, rotor plane, or support structure, whichever is higher.
  - (3) Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.
- 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, the applicant shall provide documentation to the satisfaction of the Zoning Officer that the generator and support structure have been installed in accord with all Uniform Construction Code and manufacturer requirements. If deemed necessary by the Zoning Officer, the Zoning Officer may require certification from a registered professional engineer or a representative of the manufacturer.
- D. Climb prevention/locks/fence.
- (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
  - (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons.
- E. Noise and shadow flicker.
- (1) Audible sound from an accessory wind turbine generator shall not exceed forty-five (45) dBA as measured at the property line of the parcel on which the accessory wind turbine generator is located. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1. 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*, or replacement document.
  - (2) Best efforts shall be used to minimize shadow flicker on any other parcel.
- F. Color and lighting; FAA and PA DOT notice. Accessory wind turbine generators and support structures, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements.
- G. Site plan. A plot plan shall be provided to document all required setbacks.
- H. Removal. The wind turbine and support structure shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

**§112-510. 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 §112-510 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. Parcel size; setback. A minimum lot size of one (1) acre shall be required for accessory solar collectors and the following setbacks shall apply.
- (1) Roof mounted. In no instance shall any part of the solar energy system extend beyond the edge of the roof.
  - (2) Freestanding. Freestanding solar collectors shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- F. Mechanical equipment. Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district and shall be screened from any adjacent property.
- G. Power lines. All power transmission lines from a freestanding solar energy system to any building or other structure shall be located underground.
- H. Uniform Construction Code; manufacturer's standards. The system shall be installed in accord with Uniform Construction Code and manufacturer's standards.
- I. Removal. The solar collectors and all associated equipment and facilities shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

**§112-511. 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.

**§112-512. Garage/Yard Sales.**

- A. Garage/yard sales, or similar activities, shall not be conducted on the same parcel for more than three consecutive days and not more than twice a year.
- B. Garage/yard sales shall not encourage or allow patron parking that interferes with the flow of traffic or poses any threat to public safety.
- C. Any garage/yard sale that impedes traffic or poses a threat to public safety shall be subject to action by the law enforcement agency whose jurisdiction is affected by the operation of the garage/yard sale.
- D. Garage/yard sales shall be limited to operate between the hours of 8:00 a.m. and dusk.
- E. A permit shall not be required for garage/yard sales.

**§112-513. Private Flea Markets.**

Private flea markets conducted by a service, nonprofit, religious or charitable organization are permitted as accessory uses provided that the same are conducted upon lands owned by such organizations or conducted upon land situated in a commercial district leased to such organization. Any such organization may not conduct a private flea market for more than seven successive days and not more than two such periods in any one calendar year.

**§112-514. Performance Standards**

The intent of this §112-514 is to regulate the development and operation of all development in the Borough and to protect the environment and the public health, safety and general welfare. No land or building shall be used or occupied in such manner which creates any dangerous, injurious, noxious, or otherwise objectionable condition in such amount to adversely affect the surrounding area, and any such activity is hereby declared to be a public nuisance. However, any use permitted by this Ordinance may be undertaken and maintained if it conforms to all applicable requirements of this Ordinance, including the standards in this §112-514 which are intended to limit nuisance elements. The following performance standards shall apply to all proposed new or expanded nonresidential uses. The standards in this §112-514 shall not apply to normal agricultural uses unless explicitly referenced by a specific section, but shall apply to concentrated animal feeding operations and any agricultural use which is considered a land development by the PA MPC.

- A. Yards and buffers. Unless otherwise regulated by this Ordinance, where a commercial or manufacturing use is proposed contiguous to any existing residential use or any R-1 Residential District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer not less than ten (10) feet in width shall be provided in accord with this



Subsection A. If larger setbacks and/or buffers are required by another provision of this Ordinance or the Subdivision and Land Development Ordinance, the larger shall apply.

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

- (1) In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
  - (2) The width of the required buffer, as determined by the Borough, shall not be less than ten (10) 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 will be formed.
  - (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; 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 Borough 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.
  - (7) It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material. The failure to do so shall constitute a violation of the zoning permit.
- B. Landscaping. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.
- (1) All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.

- (2) Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
- (3) Plants shall be species native to Pennsylvania and of a type which are proven successful in the Borough's climate.
- (4) The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
- (5) Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- (6) Artificial landscape materials shall not be used in place of live trees, shrubs and vegetative ground cover.
- (7) Adequate soil preparation in accord with accepted landscape industry practices shall be required.
- (8) All landscaping shall be maintained in good growing condition by the property owner and free of weeds, debris and brush.

C. Operations and Storage

- (1) All facilities and operations of any principal use (with the exception of nurseries, agriculture and the display for sales purposes of new or used cars, motorcycles, trucks, trailers, vehicles, or farm equipment, in operative condition or other similar uses) including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building except as follows:
  - a) One (1) outdoor sales area meeting the required setbacks for the district shall be permitted not to exceed the lesser of ten (10) percent of the interior retail sales space or five hundred (500) square feet.
  - b) Outdoor storage for other uses may be approved as a conditional use and larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way may be required.
- (2) Unenclosed uses and activities shall, in any case, meet the required setbacks for principal structures, unless a greater setback is required by the Borough.
- (3) Storage of equipment, supplies, products or any other materials shall not be permitted in any required setback areas.

- D. Fire and Explosion Hazards. All activities involving any manufacturing, production, storage, transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Borough if the nature of the proposed use as determined by the Borough so requires.
- E. Radioactivity or Electric Disturbance. No activities shall be permitted which emit dangerous radioactivity, electrical disturbance or electromagnetic radiation adversely affecting any person which exceeds permissible state and federal regulations.

F. Noise

(1) Definitions:

- (a) A-weighted Noise Level (dBA). A measure of sound pressure in decibels with the sound pressure scale adjusted to conform with the frequency response of the human ear. A sound level meter that measures A-weighted decibels, designated as dBA, has an electrical circuit that allows the meter to have the same sensitivity to sound at different frequencies as the average human ear (2007, Australian Academy of Science).
- (b) Equivalent Noise Level (Leq). The dBA level of a steady state sound which has the same dBA weighted sound energy as that contained in the actual time-varying sound being measured over a specific time period (2003, Eilar Associates, Encinitas, CA).
- (c) Ambient Noise Level. The average A-weighted Noise Level (Leq) at any specified point which is representative of the noise level of that environment over an extended period of time. It is a composite of all sounds from sources, both near and far.
- (d) Noise Source. A single piece of equipment, or a collection of equipment under the control and operation of a single entity (e.g., a wind farm), that produces noise as a consequence of its operation. A collection of equipment may not necessarily be connected or related, if they may be operated simultaneously.
- (e) Suspect Source. A Noise Source that may be in violation of this chapter, identified by the nature of sounds or a correlation with the times of operation and the alleged violation.

(2) Limits

(a) Ambient Noise Level Threshold

- i. No Noise Source shall produce an A-Weighted Noise Level at any point in the Borough outside the boundaries of the property on which the Noise Source is located

(or in the case of a project considered a single Noise Source, the boundaries of the collective project area) at a level in excess of ten (10) dBA above the Ambient Noise Level.

- ii. An increase in excess of ten (10) dBA shall be permitted provided the owner/operator of the Noise Source acquires a noise easement in form and content approved by the Borough (solely with respect to the noise easement) from the affected property owner which establishes the maximum increase. However no increase shall be permitted for properties separated by any public road right of way and in no case shall the maximum noise level exceed the level established by §112-514.F(2)(c).
- (b) Ambient Noise Level. For projects being developed, the Ambient Noise Level for the entire project may be established prior to construction of such project for the duration of construction and operation of such project by measuring the noise level near the boundaries of the property on which the project is to be constructed in accordance with §§112-514.F(3) below for a continuous two (2)-week period no more than two (2) years prior to the start of construction of such project.
- (c) Maximum Noise Level. Notwithstanding any of the foregoing provisions of this §112-514.F(2), in no event shall a Noise Source produce an A-Weighted Noise Level outside the boundaries of the property on which the Noise Source is located (or in the case of a project considered a single Noise Source, the boundaries of the collective project area) at a level in excess of the limits established in the following Maximum Sound Levels Table:

<b>Maximum Sound Levels</b>					
Period	Receiving Land Limits (dBA)				
	Existing Dwelling	Zoning District			
		R	RA	C	I
Monday-Saturday, 7:00 a.m.. 9:00 p.m.	60	60	60	65	70
Saturday, 9:00 p.m.- Monday. 7:00 a.m. Monday-Friday, 9:00 p.m.-7:00 a.m.	50	50	55	60	70

(3) Measurements

- (a) Type and Certification. All noise level measurements shall be made using a sound level meter meeting American National Standard Specification for Sound Level Meters (ANSI S1.4-1983 (R2001)/ANSI S1.4A-1985 or the current revision of that standard) for Type 1 instruments. The instrument shall have been laboratory re-certified according to the manufacturer’s directions within the periodicity required by the manufacturer (usually 1- or 2-year interval) prior to the measurements
- (b) Methods. All measurements shall be taken using the FAST response time and A-weighting

- (c) Field Calibration. A field calibration check, using a certified field calibrator, shall be performed at the beginning and end of the measurement period and reported with the other data.
- (d) Proposed Projects
  - i. For projects establishing an Ambient Noise Level for the project prior to the approval of such project, the average A-weighted Noise Level (Leq) shall be measured at multiple points near the outside boundaries of the property on which the project is to be constructed for a continuous two-week period no more than one (1) year to the start of construction of such project
  - ii. Measurements should be attempted to be performed near outside boundaries which are closest in proximity to where the Noise Source will be located and/or where noise is reasonably expected to be the loudest
  - iii. The measurements must be made by an independent professional using the commonly-accepted measurement procedures specified in ANSI/ASA S1.13-2005 (R2010) standard “American National Standard Methods for the Measurement of Sound Pressure Levels In Air” or the current revision of that standard.

(4) Investigation of Complaints

(a) Initial Determination

- i. In the event a complaint is received regarding a Suspect Source, the Zoning Officer shall first determine that the complaint is valid by visiting the site of the complaint and the site of the Suspect Source
- ii. If the nature of the sound at the site of the complaint is not similar to the nature of the sound produced by the Suspect Source, and if the subjective noise levels do not correlate with the operation of the Suspect Source, then the Zoning Officer shall file a report noting those observations, and shall notify the complainant and the owner/operator of the Suspect Source that the complaint has not been validated.

(b) Test Date

- i. If, by the nature of the sound, or correlation with the operation of the Suspect Source, the Zoning Officer determines a complaint to potentially be valid, the Zoning Officer shall arrange a date and time with the complainant and the owner/operator of the Suspect Source to conduct a test.
- ii. 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.

(c) Background Noise Level

- i. The Zoning Officer shall conduct an average background A-weighted Noise Level measurement before and after the operation of the Suspect Source using commonly-accepted measurement equipment and standards; provided that at the election of the owner/operator, the owner/operator may engage an independent professional to conduct such measurements mutually agreed to by the Borough, at the cost of the owner/operator.
- ii. 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.
- iii. 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.

(d) Average Background A-weighted Noise Level

- i. An average background A-weighted Noise Level shall be measured without the Suspect Source in operation. The atmospheric conditions at the time of measurement shall be as near the atmospheric conditions reported at the time of the complaint (wind direction and speed, temperature, temperature gradient, etc.).
- ii. Background activities shall be representative of those expected in the environment for the time of day and day of the week
- iii. Measurements of the average background A-weighted Noise Level shall be made for the length of time the Suspect Source will be in operation, but need not be any longer than fifteen (15) minutes. If manual measurements are being taken, the measurements shall be recorded every fifteen (15) seconds. If an automatic recording device is being used, the recording interval shall be one second, or the closest fixed or variable interval allowed by the meter and recording equipment.

(e) Measurements

- i. Measurements of the average A-weighted Noise Level (Leq) with the Suspect Source in operation shall be conducted as soon as possible after obtaining the background noise level measurements without the Suspect Source in operation and shall be made for the length of time the source will normally be in operation, but in any case shall not be less than five (5) minutes and need not be any longer than 15 minutes.
- ii. If manual measurements are being taken, the measurements shall be recorded every fifteen (15) seconds. If an automatic recording device is being used, the recording interval shall be one (1) second, or the closest fixed or variable interval allowed by the meter and recording equipment.

- iii. The equation for deducing the A-weighted Noise Level ( $L_{eq}$ ) being produced by the Suspect Source ( $L_s$ ) shall be as set forth below where  $L_1$  equals the measured average A-weighted Noise Level ( $L_{eq}$ ) of the background without the Suspect Source in operation and  $L_2$  equals the measured average A-weighted Noise Level ( $L_{eq}$ ) of the background with the Suspect Source in operation. Basically,  $L_s$  equals  $L_2$  minus  $L_1$  as shown in log notation below which is the basis for decibel calculations.

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

- (5) Report. After completion of the background noise level measurements before and after the operation of the Suspect Source, the report of the Zoning Officer (or the independent professional, if engaged by the owner/operator of the Suspect Source) shall include:
- (a) The instrument manufacturer, model, type, serial number, and laboratory re-certification date of the sound level meter and the field calibrator.
  - (b) The level of the field calibration after making any adjustment of the sound level meter
  - (c) The location of the noise level measurements, by latitude and longitude or by other descriptive terms that would allow someone unfamiliar with the complaint to locate, unambiguously, the measurement point on the ground, or on a map.
  - (d) 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.
  - (e) A description of the Suspect Source in operation, sufficient to allow someone to recreate the conditions of the test.
  - (f) 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.
  - (g) The time at which noise level measurements were started and stopped.
  - (h) The time at which the operation of the Suspect Source was started and stopped, and when measurements were started and stopped.
  - (i) For manual measurements:
    - i. a table of lines and sound levels as reported on the meter
    - ii. the calculated A-weighted Noise Level for each set of measurements
  - (j) For automatic measurements:

- i. a notation of the time the instrument was started and the time stopped
  - ii. the reported A-weighted Noise Level
  - iii. 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
  - iv. a calibration mark using the field calibrator
- (k) A list of witnesses or other persons present during the measurements.
- (l) Any additional comments from the complainant, witnesses or the operator/owner of the suspect equipment or sources.
- (6) 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 §112-514.F by providing reasonable documentary evidence, which may include:
- (a) Engineering studies which estimate the environmental noise levels from the proposed equipment operations and the impact of mitigation measures applied to the equipment and/or site; and/or
  - (b) Environmental noise measurements from similar operations and sites (same number and types of equipment, comparable topography and prevailing weather conditions).

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

- (7) Exceptions. The standards in this §112-514.F do not apply to:
- (a) 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.
  - (b) The operation of lawn mowers, leaf blowers, string trimmers, chain saws, and other small yard maintenance equipment between 8 AM and 6 PM local time.
  - (c) Emergency equipment and signals.
  - (d) Emergency operations of any kind, including, but not limited to, road repairs, utility repairs, response to accidents, injuries, fires, flooding, or hazardous material spills.
  - (e) Short duration activities, such as construction or repair of facilities or infrastructure.



- G. Vibration. No vibration shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness. This requirement shall not apply to occasional blasting and other operations conducted in accord with applicable regulations that may be necessary during construction of streets, structure and utilities, and mineral extraction operations in compliance with state regulations
- H. Odors. No emission shall be permitted of odorous gases or other odorous matter except in full compliance with PA Department of Environmental Protection requirements.
- I. 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..
- J. Surface and ground water protection. All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. The Borough may require the applicant to submit a report from a qualified engineer or geologist detailing the geologic structure of the area proposed to be disturbed and identifying the probable impacts on groundwater supply and quality Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Borough may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Borough. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies. In cases where the use is of such a nature that large volumes of ground water are required the developer shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or the quality of ground water supplies available to other properties located within one-thousand (1,000) feet of any portion of the property where the proposed use will be located.
- K. Stormwater management and soil erosion control
- (1) Stormwater management shall be provided and maintained in accord with Subdivision and Land Development Ordinance and PA DEP requirements.
  - (2) All soil erosion and sedimentation controls shall meet the specifications of the Wyoming County Conservation District and PA DEP, and shall comply with Commonwealth of Pennsylvania, Title 25, Chapter 102 Department of Environmental Protection regulations for soil erosion and sedimentation control.
- L. 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.

- M. Reserved
- N. Settling and/or storage ponds and reservoirs. All ponds, reservoirs or other such storage facilities which are associated with any manufacturing or industrial process, or any sewage or waste disposal process shall be fenced or shall otherwise be physically controlled to prevent access by the public. Said fence shall be not less than four (4) feet high and of a design to restrict access to the area to be controlled. Any such facility which contains any material which is poisonous, toxic or caustic, shall be considered a conditional use, and the Borough Council shall, at a minimum, require that such structure be enclosed by a chain link fence not less than eight (8) feet high.
- O. Security. In cases where deemed necessary by the Borough, the applicant shall provide a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. Such plan shall include a description of the specific services to be offered, type of patients and/or residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.
- P. Water supply. All uses shall be provided with an adequate and safe water supply, as demonstrated by evidence to be provided by the applicant, documenting that the location, density, and design of all proposed uses will assure the availability of reliable, safe and adequate water supplies to support the proposed land use(s) within the capacity of available water resources.
- Q. Sewage disposal. Sewage disposal shall be provided by a system meeting the needs of the proposed use and the requirements of the Borough and the Pennsylvania Department of Environmental Protection. Discharge to such system shall be limited to normal, domestic and human bodily wastes unless the treatment system has been specifically designed to handle other wastes or the wastes are pre-treated in accord with Pennsylvania Department of Environmental Protection or local sewer authority requirements.
- R. Other regulations. The Zoning Officer, Planning Department, Borough Council or the Zoning Hearing Board, as the case may be may require documentation from the Applicant demonstrating

that the project complies with all other applicable local, state and federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including, but not limited to, the PA Department of Transportation, the PA Department of Environmental Protection the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

**§112-515. Off-Street Parking and Loading.**

This §112-515 shall apply to all new and expanded uses and to changes of use and all such uses shall be provided with parking and loading areas adequate to meet the needs of the use.

A. Availability and use of facilities.

- (1) Availability. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term *parking space* includes either covered garage space or uncovered parking lot space located off the public right-of-way.
- (2) Location of parking. Required off-street parking spaces shall be on the same lot with the principal use served, except as approved in §112-515.K or §112-515.L.
- (3) Continuing obligation of parking and loading spaces. All required numbers of parking spaces and off-street loading spaces shall be available as long as the use or building which the spaces serve still exists, and such spaces shall not be reduced in number below the minimum required by this Ordinance.
- (4) Non-parking use. Required off-street parking, loading, and unloading facilities and access ways shall not be used for any other purpose, including, but not limited to, sales, display or storage areas, or the parking of any vehicles for which the area was not approved (e.g., parking of tractor trailers in required passenger vehicle areas).
- (5) Existing parking. Any parking spaces serving such preexisting structures or uses at the time of the adoption of this Ordinance shall not in the future be reduced in number below the number required by this Ordinance. If a new principal nonresidential building is constructed on a lot, then any existing parking on such lot that serves such building shall be reconfigured to comply with this Ordinance, including, but not limited to, required parking and areas reserved for additional parking if needed, requirements for channelization of traffic from adjacent streets, channelization of traffic within the lot, minimum aisle widths, paving and landscaping.
- (6) Garages and carports. Garages and carports not in the public right-of-way may be considered parking spaces.

B. Site plan; design.

- (1) Site plan. The project application shall include a site plan that shows the parking, loading and unloading area, and access design.
  - (2) General. Parking spaces, loading and unloading areas, and access ways shall be laid out to result in safe and orderly use and to fully address all of the following: vehicular access onto and off the site, vehicular movement within the site, pedestrian patterns and any drive through facilities. No parking area shall cause a safety hazard or impediment to traffic on or off the lot.
  - (3) Pedestrian access and circulation. The parking and access plan shall include details of pedestrian access to the site and pedestrian circulation within the site. The intent shall be to facilitate pedestrian access and provide safe and convenient circulation from parking areas to the structure or use.
  - (4) Design. Off-street parking areas, load and unloading areas, access ways, fire lanes, traffic flow signs, pavement markings, and other necessary facilities shall be designed and provided in accord with the most current Urban Land Institute or Institute of Transportation Engineers methodology, or other generally accepted methodology approved by the Borough. Notwithstanding the above, all parking spaces and the overall design shall be ample in size for the vehicles for which use is intended.
- C. Lighting. In addition to the other applicable standards in this Zoning Ordinance, all lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.
- D. Public rights-of-way. Parking, loading and unloading of vehicles shall not be permitted on public right-of-ways, except in designated areas and in accord with municipal parking regulations. No parking area shall be designed which requires or encourages parked vehicles to be backed into a public street.
- E. Reserved.
- F. Number of spaces to be provided.
- (1) Parking required.
    - (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 federal requirements.
- (d) For uses not specifically provided in the Table, the Borough Council, with the recommendation of the Planning Agency, shall determine the required number of spaces based upon the similarity of the proposed use to the uses provided.

USE	PARKING SPACES REQUIRED
A. Dwellings	2 per dwelling unit
B. Homes for handicapped or infirm, nursing homes, group care homes, halfway houses and similar uses	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

USE	PARKING SPACES REQUIRED
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 3 persons of fully utilized design capacity
4. Commercial water craft docking facilities, including such facilities at waterfront marinas	2 per every 3 slips
I. Hospitals, clinics and other medical treatment facilities	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 II.)	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car wash	1 per 100 SFGFA plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
L. Warehousing and storage	1 per 4,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA open to the public
2. Nursery schools and day care	1 per 150 SFGFA open to the public
3. Greenhouses	1 per 200 SFGFA open to the public
4. Emergency services	1 per 200 SFGFA open to the public
5. Junk and scrap yards	1 per 200 SFGFA open to the public
6. Post office	1 per 200 SFGFA open to the public
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.	

- (2) Borough required reduction. In the case of parking for new uses, if the Borough determines that the number of parking spaces required by this §112-515 is not necessarily required to meet the immediate needs of the proposed use, the Borough may require the number of spaces provided to be reduced by a maximum of twenty-five (25) percent. The developer shall dedicate sufficient and suitable area to future parking to meet the normal standards in this §112-515.

- (3) Reserved parking disturbance and stormwater. The reserve parking areas shall remain undisturbed or shall be landscaped, but shall be included in the calculations of lot coverage area and for stormwater management. The stormwater facilities shall be constructed in accord with the approved sequencing design as parking areas are constructed.
- (4) Form of reservation. Each parking reservation shall be in a form acceptable to the Borough Solicitor that legally binds current and future owners of the land to keep the reserved parking area in open space and, if the Borough determines it is necessary, to provide the additional parking in the time and manner as stipulated in the reservation document. Proof of recording of the agreement shall also be provided to the Borough before the issuance of a zoning permit for the project.
- (5) Multiple uses (See also §112-515.L.). 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.
- (6) Handicapped parking. Parking for the handicapped shall be provided in accord with the Americans With Disabilities Act and shall count as part of the spaces required for the use by this §112-515.
- (7) Applicant proposed reduction. The required number of parking spaces may be reduced subject to conditional use approval by the Council. The applicant shall provide evidence justifying the proposed reduced number of spaces, such as studies of similar developments during peak hours. The applicant shall also provide relevant data, such as number of employees and peak expected number of customers/visitors. Any conditional use approval to permit such decrease shall be subject to the following:
  - (a) Ordinance and plan consistency. The project design and parking space decrease shall be consistent with the purposes contained in this Ordinance and the goals and objectives of the Borough Comprehensive Plan.
  - (b) Quality of design. The applicant shall demonstrate to the Council that the proposed decrease will result in an adequate number of parking spaces for the use based on a specific study of the parking demands for the proposed use or empirical data reported by a generally accepted source such as the Institute of Transportation Engineers, the Urban Land Institute, the American Planning Association, or similar entity.
  - (c) Local conditions. In making its determination the Council shall also consider, among others, the demographics and character of the neighborhood, demographics of targeted customers and employees, availability of mass transit, existing on-street parking conditions, and any employer instituted transportation demand management programs.
  - (d) Burden; conditions. If the Council, in its sole discretion, determines that the applicant has met the burden of proof, it may grant a conditional use for the decrease. The Council may

impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance, including, but not limited to, reserving parking.

G. Loading and unloading areas.

- (1) Type and size. In addition to the required off-street parking spaces all uses shall provide adequate off-street areas for loading and unloading of vehicles where necessary. The applicant shall provide details on the type and frequency of vehicles operating in connection with the proposed use to justify any necessary loading and unloading areas. Each required space shall meet the following dimensions:

Largest Type of Truck Service	Minimum Width (feet)	Minimum Length (feet)
Tractor trailer	12	50 with 14 ft clear height
Trucks other than tractor trailers, pick-ups or vans	10	25
Pick-up truck or van	9	18

- (2) Interior travelways - The applicant shall demonstrate that travelways within the property are adequate to safely and efficiently serve vehicles which are reasonably expected to visit the property. Turning radius templates developed by the American Association of State Highway Transportation Officials (AASHTO) shall serve as the design standard.

H. Access to off-street parking and loading areas. There shall be adequate provisions for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, 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:

- (1) Width. Unless otherwise required by Penn DOT for access to a state road, the width of the driveway/access way onto a public street at the right-of-way shall be as follows:
- (2) Controlled access. Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit
- (3) Highway occupancy permit. All new uses shall be required to obtain a highway occupancy permit from the Borough or PA DOT, as the case may be. In the case of a change in use or the expansion of an existing use, the Borough shall require the applicant to obtain a highway occupancy permit or a revised highway occupancy permit. Where a use accesses the public right-of-way via a private road, the highway occupancy permit requirement and criteria shall be applied at the public right-of-way intersection.



## I. Parking and Loading Area Setbacks

- (1) Roads and Property Lines. All parking and loading areas (not including parking decks) and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall be separated from any public road right-of-way or adjoining property lines by a landscaped buffer area not less than twenty (20) feet in width unless adjoining uses share parking in accord with §112-515.1.
  - (a) Measurement. The width of the buffer shall be measured from property lines and from the curb line or from the legal right-of-way line after development if no curbs will be provided.
  - (b) Uses Prohibited. The buffer area shall be maintained in natural vegetative ground cover and shall not include:
    - i. Paving except for approved driveway/access way crossings
    - ii. Fences unless integral to landscaping
    - iii. Parking, storage or display of vehicles
    - iv. Items for sale or rent
  - (c) Uses Permitted. The buffer area may include the following:
    - i. Permitted freestanding signs
    - ii. Pervious storm water facilities
    - iii. Approved driveway/access way crossings
  - (d) Sidewalks. Sidewalks, existing or proposed, may be included in the buffer area.
- (2) Buildings. Parking spaces serving principal nonresidential buildings and multi-family dwellings shall be located a minimum of ten (10) feet from any building wall, unless a larger distance is required by another Ordinance provision. This distance does not apply at vehicle entrances into or under a building.

## J. Grading and drainage; paving

- (1) Parking and loading facilities, including driveways, shall be graded and adequately drained to prevent erosion or excessive water flow across streets or adjoining properties.
- (2) Except for landscaped areas, all portions of required parking, loading facilities and access ways shall be surfaced with a durable surface such as gravel, asphalt, concrete, paving block or porous pavement or pavers.

- (3) The Council may, as a conditional use, allow parking areas with low or seasonal usage to be maintained in grass or other suitable surfaces. For example, the Council may allow parking spaces to be grass, while major aisles are covered by stone.
- K. 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.
- L. Joint use parking. In the case of multiple use on the same premises or where more than one (1) principal uses share a common property line, shared parking facilities may be approved by the Zoning Officer.
- (1) Documentation. The applicant shall provide information to establish that the shared spaces will be used at different times of the day, week, month, and/or year.
- (2) Reduction. Parking provided may be credited to both uses based on the extent that the uses operate at different times. However, the required parking shall not be reduced by more than fifty (50) percent of the combined parking required for each use. (Example: If a church parking lot is generally occupied only to ten (10) percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)
- (3) Agreement. Joint use parking shall be secured in a form acceptable to the Borough Solicitor that legally binds current and future owners of the land to maintain the parking. An attested copy of the agreement between the owners of record shall be provided to the Borough. Proof of recording of the agreement shall also be provided to the Borough before the issuance of a zoning permit for the project.
- (4) Common property line. The joint-use parking area may span a common property line thereby eliminating the setback required in §112-515.I.
- M. Parking of unregistered, commercial and junk vehicles.
- (1) Purpose. To prevent the character of residential areas from being harmed by nuisances, hazards and visual blight, and to prevent the establishment of junkyards in residential districts.
- (2) Storage of unregistered, commercial or junk vehicles.
- (a) Definitions. For the purposes of this §112-515.M, the following terms shall have the stated meanings:

- i. Commercial Vehicle. A motor vehicle that has a gross vehicle weights of greater than six thousand (6,000) pounds and is primarily used for business purposes, including but not limited to making service calls, transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material.)
  - ii. Tractor of a Tractor-Trailer. A truck with a minimum of three (3) axles that is primarily intended to pull a trailer, as defined below, and not primarily to carry goods itself.
  - iii. Trailer of a Tractor-Trailer. A commercial vehicle with a length of twenty (20) feet or more that is not self-propelled, that is intended to haul materials, vehicles, goods, gases or liquids and that is intended to be pulled by a tractor (as defined above), and that is not a "recreational vehicle."
- (b) Commercial Vehicles in R-1 Districts
- i. In an R-1 District, a maximum of two (2) "commercial vehicles" (as defined above) may be parked for more than eight (8) hours in any forty-eight (48) hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of transportation between their home and work. No commercial vehicle in an R-1 District shall have a gross vehicle weight of over fifteen thousand (15,000) pounds if parked outside of an enclosed building.
  - ii. In an R-1 District, the engine of a tractor of a tractor-trailer shall not be idled for more than ten (10) minutes on the property between the hours of 10 p.m. and 6 a.m. or be repaired, except for clearly emergency repairs.
  - iii. No trailer of a tractor-trailer shall be parked, stored, maintained or kept in an R-1 District for more than eight (8) hours in any forty-eight (48) hour period.
  - iv. See the requirements of the State Motor Vehicle Code that require vehicles parked on a public street to have current registration.
- (c) Exceptions. This section does not apply to the following, provided they are in an operational condition:
- i. Municipally-owned vehicles.
  - ii. Ambulance, fire and rescue vehicles.
  - iii. Buses used primarily for transporting public or private school children to and from school or transporting persons to or from a place of worship.

- iv. Recreational vehicles: a maximum of two (2).
- v. Vehicles operated by the U.S. Postal Service or a level of government or a Municipal Authority.
- vi. Vehicles actively engaged in the construction or repair of buildings, streets, curbs, sidewalks, rehabilitation or utilities in the immediate area.
- vii. Vehicles actively engaged in making routine household deliveries or rendering routine household services to a property that is adjacent or on the same lot as the vehicle is parked.
- viii. Equipment and vehicles clearly primarily intended for agricultural use.
- ix. Parking of vehicles that are customarily accessory to a lawful nonconforming principal business use.

## ARTICLE VI SIGNS

### §112-601. Intent and Purpose.

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

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

### §112-602. Definitions.

The definitions in this §112-602 shall supplement the definitions in Article II of this Ordinance as applicable to the regulation of signs.

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

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



Awning Sign



A-Frame / Sandwich Board

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

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



Civic Event Banner



Banner Sign

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



Billboard/Off Premises Sign

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

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



Canopy Sign



Canopy Sign

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



Construction Sign

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

**DIRECTIONAL SIGN.** A sign, providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but

not specifically limited to, those signs identifying rest rooms, public telephones, public walkways, parking areas, and other similar facilities.

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

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

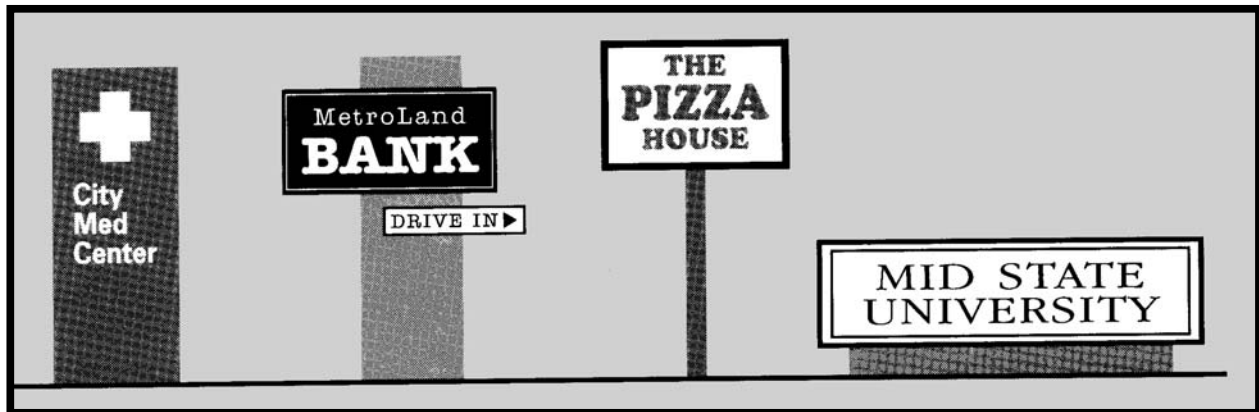
**FLASHING SIGN.** An illuminated sign on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purpose of this Ordinance, any moving illuminated sign affected by intermittent lighting shall be deemed to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



Directory Sign

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

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



MONUMENT                      PYLON                      POLE                      GROUND  
Common Freestanding Ground Sign Types

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

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

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

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

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

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



Marquee Sign



Neon Sign

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

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

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

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

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

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

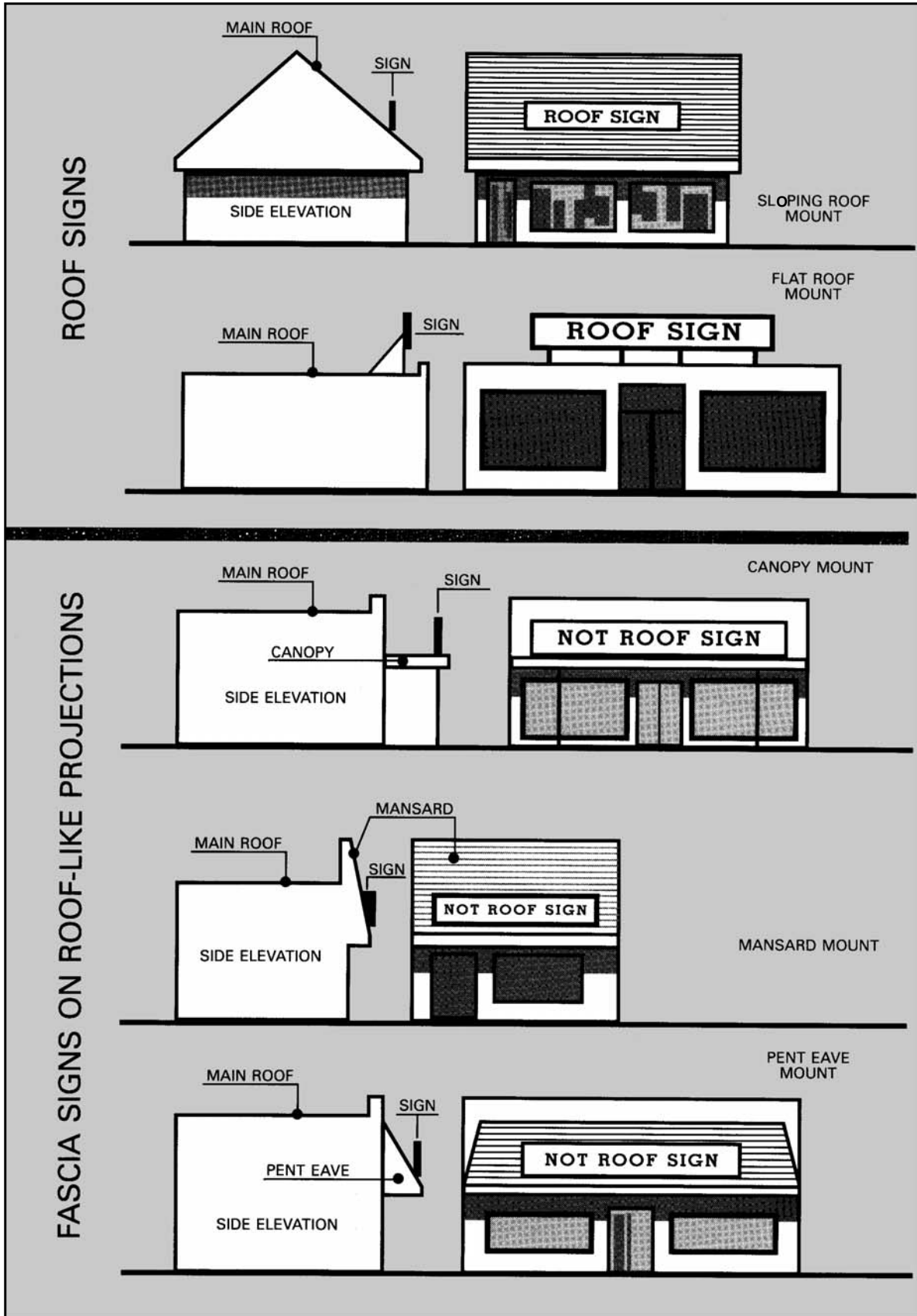


Portable Sign

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

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

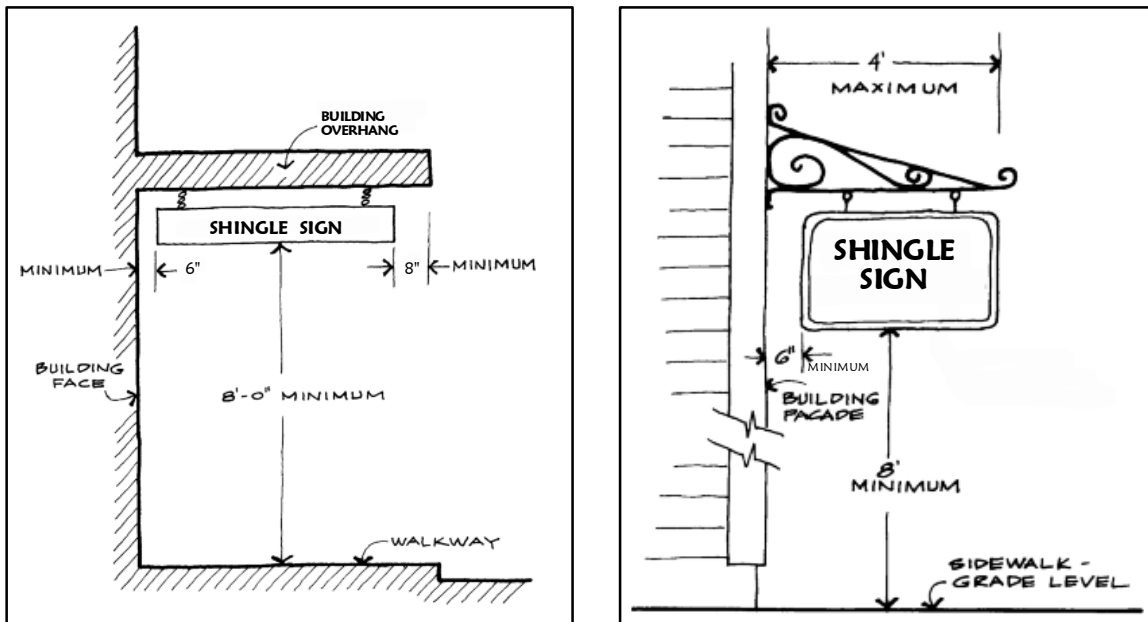




**REAL ESTATE SIGN** - A sign which is used to offer for sale, lease, or rent that premises upon which such sign is placed.

**ROOF SIGN** - A sign erected or maintained in whole or in part upon, against, or directly above the parapet line or roof of the building.

**SERVICE ISLAND** - A set of one or more fuel dispensing pumps arranged in proximity to each other as a raised, concrete island surrounded by paving.



**SHINGLE SIGN** - A sign, other than a wall sign, that is wholly or partly dependent upon a building for support and projects from such building, or a sign that is attached to the underside of a building overhang.

**SIGN** - Any identification, description, illustration, advertisement, or device illuminated or non-illuminated which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, pennant, or placard designed to advertise, identify, or convey information.

**SNIPE SIGN** - A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or to other objects, the advertising matter appearing on which is not applicable to the present use of the premises upon which such sign is located.

**TEMPORARY SIGN** - A non-permanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time.

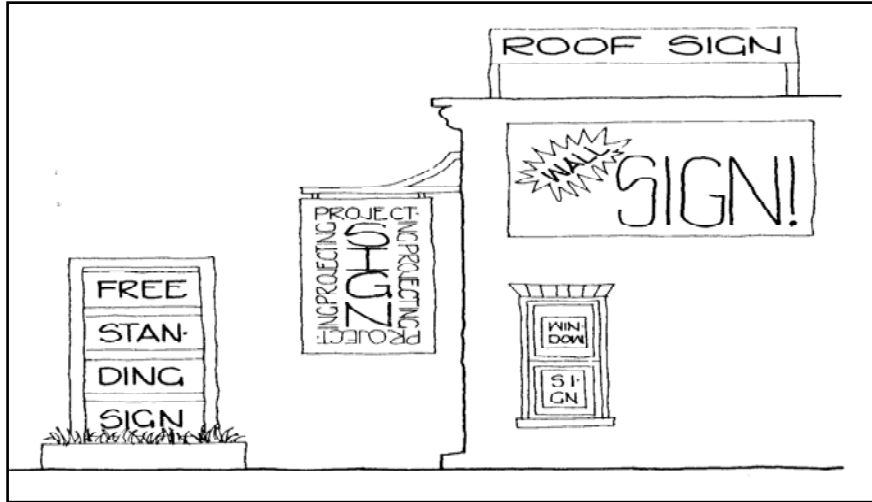
**WALL SIGN** - A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or supported.



Wall Sign

**WARNING SIGN** - A sign containing no advertising material, warning the public of the existence of danger.

**WINDOW SIGN** - A sign attached to, placed upon, or painted on the interior of a window or door of a building which is intended for viewing from the exterior of such building.



Window Signs

**§112-603. General Provisions.**

A. Basis of which signs are regulated. The display of signs in the Borough is hereby regulated on the basis of the following factors.

- (1) The type of activity displaying the sign; and
- (2) The following four (4) design features.
  - (a) the type of sign
  - (b) the area of the sign
  - (c) the height of the sign
  - (d) the location of the sign

In addition, certain signs and certain activities are regulated on the basis of additional factors, as set forth in this Ordinance.

B. Items of information allowed.

- (1) General rules. Subject to the requirements of all other provisions of this Ordinance, each exposed face of a sign shall contain no more than eight (8) items of information. However, if the name of the occupant of the premises on which the sign is to be affixed contains more than eight (8) items of information, the name may be displayed on each exposed face of a sign, provided no other information is displayed on such sign.
- (2) Certain information not counted. In calculating items of information, the following shall be excluded;

- (a) Letters nineteen (19) inches or less in height which are carved into, or securely attached to a building in such a way that they are an architectural detail of the building; provided that the letters are not illuminated apart from the building, are not made of a reflective material, do not contrast sharply in color with the building, and do not exceed a thickness of one (1) inch; or
- (b) That information pertaining to the date of erection, the sign permit number, the sign permit expiration date, and the voltage of any electrical apparatus to be used in connection with the sign on which it is to be displayed as specified herein.

**§112-604. Illumination.**

All signs permitted by this Ordinance may be illuminated in compliance with this §112-604.

- A. Electrical permit. In addition to complying with the provisions of this Ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the National Electrical Code.
- B. Illumination of buildings, structures, and areas.
  - (1) Unshielded lighting. The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, outdoor sales areas, or outdoor storage area is prohibited except;
    - (a) during the month of December for areas in which Christmas trees are offered for sale;
    - (b) on a temporary basis for areas in which carnivals, fairs, or other similar activities are held;
  - (2) Building/structure illumination. A building or other structure may be illuminated, but all lighting used for this purpose must be designated, located, shielded, and directed in such a manner that the light source is fixed and not directly visible from any adjacent publicly dedicated roadway and surrounding property.
  - (3) Glare; intensity. All signs shall be so designed located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property. No lighting from any sign shall be of such intensity to cause the distraction of drivers, create a nuisance on surrounding properties, or otherwise create a safety hazard.

**§112-605. Construction Specifications.**

All permanent signs permitted by this Ordinance shall be constructed in accord with this §112-605.

- A. Compliance with applicable codes. In addition to complying with the provisions of this Ordinance, all signs shall be constructed in accordance with the applicable provisions of the Uniform Construction Code.
- B. Reserved
- C. Auxiliary specifications. All signs permitted by this Ordinance shall be constructed in accordance with the following provisions.

- (1) 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.
  - (2) Obstruction to ventilation. No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
  - (3) 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.
  - (4) 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.
  - (5) 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.
  - (6) Intersections. No sign shall be erected which creates a traffic hazard at any street intersection and all signs shall comply with §112-502.E.
- D. Wind loads. All signs, except those attached flat against the wall of a building shall be constructed to withstand minimum wind loads as set forth in the Uniform Construction Code.

**§112-606. Prohibited Signs.**

The following signs are hereby expressly prohibited for erection, construction, repair, alteration, or relocation within the Borough except as otherwise permitted in this Ordinance.

- A. "A" frame or sandwich board signs. "A" frame or sandwich board and sidewalk, or curb signs, except as provided for in §112-610.E of this Ordinance.
- B. Banners and pennants. Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign in accord with §112-608 of this Ordinance.
- C. Moving and flashing signs. Signs which flash, revolve, rotate, swing, undulate, or move by any means, or otherwise attract attention through the movement or flashing of parts or animation or video display, including automatic, electronically controlled copy changes, or through the impression of movement or flashing. This shall not include time and temperature indicators, whose movement is either digital or analogue, or electronic signs or flags otherwise permitted by this Ordinance.
- D. Portable and wheeled signs. Portable and Wheeled signs, except as a temporary sign in accord with §112-608 of this Ordinance.

- E. Projecting signs. Unless otherwise permitted by this ordinance, signs which are attached or otherwise affixed to a building and project more than twelve (12) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.
- F. Signs and parked vehicle, trailers and/or containers. Signs placed on or affixed to vehicles, trailers and/or containers which are parked on a public right-of-way, public property or private property, so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby.
- G. Signs on trees or utility poles. Signs which are attached or otherwise affixed to trees or other living vegetation, or utility poles.
- H. 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.
- I. Emissions – Any sign which emits any sound, odor or visible matter such as smoke.
- J. Obscene or pornographic - Obscene or pornographic signs or signs advertising obscene or pornographic information or materials. Any sign which exhibits statements, words or pictures of obscene or pornographic material or information, or contains advertising material or information for obscene or pornographic material or information.
- K. Snipe signs. Snipe signs.

**§112-607. 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. An awning, canopy, or marquee sign shall not project beyond the edges of the awning, canopy, or marquee to which such sign is affixed
- 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 and four (4) square feet aggregate gross 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. Political signs and non-commercial signs. Political signs; flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations; and other signs displaying non-

- commercial protected speech; providing that such signs and flags, emblems, and insignia are displayed for non-commercial purpose and do not exceed ten (10) square feet.
- E. Governmental signs. Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger, and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties.
  - 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 visible from the exterior of the structure which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby, court or at the entrance of any theater when such signs are intended for patrons immediately adjacent to the signs.
  - H. Memorial signs. Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events which are non-commercial in nature.
  - I. Name and address plates. Signs, not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet, indicating the name of the occupant, the address of the premises, and identification of any legal business or operation which may exist at the premises.
  - 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. The following signs if located on the same premises to which they apply.
    - a. Directional signs. Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.
    - b. Instructional signs. Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of sixteen (16) square feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7) feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.
  - 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. Public signs. Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be on any type, number, area, height, location, or illumination as required by law, statute, or ordinance, and Borough owned and maintained community information signs including electronic message displays.
- 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.



Public Sign

#### **§112-608. Temporary Signs.**

Temporary signs may be erected and maintained in accordance with the provisions contained in this §112-608.

##### A. General conditions.

- (1) Illumination. Temporary signs may be illuminated subject to §112-604.
- (2) Sign types. Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs as defined herein.

##### B. Temporary business signs. Temporary business signs identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:



- (1) 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.
  - (2) District
    - (a) R-1 Districts. In R-1 Districts, temporary business signs shall not exceed two (2) square feet in gross surface area for each exposed face not to exceed an aggregate gross surface area of four (4) square feet.
    - (b) X-1, C-1 and I-1 Districts. In X-1, C-1 and I-1 Districts, temporary business signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of sixty-four (64) square feet.
  - (3) Location. Temporary business signs shall be located only upon the zoning lot upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
  - (4) Height
    - (a) R-1 Districts. In R-1 Districts, temporary business signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
    - (b) X-1, C-1 and I-1 Districts. In X-1, C-1 and I-1 Districts, temporary business signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- C. Temporary construction signs. Temporary construction signs identifying the parties involved in the construction to occur or occurring on the premises on which the sign is placed shall be subject to the following:
- (1) 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.
  - (2) Area
    - (a) R-1 Districts. In R-1 Districts, temporary construction signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, not exceeding an aggregate gross area of thirty-two (32) square feet.

- (b) X-1, C-1 and I-1 Districts. In X-1, C-1 and I-1 Districts, temporary construction signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face, not exceeding an aggregate gross surface of sixty-four (64) square feet.
- (3) Location. Temporary construction signs shall be located only upon the premises upon which construction either is about to occur, or is occurring. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- (4) Height. Temporary construction signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- (5) 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.
- D. 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:
- (1) Number, area, height, and location. The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Zoning Officer with consideration given to the public intended purpose. In any event, no sign may exceed thirty-two (32) square feet for each exposed surface or sixty-four (64) square feet in gross surface area.
- (2) 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.
- (3) Limit on number of permits. No more than six (6) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.
- E. Reserved.
- F. Temporary real estate signs. Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:
- (1) Number. There shall be not more than one (1) temporary real estate sign for each zoning lot except that where a lot abuts two (2) or more streets, additional signs, one (1) oriented to each abutting street, shall be permitted.
- (2) Area.
- (a) R-1 Districts. In R-1 Districts, temporary real estate signs shall not exceed six (6) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of twelve (12) square feet.

- (b) X-1, C-1 and I-1 Districts. In X-1, C-1 and I-1 Districts, temporary real estate signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of thirty-two (32) square feet.
- (3) Location. Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- (4) Height. Temporary real estate signs shall not exceed a height of fifteen (15) feet as measured from grade at the sign to the highest part of the sign.
- (5) 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.
- G. Temporary yard or garage sale, open house, or auction signs. Temporary yard sale or garage sale, open house, or auction signs advertising the sale of items and the sales location shall be subject to the following:
- (1) Area. In all zoning districts no temporary yard or garage sale signs shall exceed four (4) square feet in size.
- (2) Location. A temporary yard or garage sale sign shall not create a public hazard.
- (3) Height. Temporary yard or garage sale signs shall not exceed thirty (30) inches in height.
- (4) Timing. Temporary yard or garage sale signs may be erected no sooner than seven (7) days before the sale and must be removed no later than three (3) days after the sale. No temporary yard or garage sale signs shall remain erected for a period longer than ten (10) days.

**§112-609. Residential Use.**

For all residential uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted use.

- A. 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:
- (1) Type. Building name and address signs may be either wall signs or ground signs.
- (2) Number. There shall not be more than one (1) name and address sign for each building except that where a building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
- (3) Area. Building name and address signs shall not exceed four (4) square feet in gross surface area for exposed face, nor exceed an aggregate gross surface area of eight (8) feet.
- (4) Location. Building name and address signs shall not be located closer than one-half the minimum setback required for the zoning district in which the sign is to be erected or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The

location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.

- (5) Height. Building name and address signs shall not exceed a height of fifteen (15) feet for wall signs and seven (7) feet for ground signs, as measured from grade at the sign to the highest part of the sign.
- B. Residential development signs. Residential development signs indicating only the name of the development, the management or developer thereof, and/or the address or location of the development shall be subject to the following:
- (1) Type. The residential development signs shall be ground signs.
  - (2) Number. There shall not be more than two (2) residential development signs for each point of vehicular access to a development.
  - (3) Area. Residential development signs shall not exceed twenty (20) square feet in gross surface area.
  - (4) Location. Residential development signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
  - (5) Height. Residential development signs shall not exceed a height of seven (7) feet, as measured from grade at the sign to the highest part of the sign.
- C. Exempt signs. Exempt signs as specified in §112-607 of this Ordinance.
- D. Temporary signs. Temporary signs as specified in §112-608 of this Ordinance.

**§112-610. Commercial, industrial, and institutional uses.**

For all commercial, industrial, and institutional uses, the signs included in this §112-610 shall be permitted in accord with the applicable requirements and then only if accessory and incidental to a permitted use. All signs governed by this §112-610 (except for billboards and off-premises signs) shall not be used for any message which is displayed in trade for any form of compensation unless the displayed product or service is offered upon the premises where the sign is located, and any sign which does not conform to this shall be considered a billboard subject to §112-611.

- A. Commercial, industrial, and institutional use signs. Commercial, industrial, and institutional use signs, other than those subject to special conditions in later parts of this section, shall be subject to the following:
- (1) Maximum combined sign area. The maximum combined gross aggregate surface area of all business signs (see definition) on any property shall not exceed one hundred and sixty (160) square feet.
  - (2) Wall signs.
    - (a) Number. There shall be not more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, additional such signs, one (1)

oriented to each abutting street, shall be permitted and one (1) any side of a building which includes the main entrance of a business.

- (b) Area. The gross surface area of a wall sign shall not exceed ten (10%) percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. The gross surface area of a wall sign may be increased by twenty (20%) percent, except that the gross surface of the sign shall not exceed sixty-four (64) square feet, if such wall sign;
    - i. 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
    - ii. 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.
  - (c) Location. A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed.
  - (d) Height. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.
- (3) Ground signs.
- (a) Number. There shall not be more than (1) ground sign for each lot except that where a legal nonconforming roof sign is located on the premise, no ground sign may be permitted unless the roof sign is removed.
  - (b) Area. The gross surface area of a ground sign shall not exceed thirty-two (32) square feet for each exposed face, nor exceed an aggregate gross surface area of sixty-four (64) square feet.
  - (c) Location. A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
  - (d) Height. A ground sign shall not exceed a height of twenty-five (25) feet, as measured from grade at the sign to the highest part of the sign.
- (4) Awning, canopy, and marquee signs. (See §112-610.C for fuel service island canopies.)
- (a) Area. The aggregate gross surface area of all awning, canopy, or marquee signs shall not exceed twenty-four (24) square feet for each principal building and no individual awning, canopy, or marquee sign shall exceed four (4) square feet in gross surface area.
  - (b) Coverage. An awning, canopy, or marquee sign shall not project beyond the edges of the awning, canopy, or marquee to which such sign is affixed.

- (c) Roof Signs. Roof signs shall not be permitted.
- B. Multi-use signs. Multi-use project signs shall be subject to the following:
- (1) Wall signs
- (a) Number. There shall not be more than one (1) wall sign for each principal tenant or use contained in a multi-use project except that where a tenant or use abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
- (b) Area. The gross surface area of a wall sign shall not exceed ten (10%) percent of the tenant's or user's proportionate share of the building wall to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller.
- (c) Location. A wall sign may be located on the outermost wall of any principal building, but shall not project more than twelve (12) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.
- (d) Height. A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.
- (2) Ground signs.
- (a) Number. There shall not be more than one (1) ground sign for each multi-use project.
- (b) Area. The gross surface area of a ground sign shall not exceed a maximum of one (1) square foot of gross aggregate surface area for each one and one-half (1) lineal feet of front footage of the lot not to exceed one hundred (100) square feet of gross aggregate surface area.
- (c) Location. A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- (d) Height. A ground sign shall not exceed a height of twenty-five (25) feet, as measured from grade at the sign to the highest part of the sign.
- (e) Directory signs. Each multi-use project ground sign may include affixed directly to it a directory indicating only the names of the tenants of the multi-use project in which the sign is to be located. The gross surface area of a directory sign shall not exceed ten (10) square feet for each exposed face, nor exceed an aggregate gross surface area of twenty (20) square feet for each tenant located in the multi-use project in which the sign is to be located. The information displayed by a multi-use project directory sign, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §112-603.B.
- C. Fuel service signs. In addition to the other signs permitted by this Article, the following signs shall be permitted for retail fuel sales establishments and shall be counted as part of the 160-square foot maximum sign area.

- (1) Fuel Price Signs. One (1) sign with up to four (4) fuel prices attached to the business sign which may be an electronic sign in compliance with §112-615.D. The height of the letters/numerals shall not exceed the following and the sign shall be no larger than necessary to encompass the letters/numerals, but in no case shall exceed the width of the business sign.

# of Products Advertised	Maximum Letter Height
1 or 2	24 inches
3	15 inches
4	12 inches

- (2) Canopy signs. Service island canopy signs over fuel service islands indicating the brand, manufacturer and/or logo, shall be subject to the following:

- (a) Location. Service island canopy signs shall be attached to the face of the canopy and shall not extend beyond the edges of the canopy.
- (b) Number. There shall not be more than one (1) service island canopy sign on each face of the canopy.
- (c) Area. The gross surface of a service island canopy sign shall not exceed fifty (50) percent of the surface area of the canopy face to which it is attached.

- D. Window signs. Interior and exterior window signs shall be permitted for retail/service/wholesale commercial premises subject to the following:

- (1) Area. The total surface area of all window signs shall not exceed twenty-five (25) percent of the area of the window to which the signs are attached.
- (2) Location. Window signs shall be permitted only in windows facing an abutting street or any side of a building which includes the main entrance of a business.

- E. A-frame or sandwich board signs. A-frame or sandwich board signs shall be permitted for retail/service/wholesale commercial establishments subject to the following:

- (1) Each business establishment shall be limited to one (1) A-frame or sandwich board sign.
- (2) The sign shall be comprised of two (2) boards of durable material with no attachments.
- (3) The sign shall not exceed eight (8) square feet for each exposed face and shall not exceed thirty (30) inches in width.
- (4) The sign shall not be illuminated.
- (5) The sign shall be displayed only during the hours when the establishment is open for business and shall include advertising pertaining only to the establishment of location.

- (6) The sign shall not be placed in such manner as to impede pedestrian or vehicle traffic or the opening of vehicle doors.
  - (7) The sign shall be sufficiently secured or weighted to resist overturning.
  - (8) The placement of the sign shall comply with PennDOT and Americans with Disabilities Act requirements.
  - (9) The sign shall not be displayed at any time when snow has accumulated on or has not been completely removed from the sidewalk in front of the premises where the sign is permitted.
- F. Shingle signs. In addition to the other signs permitted by this ordinance each business establishment with a separate entrance to the outside shall be permitted a shingle sign in accord with this §112-10.F.
- (1) A shingle sign shall not exceed eight (8) square feet for each exposed face.
  - (2) Shingle signs shall be limited to two (2) sign faces.
  - (3) No portion of a shingle sign shall be less than eight (8) feet above any pedestrian walkway or the ground below the sign.
  - (4) No portion of a shingle sign shall project above the top of an eave or parapet.
  - (5) Shingle signs suspended from the underside of a building overhang shall be centered under the
  - (6) A shingle sign shall maintain a ten-foot separation from another shingle sign.
  - (7) Shingle signs shall be located at the business entrance.
  - (8) Single signs shall not be more than six (6) inches or less than one (1) inch thick.

**§112-611. Billboards and Off-Premises Signs.**

Billboards or off-premises signs may only be erected in the I-1 District subject to special exception approval and in compliance with all applicable requirements of this Ordinance and the following:

- A. Number. One (1) billboard or off-premises sign may be erected, constructed, or maintained on any premises in a Industrial District only in accord with the following criteria.
- B. Area. An off-premises sign or billboard shall not exceed one hundred fifty (150) square feet in surface area, and each such sign shall have only one (1) exposed face.
- C. Spacing. An off-premises sign or billboard shall not be closer than five hundred (500) feet to another off-premises sign or billboard along the same side of any street or highway.
- D. Spacing at intersections. An off-premises sign or billboard shall not be located within fifty (50) feet of any street intersection.
- E. Location. An off-premises sign or billboard shall only be permitted in the Industrial Zoning District. The sign shall be located in accordance with the yard setbacks for structures located in the Industrial Zoning District.



- F. Height. An off-premises sign or billboard shall not exceed a height of twenty-two (22) feet, as measured from grade at the sign to the highest part of the sign.
- G. Site plan. An application for an off-premises sign or billboard shall be accompanied by a site plan and contain all of the applicable requirements as required by this Ordinance.
- H. Engineering certification. Any applications for an off-premise sign or billboard shall be accompanied by certification under seal by a Professional Engineer that the existence of the off-premises sign or billboard, as proposed, shall not present a safety hazard.

**§112-612. Permits.**

- A. Permit required. Except for the following, no person may erect, alter, or relocate within the Borough any sign without first obtaining a sign permit from the Zoning Officer and paying the required fee.
  - (1) Exempt signs as specified in §112-607.
  - (2) Real estate and temporary construction signs.
  - (3) Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, or otherwise render the sign non-conforming.
- B. Permit application. Applications for sign permits shall be submitted to the Zoning Officer and shall contain or have attached thereto the following information.
  - (1) 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.
  - (2) The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.
  - (3) A sketch plan of the property involved, showing accurate placement thereon of the proposed sign.
  - (4) 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.
  - (5) If required by the Zoning Officer, a copy of stress sheets and calculations prepared by or approved by a registered structural engineer, licensed by the State of Pennsylvania, showing that the sign is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable ordinances of the Borough.
  - (6) The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.
  - (7) Such other information as the Zoning Officer may require to determine full compliance with this and other applicable ordinances of the Borough.

- C. Issuance of permits. Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If it appears that the proposed sign is in compliance with all the requirements of this Ordinance and other applicable ordinances of the Borough and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void, unless otherwise extended by the Zoning Officer for a single additional ninety (90) day period.
- D. Permit fees. Each sign required by this Ordinance requiring a sign permit shall pay a fee as established pursuant to a Resolution by the Borough Council.
- E. Revocation of permit. All rights and privileges acquired under the provisions of this Ordinance are mere licenses and, as such, are at any time revocable for just cause by the Borough. All permits issued pursuant to this §112-612 are hereby subject to this provision.

**§112-613. Nonconforming Signs.**

- A. Legal, nonconforming signs. Any sign lawfully existing or under construction on the effective date of this Ordinance, which does not conform to one (1) or more of the provisions of this Ordinance, may be continued in operation and maintained indefinitely as a legal nonconforming sign subject to compliance with the requirements of §112-613.B.
- B. Maintenance and repair of legal nonconforming signs. Normal maintenance of legal nonconforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the 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 nonconforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.

**§112-614. Removal of Certain Signs.**

- A. Nonconforming signs. If the Zoning Officer shall find that any nonconforming sign, except for those legal nonconforming signs as specified in §112-613 is displayed, he shall give written notice to the owners, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.
- B. 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 finds that any such sign advertising a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located has not

been removed within ninety (90) days upon the cessation of such business or sale of such product, he shall give written notices to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be affected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

- C. 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.

**§112-615. Electronic Message Signs in the Industrial District.**

- A. Types of signs - Industrial District. In the I-1 District the following types of signs may be an electronic message sign.
- (1) Individual use wall sign - §112-610.A(2).
  - (2) Individual use ground sign - §112-610.A(3).
  - (3) Multi-use wall sign - §112-610.B(1).
  - (4) Multi-use ground sign - §112-610.B(2).
  - (5) A billboard or off-premises sign - §112-611.
- B. One sign. Only one (1) electronic message sign shall be permitted per development parcel. If the sign structure has two (2) sign faces, each sign face may be an electronic message sign.
- C. Size. The electronic message sign shall not exceed eighty (80) percent of the maximum allowable size of a non-electronic message sign of the same type.
- D. Message display.
- (1) Electronic message signs shall not display animation, flash or blink and motion shall be limited to the transition from one message to another.
  - (2) Electronic message signs shall be equipped with light sensors capable of measuring ambient light levels and dimming devices that shall lower the brightness of the sign based on the measured ambient light to minimize the brightness level required to make the sign visible. The dimming device shall minimize the illumination used to the lowest level necessary to make the sign conspicuous and visible during both daytime and night time hours. At no time shall the brightness level of any electronic message sign constitute glare.
  - (3) Transitions for electronic message signs shall fade and content shall not change more than once every ten (10) seconds with a transition time not exceeding two (2) seconds.

**ARTICLE VII  
STANDARDS FOR SPECIFIC USES**

**§112-700. General.**

In addition to all other applicable standards in this Ordinance, the standards in this Article VII shall apply to the uses as provided in the following sections. The omission from a section of a reference to other applicable requirements shall not exempt compliance with such requirements.

**§112-701. Adult Businesses.**

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

- (1) Health concerns. The concern over sexually transmitted diseases is a legitimate health concern which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
- (2) Behavior. Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- (3) Sexual acts. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
- (4) Unhealthy conditions. Offering and providing such space, encourages such activities, which create unhealthy conditions.
- (5) Sexual activities. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (6) Communicable diseases. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
- (7) Unhealthy conditions. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the

unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

- (8) Bodily fluids. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.
  - (9) Accountability. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
  - (10) Externalities. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
  - (11) Operational characteristics. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
  - (12) Reason for control. The Borough desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.
- B. Intent. It is the intent of this §112-701 to:
- (1) Secondary effects. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
  - (2) Zoning district. Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
  - (3) Content. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
  - (4) First amendment. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.
  - (5) Intended market. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
  - (6) PA Code. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

- C. Conditional use. Adult businesses are classified as conditional uses in the District specified in the Schedule of Uses.
- D. Standards. In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:
- (1) Setback. Adult businesses shall not be located less than two hundred (200) feet from any:
    - (a) Dwelling.
    - (b) Place of worship.
    - (c) Public or private school or college.
    - (d) Public park or public recreation facility.
    - (e) Public library.
    - (f) Public museum.
    - (g) Child day care center.
    - (h) Commercial enterprises catering primarily to persons less than eighteen (18) years of age.
    - (i) Gaming establishment.
  - (2) Similar businesses. Adult businesses shall not be located within two hundred (200) feet of any other adult business.
  - (3) Measurement. The setback distances established in this §112-701 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
  - (4) Enlargement. An existing, lawful nonconforming adult business may be expanded as a conditional use once in total floor area beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance, but only in accord with Article IX of this Ordinance.
  - (5) 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.
  - (6) Nonconformity. Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §112-701 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except: as permitted in Subsection 4 above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.
  - (7) Location of new neighboring uses. An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use permit, a use from which an adult business is required to provide a setback under §112-701.D.1 above is developed within the required setback distance.
  - (8) Lighting. Overhead lighting shall be provided to illuminate all improved areas of the property; and said lighting shall be in compliance with all requirements of this Ordinance.

- (9) Visibility and signs: No sexually explicit material, signs, display, silhouette or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of Article VI 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.
- (10) Exemption for modeling class: Any modeling class which involves a person appearing in a state of nudity and which is operated by or involves any of the following shall be exempt from the provisions of this §112-701:
- (a) By a proprietary school, licensed by the State, or an academically accredited college or university;
  - (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
  - (c) In a structure –
    - i. 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
    - ii. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
    - iii. where no more than one (1) nude model is on the premises at any one time; or
    - iv. by an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

**§112-702. Reserved.**

**§112-703. Agricultural Uses. Crop Production and Animal Husbandry.**

(See §112-706.D for animals on residential lots.)

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

- A. Crop production. Crop production shall be permitted in any district on any size of parcel of land.
- B. Animal husbandry. Animal husbandry shall be permitted only in those districts as designated on the Schedule of Uses and in addition to other applicable ordinance standards, the following shall apply:
  - (1) Parcel size. The keeping of more than two (2) smaller animals for commercial breeding, raising, boarding, or one larger animal or fowl, shall require a minimum of two (2) acres plus one-half (0.5) acre for each additional large animal.
  - (2) Fencing or shelter. Adequate fencing or shelter shall be provided to keep livestock contained within the boundaries of the property.

- (3) Setbacks. The minimum front, side and rear setback distances shall be one hundred (100) feet for any stables, barns or other animal housing structures and for the indoor or outside storage of by-products or waste.
  - (4) Retail sales. Minor retail sales incidental to animal husbandry shall be permitted.
- C. State protected agricultural operations. Nothing in this Zoning Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes. Such rights and protections, in terms of limiting the application of the standards in this Zoning Law, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the applicable state statute.
- D. Natural features. Existing natural features, drainage and vegetation shall not be removed, changed or destroyed except where necessary and essential to the development, construction and operation of the agricultural operation.

**§112-704. Airports and Heliports.**

The standards in this §112-704, in addition to other applicable standards in this Zoning Ordinance, shall apply to all existing and proposed airports. For the purposes of this §112-704 airports shall include heliports.

- A. Conditional use. The development of a new airport and any change to an existing airport which would affect the location of airport surface zones, approach zones, or hazard zones, shall be considered conditional uses. In addition to the other requirements of this Ordinance, the requirements of this §112-704 shall apply to any airport conditional use application. The following shall constitute changes at an airport requiring conditional use approval:
- (1) Any extension of a runway's length;
  - (2) Any change in the height of a runway;
  - (3) The paving of any previously unpaved portions of a runway, if such paving results in any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone;
  - (4) Any change of runway direction or alignment;
  - (5) Any change in the status of taxiways or holding areas effecting the location areas of airport hazard zones;
  - (6) Any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone.
  - (7) Any other physical, legal or rating change, or change in methods of operation, flight paths or change in instrumentation or technology resulting in a change in the location or extent of any airport hazard zone.
- B. Application contents. The application for conditional use shall contain the following documents and information:



- (1) A full narrative description of the airport and any changes proposed.
  - (2) Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.
  - (3) Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.
  - (4) Copies of all applications, correspondence, documents, maps or plans submitted to FAA and the Bureau of Aviation relating to the proposed change or construction, rating change, or other rating, legal or physical change.
  - (5) A plan showing of how the lands or air rights negatively affected shall be acquired.
  - (6) A list of the names and addresses of all landowners negatively affected by the proposed airport or change within a height of seventy-five (75) feet from the surface of said lands by the change in airport hazard zones.
  - (7) A list of the names and addresses of all landowners adjoining lands owned or leased by the airport owner.
- C. Engineering review. The Borough Engineer shall review the application and report whether the application to the Planning Agency complies with all applicable ordinances, laws and regulations relating to airport hazard zones. The Borough Engineer shall also report how the proposed airport or change will affect neighboring landowners and landowners in airport hazard zones. The Borough Engineer shall also review and report on expected obstructions to aircraft resulting from the airport or change, and upon the adequacy, feasibility and practicality of the applicant's plan to acquire the necessary air rights.
- D. Costs. Any airport or change to an airport resulting in a change of airport hazard zones shall be considered a land development, and in accord with §503(1) of the Pennsylvania Municipalities Planning Code the applicant shall be responsible for paying all reasonable and necessary charges of the Borough's professional consultants or engineer relating to application review and report under the terms of the Subdivision and Land Development Ordinance.
- E. Notice to FAA, the Bureau of Aviation, and the County. The Zoning Officer shall send a copy of the completed application to the Bureau of Aviation, FAA and the County Planning Department by certified mail, at least fourteen (14) days before the date of the hearing.
- F. Criteria to review. In granting or denying a conditional use, the Council shall consider:
- (1) The effect upon reasonable use of properties affected by the proposal.
  - (2) How the applicant plans to acquire any necessary air rights.
  - (3) The character of the flying operations expected to be conducted at the airport;
  - (4) The nature of the terrain within the airport hazard zone area;
  - (5) The character of the community which is affected by the proposal.

- (6) The effect upon roads, development, transportation routes, and other aspects of the Comprehensive Plan;
- (7) The provision of hazard lighting and marking;
- (8) The importance of aircraft safety.

G. Standards.

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

**§112-705. Amusement Parks.**

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

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

**§112-706. Animals, Keeping of.**

- A. Kennels and Animal Shelters. Kennels and animal shelters, in addition to all other applicable standards, shall be subject to the following standards.:
  - (1) Setbacks. Any structure, outdoor kennels, or animal exercise areas used for the keeping of dogs shall not be located closer than one hundred and twenty-five (125) feet to any property line or one hundred (100) feet to any public or private road right-of-way.
  - (2) Parking. Adequate off-street parking shall be provided pursuant to this Ordinance with one space for each non-resident employee and one space per four animals kept on the premises.
  - (3) Noise barrier. A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas or animal exercise areas not enclosed in a building.
  - (4) Hours outdoors. All animals shall be restricted from using kennel areas not fully enclosed in a building from sunset to 8:00 A.M.
  - (5) Wastes. All waste materials generated on the premises shall be disposed of at a PA DEP-approved facility, and a detailed plan for the same shall be included with the zoning application. In any case, all animal wastes shall be stored in water-tight containers in an area meeting the setbacks in §112-706.A.1 until disposed of and proof of such disposal shall be provided to the Borough.

- (6) Retail sales. Minor retail sales incidental to the kennel/animal shelter shall be permitted.
- B. Stables, private. Private stables are permitted as an accessory use to a single-family residence subject to the following conditions:
- (1) Parcel size. A minimum parcel of two (2) acres shall be required for the residence and stable.
  - (2) Number of horses. No more than one (1) horse shall be kept except that one (1) additional horse may be kept for each additional one-half (0.5) acre of land.
  - (3) Setbacks. No stable building, corral or manure storage area shall be located within fifty (50) feet or an adjoining property line or any public or private road right-of-way.
  - (4) Existing structures. On parcels meeting the minimum parcel size requirement, the use of an existing structure for housing of horses, which structure does not meet the required setbacks may be permitted as a conditional use provided the applicant can document that no nuisances will be created due to noise, odor or other factors; and, the Borough can establish adequate conditions to assure the same.
  - (5) Fences. All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.
  - (6) Erosion and sedimentation; manure management. The applicant shall provide a plan for soil erosion and sedimentation control and manure management.
  - (7) Uses permitted. The types of uses permitted shall be breeding, raising, boarding, keeping and sale of horses, and necessary buildings and structures.
- C. Stables, commercial and horses for hire. Commercial stables, including horses for hire, shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:
- (1) Parcel size. A minimum parcel of ten (10) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other sections of this Ordinance and other applicable standards are met.
  - (2) Number of horses. No more than twenty (20) horses are kept with the exception that one (1) additional horse may be kept for each additional one-half (0.5) acre of land.
  - (3) Fences. All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.
  - (4) Parking. Adequate off-street parking shall be provided pursuant to §112-515 of this Ordinance with one (1) space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises.
  - (5) Setbacks. No stable building, corral or manure storage area shall be located within two hundred (200) feet of an adjoining property line and any public or private road right-of-way.

- (6) Erosion and sedimentation; manure management. The applicant shall provide a plan for soil erosion and sedimentation control and manure management.
  - (7) Uses permitted. The following types of uses shall be permitted as part of the horse farm operation:
    - (a) Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
    - (b) Training of horses, and necessary buildings and structures, including facilities for training only.
    - (c) Boarding of horses, and necessary buildings and structures.
    - (d) The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
    - (e) Sale of horses other than the horses raised or boarded on the premises.
    - (f) Retail sales of any goods or merchandise which are incidental and accessory to the stable use.
- D. Animals on residential lots. (See §112-706.B for private stables.) A reasonable number of customary household pets or domestic animals may be kept on a residential lot without a zoning permit.
- (1) Reasonable number. Defined as the amount of animals an individual can manage within the restrictions of this Ordinance.
  - (2) Containment. All animals shall be contained within the owner's property.
  - (3) Nuisance. All premises shall be subject to all provisions of the Borough Nuisance Ordinance.
  - (4) Parcel size. The keeping of hoofed animals not customarily considered pets shall require a minimum lot area of two (2) acres.
  - (5) Setbacks. Stables, coops, runways or animal exercise pens shall be located more than fifty (50) feet from lot lines or road right-of-way lines.
  - (6) Commercial operations. The keeping of animals or fowl for any commercial purpose shall be defined as animal husbandry and shall meet the requirements of §112-703.B.
  - (7) Wastes. All animal waste shall be managed to prevent any violation of the Borough Nuisance Ordinance.
- E. Zoos, menageries, and wild and exotic animals. Menageries and zoos and the keeping of wild and exotic animals shall, in addition to all other applicable Borough, state and federal requirements, comply with the following:
- (1) Minimum parcel. A minimum parcel size of five (5) acres shall be required.

- (2) Sanitary condition. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
  - (3) Treatment of animals. The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
  - (4) Incompatible animals. Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
  - (5) Offensive odors and noise. The permit holder shall maintain the premises so as to eliminate offensive odors or excessive noise.
  - (6) Peace and quiet. The permit holder shall not permit any condition causing disturbance of the peace and quiet of his neighbors.
  - (7) Animal escape. Animals shall be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.
  - (8) Other regulations. The operation shall conform to all applicable local, state and federal laws and regulations.
  - (9) Pen setback. Any building, pen, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within two hundred (200) feet of any adjoining property line and one hundred fifty (150) feet from any public or private road right-of-way.
  - (10) Waste material. All waste materials generated on the premises shall be disposed of at a PA DEP-approved facility, and a detailed plan for the same shall be included with the zoning application. In any case, all animal wastes shall be stored in water-tight containers in an area meeting the setbacks in §112-706.D.9 until disposed of and proof of such disposal shall be provided to the Borough.
- E. Veterinary clinics. Veterinary clinics with outdoor facilities shall, in addition to all other applicable Borough, state and federal requirements, comply with the following:
- (1) Large animals. The building and paddocks shall be located at least two hundred (200) feet from all property lines. All other open pens at any veterinary clinic shall comply with the setbacks for kennels in §112-706.A.
  - (2) Pets. Clinics for pets shall be located in either a soundproof building with no objectionable odors produced outside the building, in which case all regular district regulations shall apply; or an enclosed building with open pens, in which case the building and pens shall comply with the requirements for kennels in §112-706.A.

**§112-707. Reserved.**

**§112-708. Bed and Breakfast Establishments.**

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

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

**§112-709. Bulk Fuel Storage Facilities; Retail Heating Fuel Distributors.**

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

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

**§112-710. Bus Shelters.**

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

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

**§112-711. Campgrounds and Recreational Vehicle Parks.**

Campgrounds and recreational vehicle parks shall comply with the Subdivision and Land Development Ordinance.

**§112-712. Reserved.**

**§112-713. Cemeteries, Human and Pet.**

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

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

**§112-714. Clubs/Lodges, Private.**

In addition to all other applicable requirements, the following standards shall apply to private clubs and lodges.

- A. Statement of use. A statement setting forth full particulars on the operation of the use, a copy of the Articles of Incorporation, if a corporation, or trade-name certificate, if any, shall be filed with the Zoning Hearing Board. In addition, the Board may, in any case, require that names and addresses of all charter members be furnished.
- B. Type of use. The proposed use shall be a bona fide not-for-profit organization operated solely for the recreation and enjoyment of the members of said organization and their guests.

**§112-715. 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 §112-715 and the Schedule of Uses.

A. Purposes.

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

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

- (1) Existing tall structures. A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than fifteen (15) feet shall be permitted in all districts as an accessory use and conditional use approval shall not be required. The applicant shall provide the following information:
  - (a) Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
  - (b) Detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review by the Borough for compliance with the applicable requirements.
  - (c) Evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.



- (2) New structures and CCD exceeding fifteen feet on existing structures. A CCD site with a CCD that is either not mounted on an existing structure, or is more than fifteen (15) feet higher than the structure on which it is mounted shall be permitted only in those districts specified in the schedule of Uses and shall require conditional use approval in accord with this §112-715.
- (3) Associated use. All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
- (4) CCD as a second principal use. A telecommunications facility shall be permitted on a property with an existing use subject to the following land development standards:
  - (a) The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
  - (b) The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the CCD and support structure shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  - (c) The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - (d) The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

C. Standards.

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

- (a) The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.
  - (b) The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
  - (c) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  - (d) Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
  - (e) A commercially reasonable agreement could not be reached with the owners of such structures.
- (3) CCD height. The applicant shall demonstrate that the CCD is at the minimum height required to function satisfactorily and provide adequate height for eight (8) service providers. The Borough may require the tower to be designed and constructed to be stackable (structurally capable of being increased in height) so that additional antennae arrays can be accommodated in addition to the arrays on the original tower to facilitate future collocation. CD equipment buildings shall comply with the accessory structure height limitations of the applicable zoning district. The Borough may require stealth design (typically resembling a common tree) to ensure that the CCD is compatible with the surrounding landscape.
- (4) Parcel size; setbacks. If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of the existing structure on which it is mounted by more than fifteen (15) feet, the minimum parcel size and setbacks in this Subsection D shall apply.
- (a) Separate parcel. If the CCD is manned and/or the parcel on which the CCD and support structure is a separate and distinct parcel, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet. The distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall be the largest of the following:
    - i. The height of the support structure and CCD.
    - ii. The minimum setback in the underlying zoning district.
    - iii. Forty (40) feet.
  - (b) Lease, License or Easement. If the CCD is unmanned and the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement and the setbacks in §112-715.C(4)(a) shall apply to the boundaries of the parent parcel.

- (5) CCD support structure safety. The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.
- (6) Fencing. A fence shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
- (7) Landscaping. Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the CCD and support structure site from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- (8) Co-location; other uses. In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Borough for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Borough, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- (9) Licenses; other regulations; insurance. The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the CCD; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.
- (10) Access; required parking. Access to the CCD and support structure shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the CCD site is fully automated, adequate parking shall

be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.

- (11) Color and lighting; FAA and 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.
- (12) Communications interference. The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
- (13) Historic structures. A CCD shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- (14) Discontinued use. Should any CCD or support structure cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD and support structure is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Borough to remove the facility and assess the cost of removal to the foregoing parties. The Borough may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
- (15) Site plan. A full site plan shall be required for all CCD and support structure sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required in the Subdivision and Land Development Ordinance. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than fifteen (15) feet.
- (16) Recording of plan. Recording of a plat of subdivision or land development shall not be required for a lease, license or easement parcel on which a CCD and support structure is proposed to be constructed, provided the CCD is unmanned.

**§112-716 to §112-717. Reserved.**

**§112-718. Day Care, Child.**

- A. Outside play area. All outdoor child day care play areas shall be completely surrounded by a secure fence not less than six (6) feet high meeting district setback requirements for accessory structures.
- B. Hours of operation. In RES Districts, child day care facilities shall only operate between the hours of 5:00 .a.m. and 7:00 p.m.

**§112-719. Reserved.**

**§112-720. Distribution Centers and Truck Terminals.**

In addition to all other applicable requirements, the following standards shall apply to distribution centers and truck terminals.

- A. Access. Access to various components of the facility shall be from interior streets or driveways.
- B. Setback requirements.
  - (1) R-1 District. The minimum setback adjoining any R-1 District or adjoining any residential use shall not be less than two hundred (200) feet. Otherwise, district setback requirements shall apply.
  - (2) Use of Setback Areas. The required setback areas shall not be used for any buildings, loading areas, storage areas or any interior streets, drives or ramps, except:
    - (a) Any setback area not adjoining any R-1 District or adjoining any residential use may be used for automobile, truck or trailer parking areas. This shall not apply to any required buffer areas.
    - (b) Any setback area may be crossed by such access roads or drives as are necessary to provide proper ingress and egress.

**§112-721. Reserved.****§112-722. Flea Markets, Outdoor.**

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

- A. District standards. The use shall comply with the lot area, setback, lot coverage, building height and other standards applicable to the district.
- B. Design. The proposed use and related structures shall be arranged and/or constructed in accord with an overall plan and shall be designed as a single architectural style with appropriate landscaping and buffering in accord with Borough requirements.
- C. Water supply and sewage disposal. Provision shall be made for water supply and sewerage disposal in accord with applicable state, and Borough requirements.
- D. Outdoor storage. There shall be no outdoor storage of supplies, goods or waste.
- E. Hours of operation. Flea market operation shall be limited to the hours between 8:00 a.m. and sunset.

**§112-723 - §112-724. Reserved.****§112-725. Gaming Establishments.**

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

- A. Location. Gaming establishments shall not be located less than one hundred (100) feet from any parcel of land containing any of the following:

- (1) Dwelling.
  - (2) Place of worship.
  - (3) Public or private school or college.
  - (4) Public park or public recreation facility.
  - (5) Public library.
  - (6) Public museum.
  - (7) Child day care center.
  - (8) Commercial enterprises catering primarily to persons under eighteen (18) years of age.
  - (9) Adult business.
- B. Similar establishments. Gaming establishments shall not be located within one thousand (1,000) feet of any other gaming establishment.
- C. Measurement. The setback distances established in this §112-725 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Other uses. Any gaming establishment offering other service such as a restaurant, lounge, etc., shall comply with all standards applicable to such other use.
- E. Accessory games of chance. Small games of chance conducted by nonprofit organizations in accord with the Pennsylvania Local Option Small Games of Chance Act (10 P.S. §§ 311-327), as amended, and other games of chance permitted by Pennsylvania law as accessory to commercial uses shall be permitted as an accessory.

**§112-726. Reserved.**

**§112-727. Industrial Wastewater Treatment and Water Withdrawal.**

Industrial wastewater treatment facilities and water withdrawal facilities (referred to as facilities) shall be allowed only in those districts as specified in the Schedule of Uses. In addition to all other applicable standards of this Ordinance, the requirements of this §112-727 shall apply.

- A. Requirements for industrial wastewater treatment facilities. Industrial wastewater treatment facilities shall comply with the following requirements:
- (1) Setbacks. The following setbacks shall be maintained for the industrial wastewater treatment facilities and any truck parking or staging areas. Ancillary facilities such as offices, employee parking, and accessory structures shall comply with the buffer requirements in §112-727.A.2.
    - (a) Property lines, road rights-of-way. Two hundred (200) feet to adjoining properties and public road rights-of-way.
    - (b) Residential structures. Three hundred (300) feet to any existing residential structure not located on the project parcel.
    - (c) Water bodies. Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge or intake structures or facilities at the receiving stream or water supply.
  - (2) Buffer.

- (a) An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
  - (b) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide
  - (c) Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance
  - (d) It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- (3) Access routes; road conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the facility and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.

B. Requirements for industrial wastewater treatment and water withdrawal facilities.

- (1) 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.
- (2) 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.
- (3) Informational requirements.
  - (a) Application information. The applicant and/or operator for all facilities shall provide the information required by this §112-727, all other application information required by this Ordinance, and all other necessary information to enable the Borough to determine compliance with this Ordinance.
  - (b) DEP application information. A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations.
  - (c) Conditions. In the case of industrial wastewater treatment facilities, the findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval in accord with §112-1008.E of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.

- (4) Reporting requirements. For any facility approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

**§112-728 - §112-729. Reserved.**

**§112-730. Junk Yards.**

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

A. Parcel size and setbacks.

- (1) Parcel size. Junk yards shall not be less than two (2) acres.
- (2) Setbacks. All junk yards shall maintain a setback of not less than fifty (50) feet from any public road right-of-way unless state or federal regulations require a greater setback, fifty (50) feet from property lines, and two hundred (200) feet from any residential district or any property the use of which is principally residential.
- (3) Body of water, stream, wetland, or well setback. No junk yard shall be located closer than two hundred (200) feet to any body of water, stream, wetland, or well.

B. Access. There shall be a minimum of two exterior points of entry to the junk yard, one specifically limited to the use of emergency vehicles.

C. Fence. All junk yards shall be completely enclosed by a chain link fence not less than ten (10) feet in height not less than ten (10) feet from any public road right-of-way and property lines. Evergreen trees five (5) to six (6) feet in height shall be placed on 12 foot centers immediately outside the fence. The fence and gate shall be maintained in such a manner as not become unsightly. There shall be not advertising of any kind placed on the fence. Junk shall not be stacked so as to protrude above the fence. It is further provided that the foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junk yard operator so long as said remaining portion or land is not being used of the storage of junk as defined in this Ordinance.

D. Buffer. All junk yards shall be screened from view from all adjoining properties and any public right-of-way and natural vegetative cover shall be maintained in all required setbacks. Vegetative plantings of sufficient density or fencing of such design to effect the required screening may be used. In any case, a buffer not less than twenty (20) feet wide shall be required in accord with §112-514.A.

E. Dumping prohibited. The area used for a junk yard shall not be used as a dump area for trash or garbage.

F. Burning prohibited. No burning whatsoever shall be permitted on the premises.

G. Hazardous materials. To further protect ground water and surface water all batteries, coolants, gasoline diesel fuel, engine oil, Freon any other petroleum products and any other noxious or potentially contaminating materials shall be removed from all junk within two (2) working days after arrival to the premises and shall be disposed in a manner meeting all state and federal requirements. Such liquids and materials while stored on the premises shall be kept separately in leak-proof containers at a central location on the premises.



- H. Water monitoring. The owner of any junk yard shall be required to monitor the ground and surface water in the vicinity of the junk yard. Water testing shall be conducted every three month on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage of junk if water drainage from the junk yard area is to said stream. For each testing period two (2) samples shall be collected; one (1) sample shall be taken from upstream of the junk yard drainage area and one (1) sample shall be taken from the stream at a point below the junk yard drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Council, and if said samples exceed the limits established by the Borough Council, and if said samples exceeding the limits established by the Pennsylvania Department of Environmental Resources, the junk yard shall cease operation until such time as the source of the contamination has been identified and corrected. Tests results shall be submitted to the Borough by the certified laboratory.
- I. Fire lanes. Fire lanes of a minimum width of twenty (20) feet shall be maintained so that no area of junk shall span a distance of more than fifty (50) feet.
- J. Noise. The junk yard shall comply with the noise standards in §112-514.F.
- K. Hours of operation. Any activity associated with the operation of a junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 7:00 am and 8:00 pm and not on Sundays. During business hours, an adult attendant shall, at all times, remain on the premises.
- L. Height. No junk shall be stacked or piled to a height of greater than twelve (12) feet.
- M. Storage. Paper, rags, plastic materials, garbage, organic waste and other rubbish shall not be stored outside and shall not be accumulated or remain on any premises for more than one (1) month.
- N. Tires. Tires shall not be stored or stockpiled in any junkyard in an amount represent more than two (2) weeks accumulation.
- O. Public nuisance. All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin, and shall not constitute a nuisance due to hours of operation, noise, light or litter, the generation of dust, smoke or other pollutants, or the accumulation of stagnant water.
- P. Lock and door removal. Locks shall be removed from junk or abandoned vehicles and doors shall be removed from freezers and similar items to prevent entrapment of children.
- Q. Subdivision and Land Development Ordinance. Applications for permits for junk yards, in addition to meeting the requirements of this Ordinance for permits, shall follow the place submission and approval process established by the Subdivision and Land Development Ordinance for land developments.
- R. Financial guarantees. Certain financial guarantees may be required from the owner/operator to insure the proper operation, maintenance and/or dissolution of the junk yard.

**§112-731 - §112-734. Reserved.**

**§112-735. Mineral Extraction.**

In addition to other applicable standards of this Ordinance, this §112-735 shall apply to mineral extraction.

- A. Findings. The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Municipalities Planning Code §603(I) states that zoning ordinances shall provide for the reasonable development of minerals in each municipality. The Code definition of minerals is: Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas. The Code, at §603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the state Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act.
- B. Intent. The intent of this section is to ensure the Borough is supplied with all necessary information for making an informed decision about the proposed mineral extraction and, in the case of conditional uses, to establish the foundation for any conditions required to protect the public health, safety and general welfare.
- C. Use classification; mineral processing a separate use.
- (1) Use classification. Mineral extraction shall be allowed only in those districts as listed in the Schedule of Uses.
  - (2) Mineral processing. (See also §112-736.)
    - (a) Separate and distinct use; conditional use in specified district. Any use which involves the refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products, shall be considered mineral processing, a separate and distinct use regulated by this Zoning Ordinance
    - (b) Incidental with extraction operation. This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a mineral extraction operation.
- D. Standards. In addition to the performance standards in §112-514 and all other applicable standards of this Ordinance which are not preempted by state statute, mineral extraction shall comply with the following:
- (1) Setback. A setback of one hundred (100) feet shall be maintained between any disturbed area associated with any mineral extraction operation and adjoining properties and public road rights-of-way.
  - (2) Undisturbed buffer. The required setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other purpose associated with the operation except landscaping and crossing of access roads.

- (3) Conditional use buffers. In determining the type and extent of the buffer required for conditional uses, the Borough shall take into consideration the design of any project activities and/or structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
    - (a) If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty (20) feet wide
    - (b) Buffers shall be designed in accord with §112-514.A 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
    - (c) It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
  - (4) Access routes; road conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the condition of any Borough road which will be used and the potential damage which may occur from such use.
  - (5) Conditions of approval. If the Borough determines that the standards in §112-514 which are not pre-empted are not adequate for a conditional use, the Borough Council shall attach such other conditions deemed necessary to protect the public health, safety and welfare, provided the conditions do not include requirements which are preempted by state statute. Such conditions imposed by the Borough Council may be related to hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.
- E. Local, state and federal regulations. Mineral extraction operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.
- F. Informational requirements. The applicant shall provide:
- (1) Borough application information. The applicant shall, at a minimum, provide the information required by this Zoning Ordinance and the information required for land developments in the Subdivision and Land Development Ordinance. In addition the applicant shall submit all other information required to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval in accord with this Ordinance and §603(c)(2) of the Municipalities Planning Code.
  - (2) DEP application information. A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.

- (3) Emergency response. The Applicant shall develop a Emergency Preparedness, Prevention and Control Plan in accord with state and federal requirements and generally accepted practice and submit the Plan for review and comment by the Borough.
- G. Reporting requirements. For any mineral extraction operation approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report
- H. Expansion of nonconforming mineral extraction operations. Mineral extraction operations which are nonconforming by location in a zoning district where such operations are not allowed by the 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 §112-735.

**§112-736. Mineral Processing.**

Mineral processing is considered a conditional use. In addition to all other applicable standards of this Ordinance, the requirements of this §112-736 shall apply.

- A. 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:
- (a) Property lines, road rights-of-way. Two hundred (200) feet to adjoining properties and public road rights-of-way.
- (b) Residential structures. Three hundred (300) feet to any existing residential structure not located on the project parcel.
- (c) Water bodies. Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.
- (b) Buffer.
- (a) An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas
- (b) Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty (20) feet wide
- (c) Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance
- (d) It shall be the responsibility of the property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- B. Local, state and federal regulations. All operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations
- C. Informational requirements. The applicant shall provide the information required by this §112-736.C and all other necessary information to enable the Borough to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Borough based on this information shall serve as a basis for the establishment of conditions of approval in accord with §112-1008.E of this Ordinance and §603(c)(2) of the Municipalities Planning Code. The Applicant shall provide the following:
- (1) Application information. The information required by this §112-736, §112-1008.A(3), and all other necessary information to enable the Borough to assess compliance with this Ordinance
  - (2) DEP application information. A copy of all applications and information required by the applicable DEP Rules and Regulations.
- D. Reporting requirements. For any mineral processing operation approved by the Borough, the operator shall submit to the Borough copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

**§112-737 - §112-750. Reserved.**

**§112-751. Self-Storage Facilities.**

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

- A. District requirements. The facility shall comply with the normal setback, lot coverage and building height standards for the district.
- B. Use. A self-storage facility shall be used only for storage and shall not be used for, including, but not limited to:
- (1) Any other commercial, light manufacturing or industrial use.
  - (2) The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
  - (3) Human habitation
  - (4) The keeping or kenneling of animals.
  - (5) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or similar equipment.
  - (6) The storage of flammable or hazardous chemicals, perishable food stuffs, living organisms, explosives or similar substances.

- C. Outdoor storage. No material, supplies, equipment or goods of any kind shall be stored outside of the self-storage facility structures, with the exception of the vehicles required for the operation of the self-storage facility or the storage of boats or vehicles as shown on an approved plan
- D. Storage in setback areas. No storage shall be permitted in any required setback area.

**§112-752 - §112-753. Reserved.**

**§112-754. Shooting Ranges and Archery Ranges.- Outdoor Commercial.**

This §112-754 is intended to provide minimum standards to regulate commercial outdoor shooting ranges and commercial outdoor archery ranges (hereinafter referred to as ranges) in order to protect neighboring property owners and the public at large from dangers of wild or ricocheting projectiles and from excessive noise and other nuisances.

A. Setbacks.

- (1) Outdoor shooting ranges. All outdoor shooting ranges shall be situated not less than three hundred (300) feet from any property line and not less than five hundred (500) feet from any principal residential or principal nonresidential building existing on the effective date of this §112-754. This shall not apply to structures on the same parcel as the shooting range.
- (2) Outdoor archery ranges. All outdoor archery ranges shall be situated not less than two hundred (200) feet from any property line and not less than three hundred (300) feet from any principal residential or principal nonresidential building existing on the effective date of this §112-754. This shall not apply to structures on the same parcel as the shooting range.

- B. Safety design. All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Borough may require such additional safety features deemed necessary to meet the intent of this §112-754. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.
- C. Noise reduction. All ranges shall be designed and operated to minimize any noise created by the facility and shall at a minimum comply with the requirements of §112-514.F of this Ordinance unless more restrictive standards are required by the Borough as a condition of approval.
- D. Hours of operation. No firearm shall be discharged outdoors between sunset and 8:00 a.m. However, the Borough may establish more restrictive time limits as a condition of approval.
- E. Fence. Security fencing may be required by the Borough of such extent and design to restrict accidental access to any range.
- F. Posting. A three hundred (300) foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.
- G. NRA, state and federal regulations/guidelines. The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and state and federal regulations and best management practices.

**§112-755 - §112-756. Reserved.**

**§112-757. 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.

- A. Purposes. To accommodate the need for solar power facilities while regulating their location and number in the Borough in recognition of the need to protect the public health, safety and welfare.
- B. Permits; use regulations.
- (1) Permits. A permit shall be required for every solar power facility installed in the Borough.
  - (2) Associated use. All other uses ancillary to the solar power facility (including a business office, maintenance depot, etc., greater than one thousand (1,000) sq. ft.) are prohibited from the solar power facility, unless otherwise permitted in the zoning district in which the solar power facility is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the solar power facility.
  - (3) Solar power facility as a second principal use. A solar power facility shall be permitted on a property with an existing use subject to the following land development standards:
    - (a) The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the solar power facility shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
    - (b) The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
    - (c) The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed solar power facility and that vehicular access is provided to the solar power facility.
- C. Standards and design.
- (1) Height. Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.
  - (2) Parcel size; setbacks. Separate Parcel. If the parcel on which the solar power facility is a separate and distinct parcel or if the parcel is leased, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied to the property line and/or lease line. The setback solar collectors, all structures, equipment containers and any associated mechanical facilities shall comply with setback requirements for principal structures of the underlying zoning district.
  - (3) Fencing. A fence may be required around the facility or portions of the facility for safety reasons.
  - (4) Landscaping. Landscaping may be required to screen as much of the solar power facility ground features as possible, the fence surrounding the support structure, and any other ground level

features (such as a building), and in general buffer the solar power facility ground features from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.

- (5) Licenses; other regulations; insurance. The applicant shall demonstrate that it has obtained the required licenses from governing state and federal agencies, and agreement from the local electric utility. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the solar power facility; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the solar power facility.
- (6) Access; required parking. Access to the solar power facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a gravel or better surface for its entire length. If the solar power facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- (7) Communications interference. The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties shall not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the solar power facility developer.
- (8) Glare. The applicant shall provide details about anticipated glare from the facility, including the time of day, time of year and direction of peak glare periods and document how potential nuisances to area properties and on public roads shall be controlled.
- (9) Historic structures. A solar power facility shall not be located within five hundred (500) feet of any structure listed on any public historic register.
- (10) Standards; certification. The design of the solar power facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories or other similar certifying organizations. The operator shall repair, maintain and replace the solar collectors and associated equipment in like manner as needed to keep the facility in good repair and operating condition.
- (11) Uniform Construction Code. To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.
- (12) Electrical components. All electrical components of the solar power facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
- (13) Warnings. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.



- (14) Signs. No advertising material or signs other than warning, manufacturer and equipment information or indication of ownership shall be allowed on any equipment of structures.
  - (15) Transmission and power lines. On-site transmission and power lines shall, to the greatest extent possible, be placed underground.
  - (16) Stray voltage/electromagnetic fields (EMF). The operator shall use good industry practices to minimize the impact, if any, of stray voltage and/or EMF.
  - (17) Emergency services. The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the solar power facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the solar power facility.
  - (18) Site plan. A full site plan shall be required for all solar power facility sites, showing the solar power facility, fencing, screening, buffers, access, and all other items required by this Ordinance.
- D. Public inquiries and complaints. The solar power facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and the solar power facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.
- E. Decommissioning.
- (1) Time limit. The solar power facility owner and operator shall, at its own expense, complete decommissioning of the solar power facility, or individual components, within twelve (12) months after the end of the useful life of the solar power facility or individual components. The solar power facility or individual components shall be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
  - (2) Depth requirement. Decommissioning shall include removal of collectors, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
  - (3) Disturbed earth. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
  - (4) Professional engineer. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (decommissioning costs) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (net decommissioning costs). Said estimates shall be submitted to the Borough after the first year of operation and every fifth year thereafter.
  - (5) Financial security bond. The solar power facility owner or operator, prior to the issuance of a zoning permit, shall provide a financial security bond with the Borough as payee in an amount approved by the Borough Council, but not less than \$50,000, from a company and in a form and content acceptable to the Borough Council, to insure the decommissioning within one hundred eighty (180) days of the expiration of the license or lease and/or cessation of use. The bond shall remain in place for as long as the facilities exist at the site.

- (6) Funds. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Borough.
- (7) Landowner responsibility. If the solar power facility owner or operator fails to complete decommissioning within the prescribed time period, then the landowner shall have one hundred eighty (180) days to complete decommissioning.
- (8) Borough intervention. If neither the solar power facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Borough may take such measures as necessary to complete decommissioning. The entry into the record and submission of evidence of a participating landowner agreement to the Borough shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Borough may take such action as necessary to implement the decommissioning plan.
- (9) Release of decommissioning funds. The escrow agent shall release the decommissioning funds when the solar power facility owner or operator has demonstrated and the Borough concurs that decommissioning has been satisfactorily completed, or upon written approval of the Borough in order to implement the decommissioning plan.

**§112-758. Solid Waste Facilities.**

- A. Intent. The intent of this §112-758 is to minimize the effects of solid waste facilities on the environment, the community and the public health, safety and general welfare by:
  - (1) Controlling the location of facilities and establishing setbacks to minimize dispersal of material, provide adequate open space, minimize odors and limit the spread of vermin.
  - (2) Requiring fencing and buffers to prevent the dispersal of material and minimize odors.
  - (3) Establish base line testing and water quality safeguards to limit the leaching of any liquids into surface and ground water and minimize air and soil pollution.
  - (4) Establishing reporting procedures to ensure the proper operation and maintenance of the facility.
- B. Compliance; application.
  - (1) Compliance.
    - (a) Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §112-758
    - (b) Where a difference exists between applicable State regulations and Borough regulations, it is intended for the purposes of this §112-758 that the more stringent requirements shall apply.
  - (2) Application. In addition to the application requirements of this ordinance, the facility application shall include copies of all information, documents, plans and reports required by PA DEP.

C. Setbacks and buffers.

- (1) Setbacks. The facility shall comply with PA DEP requirements, but in no case shall any facility be operated less than :
  - (a) Two hundred fifty (250) feet from a public or private right-of-way or property line.
  - (b) Five hundred (500) feet from any occupied principal building unless the owner of the building has provided a written waiver consenting to the facility being closer. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. A closed landfill that submits an application to reopen and expand shall also be subject to this requirement.
- (2) Buffers. The setback areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than twenty (20) feet in width shall be provided in all setback areas in accord with §112-514.A of this Ordinance and additional buffers and setbacks may be required.

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

E. Storage and loading/unloading. Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three (3) hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only occur within an enclosed building with negative pressure, and over an impervious surface which drains into a holding tank that is then adequately treated.

F. Effluent treatment. The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility after being treated by the wastewater treatment system shall meet all applicable Department of Environmental Protection regulations and Sewer Authority requirements.

G. Dangerous materials. No radioactive, hazardous, chemotherapeutic or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.

H. Emergency access. The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided and maintained.

- I. Hours of operation. Under the authority granted to the Borough under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, Memorial Day, 4th of July, Labor Day, or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.
- J. Nuisances. Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Borough that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of the Borough that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.
- K. Attendant and inspections. An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a permit, allow access at any time to the facility for inspection by appropriate Borough Officials and provide the Borough with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.
- L. O & M and reporting.
- (1) O & M. The operation and maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit issued by the Borough. Violations of this condition shall also be considered to be violations of this Ordinance
  - (2) Reporting. If the facility is approved by the Borough, the operator shall concurrently submit to the Borough a copy of all information, documents, plans and reports required by PA DEP, and shall forward to the Borough a copy of all correspondence, notices and documents received from DEP which are related to the ongoing operation, maintenance and compliance of the facility.
  - (3) Violation. The failure to comply with the requirements of this §112-758.L shall be a violation of this Ordinance.

**§112-759. Staging Areas for Equipment/Materials and Contractor Yards.**

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

- A. Access to public roads.
- (1) Highway occupancy permit. Access roads to Borough and State roads shall be in accord with a valid highway occupancy permit.
  - (2) Stabilization. The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
  - (3) Weight limitations. All operations shall comply with all posted weight limits and road bonding regulations.
  - (4) Access routes; road conditions. The Applicant shall provide a map showing the public roads in the Borough proposed to be used to access the operation and provide an evaluation of the

condition of any Borough road which will be used and the potential damage which may occur from such use. The Applicant shall also comply with the Borough road bonding requirements.

**B. Setbacks**

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

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

**§112-760 - §112-765. Reserved.**

**§112-766. Vehicle and Equipment Related Uses.**

Vehicle related uses shall, in addition to all other applicable standards, shall comply with the standards in this §112-766.

A. Car and truck wash facilities. In addition to all other applicable standards, all car and truck wash facilities shall be subject to the following specific regulations and requirements:

- (1) Water handling. Appropriate facilities for the handling of waste water from the washing activities shall be provided, including, but not limited to, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather.
- (2) Queuing area. The site shall be sufficiently large to accommodate vehicles awaiting washing during peak period.
  - (a) Five reservoir spaces for queuing vehicles shall be provided for each automatic wash lane (not including the wash lane or loading area ).
  - (b) Two reservoir spaces for queuing vehicles shall be provided for each self-service wash stall (not including the wash stall).

B. Vehicle or Equipment repair operations and vehicle or equipment sales or rental operations. In addition to all other applicable standards, all vehicle or equipment repair operations and all vehicle or equipment sales or rental operations of new and used automobiles, trucks, motorcycles, mobile

homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific regulations and requirements:

- (1) Repair and service. All repair, service or similar activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes and glare
- (2) Exterior storage.
  - (a) Parts and other materials. Exterior storage of dismantled vehicles, tires, auto parts and similar materials shall not be permitted except in a designated storage area in accord with §112-766.B(2)(c) Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
  - (b) Vehicles.
    - i. Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any unscreened exterior area. Any vehicle stored for more than thirty (30) days shall be stored in a designated storage area in accord with §112-766.B(2)(c).
    - ii. Not more than four (4) vehicles per service stall may be stored outside a fully enclosed building.
    - iii. Proof of current license and current registration or ownership of any vehicle shall be required upon demand by the Zoning Officer.
  - (c) Designated storage area.
    - i. All operations storing parts, materials or vehicles outdoors shall establish a designated storage area meeting principal structure setback requirements.
    - ii. A secure and durable fence, six (6) to ten (10) feet in height, shall be erected around the perimeter of the storage area and the area shall be screened.
    - iii. The area shall be stabilized with paving or other suitable material to prevent mud and minimize dust.
- (3) Flammable materials.
  - (a) Exterior storage of flammable materials such as oil, kerosene, gasoline, etc., shall be prohibited at all times.
  - (b) Small propane bulk filling tanks are permitted if fully in compliance with all existing local, state and federal regulations and requirements.
- (4) Accessory goods. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products shall be permitted on the respective islands or provided for in a suitable and safe stand or rack that does not encroach upon the required aisles or parking areas.

- (5) Bulk storage. The storage of gasoline and flammable oils in bulk shall be in compliance with state and federal regulations.
  - (6) Pumps. Gasoline pumps and other service appliances may be located in the required front setback but shall not be situated closer than thirty (35) feet from the road right-of-way line and property lines.
  - (7) Canopy. Any canopy structure over the pumping area shall not be less than twenty (20) feet from any highway right-of-way or lot line and shall not exceed a height of twenty (20) feet.
  - (8) Floor drainage. Floor drainage basins shall be plugged or flow into a holding tank and be disposed of periodically in accord with applicable regulations. Verification of proper disposal may be requested at any time by the Borough Zoning Officer or any authorized local, state, or federal agency.
  - (9) Vehicle and equipment display. The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers and other vehicles or equipment shall meet the side and rear setback requirements for accessory buildings.
- C. Race tracks. In addition to all other applicable standards, the following additional standards shall apply to race tracks:
- (1) Setbacks. All areas for the driving, testing and/or maintenance of motor vehicles shall not be less than five hundred (500) feet from any property line or public road right-of-way, and shall not be less than seven hundred and fifty (750) feet from any RES District. Greater setbacks and buffers may be required in accord with §112-514.A to address community effects.
  - (2) Animal race tracks. In addition to the other standards in this §112-766.C, the following additional standards shall apply to animal race tracks:
    - (a) The race course for any animal race track shall not be less than five hundred (500) feet from any property line or public road right-of-way. Greater setbacks and buffers may be required in accord with §112-514.A to address community effects.
    - (b) Any stable building, corral, kennel or other indoor or outdoor area used for the keeping or feeding of animals, concentrated confinement of animals or manure and animal waste storage shall not be less than one hundred (100) feet from any property line or public road right-of-way.
    - (c) The Applicant shall provide a plan for manure and animal waste management satisfactory to the Borough Council demonstrating that all manure and animal waste shall be managed and disposed of in accord with applicable local, state and federal regulations.
  - (3) Buildings. All buildings on the race track parcel shall comply with Uniform Construction Code and PA Department of Labor and Industry Standards.
  - (4) Time limitations. No race shall be conducted between the hours of 9:00 P.M. and 9:00 A.M., and all track lighting shall be extinguished by 10:00 P.M. However, the Borough may establish more restrictive time limits and limit the days of operation as a condition of approval.

- (5) Repair activities. All service and repair activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- (6) Tire and part storage. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- (7) Storage. No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the district.
- (8) Fuel documentation. Documentation shall be provided that all fuel and fuel storage areas comply with State and Federal requirements.
- (9) Bond/insurance. Based on the type and size of the race track, the Borough Council may require the Applicant to provide a bond and/or insurance to cover the cost of any environmental clean-up or enforcement action which may be required at the site. The amount of the coverage shall be determined by the Board based on the type and size of the track.

**§112-767. Water Withdrawal Facilities.**

See §112-727.

**§112-768. Wind Energy Facilities, Commercial.**

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

A. Purposes.

- (1) Need and location. To accommodate the need for wind energy facilities while regulating their location and number in the Borough in recognition of the need to protect the public health, safety, and welfare.
- (2) Adjacent properties. To avoid potential damage to adjacent properties from wind turbine structure failure and falling ice, through engineering and proper siting of such structures.

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

C. Permits; use regulations.

- (1) Permits. A zoning permit shall be required for every wind energy facility and wind turbine installed in the Borough, and all such facilities shall comply with the Borough Wind turbine Generator Ordinance.
- (2) Associated Use. All other uses ancillary to the wind energy facility (including a business office, maintenance depot, etc., greater than one thousand (1,000) sq. ft.) are prohibited from the wind energy facility, unless otherwise permitted in the district in which the wind energy facility is located. This shall not prohibit the installation, as accessory structures, of equipment



containers not intended for human occupancy to house only equipment necessary for the operation of the wind energy facility.

- (3) Wind energy facility as a second principal use. A wind energy facility shall be permitted on a property with an existing use in districts where permitted subject to the following land development standards:
  - (a) The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind energy facility and wind turbines shall apply; and, the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  - (b) The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - (c) The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

D. Standards.

- (1) Wind energy facility height. The applicant shall demonstrate that the wind turbines are at the minimum height required to function satisfactorily. No wind turbine that is taller than this minimum height shall be approved.
- (2) Parcel size; setbacks.
  - (a) Separate parcel. If the parcel on which the wind energy facility is a separate and distinct parcel, the district minimum lot size shall apply; and, in all cases, the lot shall be of such size that all required setbacks are satisfied
  - (b) Lease, license or easement. If the land on which the wind energy facility is leased, or is used by license or easement, the setback for any wind turbine, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, no wind turbine shall be located closer to any property line (not lease, license or easement line) than one and one tenth (1.1) times the turbine height, including the rotor plane
  - (c) Public and semi-public structures. No wind turbine shall be located less than two thousand (2,000) feet from any existing public or semi-public principal structure measured from the center point of the turbine base. (For the purposes of this §112-768, existing principal structure shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.)
  - (d) Principal structures on wind energy facility parcel. No wind turbine shall be located less than six hundred (600) feet from any existing principal structure on the wind energy facility parcel or lease, license or easement parcel as measured from the center point of the turbine base, unless the property owner provides written permission allowing for a lesser distance. (For the purposes of this §112-768, existing principal structure shall mean any existing principal structure or any principal structure for which a zoning permit has been issued.) In no event shall the setback distance be less than one and one tenth (1.1) times

the total height of the wind turbine as measured from the highest point of the turbine, including the rotor plane.

- (e) Principal structures on other parcels. No wind turbine shall be located less than two thousand (2,000) feet from any principal structure existing on any other parcel prior to the erection of the wind turbine as measured from the center point of the turbine base unless the owner of such existing principal structure shall have executed a written waiver or non-disturbance easement, covenant or consent, any of the aforementioned which has been recorded in the Office of the Recorder of Deeds of Pike County, Pennsylvania. Such easement or covenant shall run with the land and, at a minimum, provided that the said property owner waives and releases any and all claims, damages and/or losses resulting from higher noise levels, visual impacts or flickering reflections and/or shadows which may arise as a result of the location of a wind turbine generator within the established setback distance of an existing principal structure on the property of the owner executing same. Such easement, covenant or consent shall meet such requirements as to form and content as may be required by the Borough. In no event shall the setback distance be less than one and one tenth (1.1) times the total height of the wind turbine as measured from the highest point of the turbine, including the rotor plane.
  - (f) Property lines and public roads. No wind turbine shall be located not less than one and one tenth (1.1) times the total height of the wind turbine from property lines and public road rights-of-way as measured from the highest point of the turbine, including the rotor plane.
  - (g) Communication and electric lines. No wind turbine shall be located not less than one and one tenth (1.1) times the total height of the wind turbine from the nearest above ground public electric power line or public telephone line or other public communication line as measured from the highest point of the turbine including the rotor plane.
  - (h) Horizontal rotors. The required setbacks for windmills with horizontal rotors shall not be less than one and one tenth (1.1) times the height of the turbine tower or one and one tenth (1.1) times the height of the turbine tower plus the distance of the outer end of the rotor from the tower, whichever is greater.
- (3) Wind energy facility design.
- (a) Standards; certification. The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
  - (b) Reserved
  - (c) Uniform Construction Code. The wind energy facility shall comply with the Pennsylvania Uniform Construction Code.
  - (d) 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.

- (e) 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.
  - (f) Warnings. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
  - (g) Signs. No advertising material or signs other than warning, equipment information or indicia of ownership shall be allowed on the wind turbine generators. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waiving, fluttering or revolving devices, but not including weather devices.
  - (h) Climb prevention/locks/fence.
    - i. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
    - ii. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
    - iii. A fence may be required around each wind turbine support structure and other equipment. The fence shall be a minimum of eight (8) feet in height.
  - (i) Emergency services. The facility shall comply with all applicable local, state and federal fire code and emergency services guidelines; and, all wind turbine generators shall be equipped with portable fire extinguishers, unless the local fire department or Borough Engineer provides written documentation establishing that the same is not necessary.
  - (j) Other regulations. The applicant shall document compliance with all applicable state and federal regulations.
- (4) Noise and shadow flicker
- (a) Audible sound from a wind energy facility shall not exceed forty-five (45) dBA as measured at the exterior of any occupied building on any other parcel. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1. 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
  - (b) The facility owner and operator shall use best efforts to minimize shadow flicker to any occupied building on any other parcel.
  - (c) For the purposes of this Subsection 4, occupied building shall mean a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
- (5) Landscaping. Landscaping shall be required to screen as much of the support structure as possible and any other ground level features (such as a building); and, in general, buffer the

wind turbine and support structure site from neighboring properties. Any required vegetation shall be maintained in good condition. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping

- (6) Water supplies. All wind turbine generator sites shall be designed and constructed in such a fashion as to avoid any disruption and or interference with private wells, springs and/or other water sources. In the event any problems occur with any private water source, which problems are proximately caused by the operator, the operator shall immediately supply potable water in such quality and quantity as supplied by the original private water source.
- (7) Licenses. The applicant shall demonstrate that it has obtained the required licenses from the Borough and governing state and federal agencies.
- (8) Access; required parking. Access to the wind energy facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the wind energy facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift.
- (9) Color and lighting; FAA and PA DOT notice. Wind turbines, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements. If lighting is required, the lighting alternatives and design chosen shall minimize the disturbance to the surrounding views. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation.
- (10) Transmission and power lines. On-site transmission and power lines between wind turbines shall, to the greatest extent possible, be placed underground.
- (11) Communications interference. The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties shall not be disturbed or diminished; and, this may be accomplished by remedial measures instituted by the wind energy facility operator.
- (12) Stray voltage/electromagnetic fields (EMF). The operator shall utilize Good Utility Practice to minimize the impact, if any, of stray voltage and/or EMF.
- (13) Water and sewer. Water, other than for facility cooling and fire suppression purposes, and sewage facilities shall not be permitted at wind energy facility sites to preclude person(s) from living or staying on the site, unless such facilities serve a use otherwise approved in accord with this Ordinance.
- (14) Emergency services. The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the wind energy facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

- (15) Site plan. A full site plan shall be required for all wind energy facility sites, showing the wind energy facility, wind turbines, building, fencing, buffering, access, and all other items required by this Ordinance and the Subdivision and Land Development Ordinance.
- E. Certification. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed wind energy facility and support structure shall be designed and constructed in accord with accepted engineering practices and all requirements of this Ordinance. Within 45 days of initial operation, the owner and/or operator of the wind energy facility shall provide a certification from a Pennsylvania registered professional engineer that the wind energy facility and all structures comply with all applicable regulations.
- F. Review fees. In addition to the normal application fees, the applicant shall pay all professional costs incurred by the Borough for review of structural, radio frequency and other technical aspects of the proposal and shall deposit with the Borough an amount deemed adequate by the 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.
- G. Wind test towers. Temporary wind test towers may be erected as a conditional use in districts where wind energy facilities are permitted in accord with other applicable requirements of this Zoning Ordinance. Such towers shall be removed within eighteen (18) months of installation.

**ARTICLE VIII  
RESIDENTIAL STANDARDS**

**§ 112-801. Single-Family and Two-Family Dwellings.**

- A. Newly created lots. New lots for single-family and two-family dwellings shall comply with the District Regulations Table in Article IV.
- B. Existing lots of record.
  - (1) Single-family dwellings. A single-family dwelling may be constructed on a nonconforming lot in accord with §112-912.
  - (2) Two-family dwellings. A two-family dwelling shall only be permitted on an existing lot of record which conforms to the District Regulations Table in Article IV.

**§112-802. Multi-Family Dwellings.**

Multi-family dwellings shall comply with the following in addition to all other applicable requirements:

<b>MULTI-FAMILY DWELLING REGULATIONS</b>			
<b>Regulation</b>	<b>Limited Apartments or Row Houses</b>	<b>Garden Apartments</b>	<b>Mid-Rise Apartments</b>
Minimum lot:			
Area (square feet)	7,200	12,000	12,000
Width (feet)	75	100	80
Depth (feet)	100	120	100
Lot area per dwelling unit (square feet)	2,500	2,000	400
Minimum setbacks:			
Front (feet)	25	25	10
Rear (feet)	30	30	10
Each unattached side (feet)	10	15	10

**§112-803. Conversions to Apartments.**

- A. Density and unit size. Each dwelling unit shall have at least three thousand (3,000) square feet of lot area and six hundred (600) square feet of floor area.
- B. Unit limitation. No converted building shall have more than a total of four (4) dwelling units.
- C. Water and sewer. All dwellings shall be served with public water and public sewer facilities

D. Parking. All conversions shall have at least two (2) off-street parking space per dwelling unit.

**§112-804. Mobile Home Parks.**

Mobile home parks shall comply with the applicable requirements of the Subdivision and Land Development Ordinance and the following:

A. Purpose. The purpose of this §112-804 is to regulate mobile home parks in such a way that their development is safe and sanitary and fit for human habitation and that their development is acceptable and compatible with other development in the areas in which they are located.

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

C. Dimensional regulations.

(1) Minimum Park Area: A mobile home park shall have an area of at least five (5) acres.

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

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

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

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

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

(1) Comprehensive plan. A proposed mobile home park shall be consistent with the Comprehensive Plan of the Borough.

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

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

(4) Mobile home lots. Only one mobile home, including its extensions or additions, may be placed on each mobile home lot which shall have access to a street in the mobile home park. Each lot shall have a minimum area of four thousand (4,000) square feet and a minimum lot width of forty (40) feet. The minimum front, yard shall be ten (10) feet; the rear yard, five (5) feet; and each side yard, five (5) feet. The minimum distance between buildings shall be twenty (20) feet.

No more than thirty (30) percent of each lot shall be covered by buildings, and the maximum total impervious surface cover shall be forty (40) percent.

- (5) Recreation areas. A mobile home park shall be provided with a recreation area for mobile home residents. The recreation area shall be no less than five (5) percent of the total area of the park. Such an area shall be appropriately developed with recreation facilities and easily accessible to all homes in the park.
- (6) Utilities. All utilities serving mobile home lots shall be placed at least four (4) feet underground. In addition, each mobile home in the park shall be served by central water and sewerage.
- (7) Storage sheds. Each mobile home park shall provide to each mobile home an enclosed storage shed or partitioned space in such shed, either of which shall have at least three hundred sixty (360) cubic feet and shall be located within one hundred fifty (150) feet of said mobile home. No outside storage shall be permitted by any mobile home park or committed by any occupant, including the storage of anything underneath any mobile home.
- (8) Refuse storage and collection. Each home shall provide its own garbage and refuse containers in accordance with Borough regulations pertaining to garbage and other solid wastes. The owner of the mobile home park shall provide for the weekly collection of garbage and refuse.

**§112-805. Group Homes.**

Group homes shall be permitted in any lawful single-family dwelling unit in accord with the Schedule of Uses, this §112-805 and other applicable standards of this Zoning Ordinance.

- A. 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.
- B. Certification. The use shall be licensed or certified under an applicable State, County or Federal program for group housing, if applicable. A copy of any such license or certification shall be filed with the Borough, and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Borough within fourteen (14) days if there is a change in the type of clients, the sponsoring agency, the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.
- C. 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 §112-514.A of this Zoning Ordinance.
- D. 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.
- E. 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.
- F. 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.



**§112-806 Functional Families.**

- A. Purpose. This §112-806 is to provide for the regulation of functional families that may request to reside in a dwelling unit and to prohibit larger groups of unrelated persons from residing in dwelling units. Larger groups of unrelated persons have been frequently shown to have a detrimental effect on residential neighborhoods since larger groups of unrelated persons do not live as a family unit and do not have significant economic or emotional ties to the neighborhood.
- B. Special exception; standards. The Zoning Hearing Board shall consider each application for a functional family as a special exception in accord with the standards of §112-1008.E and, among others, the following considerations:
- (1) Members of the proposed occupants:
    - (a) Share a strong bond or commitment to a single purpose (e.g. religious orders);
    - (b) Are not legally dependent on others not part of the functional family;
    - (c) Can establish legal domicile as defined by Pennsylvania law;
    - (d) Share costs of food, rent or ownership, utilities and other household expenses;
    - (e) Prepare food and eat together regularly;
    - (f) Share in the work to maintain the premises;
    - (g) Legally share in the ownership or possession of the premises; and
    - (h) Share the entire dwelling unit or act as separate roomers.
  - (2) Whether the household has stability akin to a permanent family. The criteria used to make this determination shall include, among others, the following:
    - (a) The length of stay together among the occupants in the current dwelling unit or other dwelling units;
    - (b) The presence of minor, dependent children regularly residing in the household;
    - (c) Whether the household is a temporary living arrangement or a framework for transient living; and
    - (d) Whether the composition of the household changes from year to year or within the year.
  - (3) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.
- C. Conditions. The Zoning Hearing Board may impose such additional conditions as it deems necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed.

**ARTICLE IX  
NONCONFORMITIES**

**§112-901. Purpose, Applicability, Registration, and Continuation and Change.**

A. Purpose. It is the purpose of this Article IX to:

- (1) Recognize that if, prior to the adoption of the original Borough Zoning Ordinance, as amended, reenacted and replaced, property was used for a then lawful purpose or in a then lawful manner which the Zoning Ordinance would render thereafter prohibited and nonconforming, such property is generally held to have acquired a vested right to continue such nonconforming use or nonconforming structure. Nevertheless, this does not preclude the Borough from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law.
- (2) Limit the injurious impact of nonconforming lots, structures and uses on other adjacent properties within a particular district and the community as a whole, while recognizing that the change, alteration, reconstruction, reestablishment, or extension of nonconforming lots, structures and uses may not be contrary to the public interest or the general purpose of this Zoning Ordinance, when failure to allow such change, alteration, reconstruction, reestablishment, or extension would itself lead to neighborhood or district deterioration.
- (3) Prescribe those standards which are to be applied by the Borough in determining the reasonableness of a proposal to change, alter, reconstruct, reestablish, or extend a nonconforming use.

B. 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 §112-903 or §112-904. Any lot, structure or use created, constructed or established after the effective date of the original Zoning Ordinance, as amended, reenacted and replaced, which does not conform to the applicable requirements shall be considered an illegal lot, structure or use subject to the penalties prescribed by this Ordinance, and the said lot, structure or use shall not be entitled to any of the protections afforded to legal, pre-existing nonconforming lots, structures or uses.

C. Registration. It shall be the responsibility of the party asserting a nonconformity to provide the evidence, including photographs, that the nonconformity is legal. A property owner may request a written certificate of nonconformity from the Zoning Officer after providing sufficient evidence. The Zoning Officer may submit any application for a Certificate of Nonconformance to the Planning Commission for the Commission's review and recommendation with regard to the evidence of nonconformity.

D. Continuation and change. A lawful nonconforming lot, structure or use as defined by this Ordinance may be continued and may be sold and be continued by new owners subject to the other provisions of this Ordinance. Any expansion, alteration, extension or change in a nonconformity shall only proceed in compliance with this Article IX.

**§112-902. Definitions.**

- A. Nonconforming lot. A lot the area or dimension of which was lawful prior to the effective date of this Ordinance, as amended, but which fails to conform to the requirements of the zoning district in which it is located by reasons of the adoption or amendment of this Ordinance.
- B. Nonconforming structure. A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.
- C. Nonconforming structure, alteration or expansion. As applied to a nonconforming structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
- D. Nonconforming structure, reconstruction. The rebuilding of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.
- E. Nonconforming use. A use, whether of land or of structure, which does not comply with the applicable use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.
- F. Nonconforming use, change. The conversion of a nonconforming use to a different use classification as enumerated in the District Regulations of this Zoning Ordinance.
- G. Nonconforming use, extension. The expansion of a nonconforming use throughout the structure which said use partially occupies; or the expansion of a nonconforming use onto property not already occupied by the said use.
- H. Nonconforming use, reestablishment. The reopening or reinstatement of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Zoning Ordinance.

**§112-903. 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.

**§112-904. 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.

**§112-905. 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 nonconformity, or otherwise create more incompatibility with the permitted use provisions of this Ordinance. Such maintenance and repair activities shall, however, shall comply with all other applicable standards and permit requirements of this Ordinance.

**§112-906. Change of Nonconforming Use.**

- A. Prohibition. The change of a nonconforming use to a different nonconforming use shall not be permitted.
- B. Abandonment. 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 that use.

**§112-907. Extension of Nonconforming Uses - Special Exceptions.**

The Zoning Hearing Board shall consider the factors in §112-911 and may grant a special exception for an extension of a nonconforming use if it finds that all of the following standards are met:

- A. The yard and coverage requirements for the District in which it is located are not violated;
- B. All off-street parking and loading requirements applicable to the use are satisfied;
- C. No more than one enlargement of a nonconforming use or structure is made;
- D. The extension is not more than twenty-five (25) percent of the floor or land area as it existed at the time the structure or use first became nonconforming.
- E. The extension is limited to the same parcel of property on which the nonconforming use is situated as said parcel existed on the effective date of this Ordinance, as amended.

**§112-908. Restoration of Structure or Use.**

- A. Structures.
  - (1) A nonconforming building or other structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar active cause to the extent of more than sixty (60) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the District in which it is located.
  - (2) When damage is less than sixty (60) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage. The Zoning Officer may for good cause grant a one-time extension of not more than one (1) year for the reconstruction of the nonconforming use. Said extension shall only be considered upon written application for same submitted by the property owner.
  - (3) The determination of the extent of damage in terms of percent replacement value due to damage or destruction shall be made by averaging two (2) estimates made by qualified

appraisers using Federal Housing Administration standards and practices. The cost of the appraisals shall be borne by the property owner of the affected property.

- (4) Unless a variance is issued by the Zoning Hearing Board, the reconstruction of any nonconforming building or structure which has been voluntarily removed shall meet current setback, lot coverage, height and other requirements if such removal exceeds fifty (50) percent of the cost to replace the entire structure or use in accord with the most current construction standards.
- B. Non-conforming use of open land. All nonconforming signs, billboards, junk storage areas, storage areas, and similar nonconforming use of open land, when discontinued for a period of ninety (90) days or damaged to an extent of sixty (60) percent or more of replacement costs, shall not be continued, repaired, or reconstructed.

**§112-909. Alterations and Expansions of Nonconforming Structures.**

- A. Alterations. The alteration or expansion of nonconforming structures shall be permitted only in accord with this §112-909. Such alteration or expansion shall be considered a special exception if the alteration or expansion involves a change or extension of a nonconforming use as regulated by §112-906 and §112-907 of this Ordinance, respectively.
- B. Nonconforming setbacks. A structure which is nonconforming as to a setback requirement, except along a public road right-of-way, may be extended along the nonconforming setback line a distance not to exceed fifty (50) percent of the length of the nonconforming part of the structure as it existed at the effective date of this Ordinance. However, the height of any such residential or commercial extension shall not exceed the lesser of the existing height of the nonconforming structure or the applicable district maximum height.
- C. Increase in area or bulk nonconformity. In the case where a proposed alteration or expansion of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required from the Zoning Hearing Board.

**§112-910. Abandonment and Reestablishment of Nonconformities.**

- A. Abandonment. If a nonconforming use of land or structure ceases operations, is discontinued, is vacated or is otherwise abandoned for a period of one (1) year or more, then this shall be deemed to be an intent to abandon such nonconforming use, and any subsequent use of the land or structure shall be for conforming purposes only and said use shall in all respects conform to the applicable provisions of this Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.
- B. Agricultural uses. Abandonment regulations shall not apply to agricultural uses.

**§112-911. Review Factors.**

In addition to the other special exception standards in this Ordinance, and other applicable requirements, the Zoning Hearing Board shall consider any nonconformity special exception application in terms of the effect on the following factors:

- A. Nuisance considerations.

- (1) Traffic generation.
- (2) Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- (3) Amount and nature of outdoor storage
- (4) Hours of operation.
- (5) Compatibility with the character of the surrounding neighborhood.
- (6) Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.

B. Specific considerations.

- (1) Storage of materials. There shall be no increase in the amount of materials, supplies and/or products that are stored outside a nonconforming facility, as on a lot in a nonconforming use, excepting those types of uses provided for in §112-911.B.2.
- (2) Screening. Where the nonconforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a sawmill, farm machinery sales operation or similar operation), the use may only be expanded if a solid fence of wood and/or buffer, not less than six (6) feet in height, is present on all sides of the immediate area in use. Stored material shall not exceed the height of the screening material and nine (9) feet at the maximum. Yards and buffers shall be provided in accord with §112-514.A of this Ordinance.
- (3) Yards and setbacks. No addition, change or expansion of a nonconforming use shall further violate setback and/or height regulations of the district in which it is located.
- (4) Parking and traffic. In no case will a change, addition or expansion of a nonconforming use be allowed which would result in the diversion of traffic, or relocation of a driveway on the site to any point nearer a residential property, or result in violation of any of the parking and unloading requirements of this Ordinance. The Borough may require vegetative screening of the parking area from nearby residential areas in accord with §122-514.A of this Ordinance.

**§112-912. Nonconforming Lots of Record.**

- A. Merger of nonconforming lots. Where two or more adjacent lots with less than the required area and width are held by one owner, the request for a zoning permit shall be referred to the Zoning Hearing Board. The Board may require the owner of said lots to re-subdivide or realign the existing lots or lot lines of the nonconforming lots in such a manner so as to create a lot or lots that conform, or conform as nearly as possible (where total conformance is impossible), with the minimum applicable requirements for lot dimensions and area as set forth in this Ordinance.
- B. Existing separate nonconforming lots. In any zone where a nonconforming lot exists as a separate entity at the time of passage of this chapter and where the owner of the nonconforming lot does not own an adjoining lot as governed by §112-912.A, then the following development is permitted:
  - (1) If the lot is located in an R-1 District, a single-family dwelling may be constructed on it as a permitted use, provided that the lot is in at least fifty percent (50%) compliance with each of the

following requirements for the single-family dwelling, as specified in the district in which the lot is located: lot area, lot width, rear yard, side yard and maximum building coverage.

- (2) If the lot is located in the C-1, X-1 or I-1 District, then a structure not exceeding two (2) stories in height may be constructed on it for a use permitted in the district in which it is located provided that proposed use complies with all applicable standards.

**ARTICLE X  
ADMINISTRATION**

**§112-1000. Applicability.**

A. Conformance; permit/revocation.

- (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.
- (2) Permit/revocation. 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.

B. Authorization. This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania MPC (hereinafter referred to as MPC).

C. 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:

- (1) Erection, construction, movement, placement or extension of a structure, building or regulated sign;
- (2) Change in the type of use or expansion of the use of a structure or area of land; and/or,
- (3) Creation of a lot or alteration of lot lines.

D. 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.

**§112-1001. General Procedure for Permits.**

A. Principal permitted use. Within 30 days of receiving a proper and complete application for a principal permitted use (permitted by right), the Zoning Officer shall either:

- (1) Issue the permit under this Ordinance; or,
- (2) Refuse the permit, indicating at least one (1) applicable reason, in writing, to the applicant or his/her representative.



- B. Reviews. Certain activities require approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Agency.
- C. Appeal. See §112-1005.B(3) for appeal of Zoning Officer actions to the Zoning Hearing Board.
- D. Timing. After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Ordinance provided the work complies with other Borough Ordinances. However, it is recommended that applicants wait 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.

### **§112-1002. Permits and Certificates.**

- A. Applicability. See §112-1000.
- B. Types of uses.
  - (1) Principal permitted uses (permitted by right uses) and accessory uses. If a use is listed as a principal permitted use or an accessory use by this Ordinance and meets the requirements of this Ordinance, the Zoning Officer shall issue a permit in response to a complete application.
  - (2) Conditional use. A permit under this Ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Borough Council following review by the Borough Planning Agency and a public hearing conducted by the Borough Council.
  - (3) Special exception use. A permit under this Ordinance for a use requiring a Special Exception shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board following review by the Borough Planning Agency and a public hearing conducted by the Zoning Hearing Board.
  - (4) Application requiring a variance. A permit under this Ordinance for a use requiring a Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board following review by the Borough Planning Agency and a public hearing conducted by the Zoning Hearing Board.
- C. Applications.
  - (1) Required. Any request for action by the Zoning Hearing Board, application for a conditional use, or for a permit under this Ordinance shall be made, in writing, on a form provided by the Borough and in accord with the procedures established by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Zoning Officer for processing such application. The applicant is responsible to ensure that the Zoning Officer notes the date of the official receipt on the application.
  - (2) Number of Copies. The applicant shall submit the number of paper copies and the electronic copy as established by Borough policy.
  - (3) Information Required. Any application to the Zoning Officer, Zoning Hearing Board, Planning Agency or Borough Council shall include all information required by this Ordinance.

- (a) The Zoning Officer, Planning Agency, Borough Council, or the Zoning Hearing Board, as the case may be, may determine that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.
  - (b) The Zoning Officer, Planning Agency, Borough Council, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.
- D. Survey. In cases where the size of the lot, proposed setbacks, lot coverage or other aspect of the proposed construction or development is of such nature as to make confirmation of compliance with the required standards uncertain based solely on the plot plan submitted by the applicant, or if the exact location of property lines or property corners cannot be determined by the Borough, the Borough may require the applicant to submit a survey of the subject parcel. Said survey shall be made by a Pennsylvania Registered Land Survey and shall show all details required by the Borough to confirm compliance with the particular standards in question. The Borough may require such survey prior to issuance of a permit to document that all requirements can be satisfied, or prior to issuance of a certificate of use/occupancy to confirm that all improvements have been developed in accord with the applicable requirements.
- E. Other Laws and Regulations.
  - (1) The Zoning Officer shall issue permits only where there is compliance with the provisions of this Ordinance, with other Borough ordinances and with the laws and regulations of the Commonwealth and the Federal Government.
  - (2) The Applicant bears all responsibility for ensuring compliance with all applicable laws and regulations, including, but not limited to, compliance with this Ordinance, the Borough Storm Water Management Ordinance, the Subdivision and Land Development Ordinance, any and all regulations governing wetlands and/or other natural resources, and all other Borough, County, State and/or Federal laws and regulations.
- F. Ownership. No person other than a landowner shall submit a zoning application. (See definition of *landowner* in Article II.)
- G. 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 Agency, the Susquehanna County Planning Department, the County Conservation District or Borough Engineer) for review and comment.
- H. Principal permitted uses (permitted by right uses) and accessory uses. Applications for principal permitted uses and accessory uses shall, at a minimum, include the following unless the Zoning Officer determines certain information is not necessary for the particular 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 and written scale.
  - (f) County tax identification number for the parcel(s).
  - (g) Date plot plan was completed and name and address of person, form or organization preparing the plan.
  - (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 on the property and within 200 feet of the property:
    - i. Water courses, lakes and wetlands (with names).
    - ii. Rock outcrops, ledges and stone fields.
    - iii. Buildings, structures, additions, signs (with design details for proposed signs) and required setbacks.
    - iv. Approximate location of tree masses.

- v. Locations, dimensions, grades and flow direction of existing sewers, culverts, water lines as well as other underground and aboveground utilities within and adjacent to the property including profiles, grading, cross section and other construction details of proposed facilities.
  - vi. Entrances, exits, access roads, sidewalks, parking areas including the number of spaces and any unenclosed uses, including profiles, grading, cross section and other construction details of proposed facilities.
  - vii. Drainage and storm water management facilities.
  - viii. Plans for any required grading, screening, landscaping or buffers.
  - ix. Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Commission.
  - x. Soils information, including location and extent of soils types and the location of any soil test pits and percolating tests.
  - xi. 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 details of existing and proposed rights-of-way, easements, public use area or other existing restrictive covenants within or adjacent to the property.
  - (11) A statement of the type of water supply and sewage disposal proposed, and adequate proof from the Borough Sewage Enforcement Officer that any existing or proposed sewage system is able to handle any new use, changed use or extension of existing use.
  - (12) The zoning district and major applicable lot requirements and zoning districts of adjoining lands.
  - (13) The location of all areas or features of the project parcel which are subject to the Borough Official Map and the type of reservation as specified on the Official Map.
  - (14) If the plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
  - (15) Any other information deemed necessary by the Commission to determine conformity of the site plan to the intent and regulations of this Chapter.
- I. Conditional uses and special exceptions. See §112-1008.A(3) for conditional use and special exception application requirements.

- J. Variations. Applications for variations shall include the information required by Zoning Hearing Board policies and procedures.
- K. Inspections. Inspections associated with an application for a development or use shall be conducted in accord with the policies and procedures adopted by the Borough.
- L. Revocation of permits. If a zoning permit is revoked by the Zoning Officer, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer, and all work and/or use of the property shall be discontinued in accord with the permit revocation. The Zoning Officer shall revoke a permit or approval issued under the provisions of this Ordinance in case of:
- (1) False information. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. (The Pennsylvania Criminal Code provides for penalties for providing false information to a Borough employee in the carrying out of his/her duties); or,
  - (2) Condition violation. Violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
  - (3) Noncompliance. 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;
  - (4) Other laws and regulations. Violation of any applicable Borough, County, State or Federal Law or regulation; or,
  - (5) Other. Any other just cause set forth in this Ordinance.
- M. Changes to approved plans.
- (1) Written consent. After the issuance of a permit and/or approval under this Ordinance, an approved application shall not be changed without the written consent of the Borough, as stated in Subsection B below.
  - (2) Conditional uses and special exceptions. Changes to an approval by the Borough Council as a conditional use or by the Zoning Hearing Board as a special exception use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Zoning Hearing Board or the Borough Council is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use, as determined by the Zoning Officer.
  - (3) Notice. A copy of such adjustment or correction shall be provided, in writing, to the Planning Agency, the Borough Council or the Chairperson of the Zoning Hearing Board, as appropriate, if the change concerns a plan approved by such body.
- N. Certificate of use/occupancy.

- (1) Required. A certificate of use/occupancy shall be required by the Borough upon a change of use or completion of work authorized by a permit or approval under this Ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such certificate has been issued. A new certificate of use/occupancy shall be required if a change in use of the property is proposed; and then such certificate shall be issued only after all required approvals are obtained.
- (2) Application. An application for a certificate of use/occupancy shall be made on an official Borough form. If the use is in conformance with Borough ordinances and approvals, such certificate shall be issued, in duplicate, within ten (10) business days of a properly submitted and duly filed application. A minimum of one (1) copy shall be retained in Borough records.
- (3) Issuance/denial. The Zoning Officer shall inspect such structure or land related to an application for a certificate of use/occupancy. If the Zoning Officer determines, to the best of his/her current knowledge, that such work or use conforms with this Ordinance and applicable Borough codes, approvals and permits, then such certificate of use/occupancy shall be issued. If the work or use does not conform the application shall be denied.
- (4) Action Period. The Zoning Officer shall issue or deny the certificate of use/occupancy within thirty (30) days of receipt of a complete application. An incomplete application shall be cause for denial.

**§112-1003. Fees.**

- A. Application fees. As authorized by §617.3(e) and §908(1.1) of the MPC, the Borough Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after all fees have been paid in full; and, the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.
- B. Stenographer fees. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough as required by §908(7) of the MPC. The cost of the original transcript shall be paid by the Borough if the transcript is ordered by the Borough or shall be paid by the person appealing from the decision of the Borough if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

**§112-1004. Zoning Officer.**

- A. Appointment. The Zoning Officer shall be appointed by the Borough Council in accord with §614 of the MPC. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices not in conflict with the MPC.
- B. Duties and powers. It shall be the duty of the Zoning Officer to enforce, literally, the provisions of this Ordinance and amendments thereto and Zoning Officer to shall have such duties and powers as are conferred by this Ordinance, and as are reasonably implied for that purpose. The Zoning Officer shall not have the power to permit any construction or allow any use or change of use which does not conform to the Zoning Ordinance. The Zoning Officer's duties shall include, but are not limited to, the following:

- (1) Applications. Receive and examine all applications for zoning permits, and issue permits when there is compliance with the provisions of this Ordinance and deny permits for noncompliance.
- (2) Conditional uses, special exceptions, and variances. Receive zoning permit applications for conditional uses, special exceptions, and variances and forward these applications to the Borough Planning Agency and/or the Zoning Hearing Board for action thereon in accord with all applicable provisions of this Ordinance
- (3) Zoning Hearing Board action. Following denial of an application for a permit, to receive applications for interpretations, appeals and variances, and forward these applications to the Zoning Hearing Board for action thereon.
- (4) Inspections and surveys. Conduct inspections and surveys to determine compliance or noncompliance with the provisions of this Ordinance. The Zoning Officer shall have the right to enter upon the land of another in the course of his lawful duties upon obtaining permission from the owner.
- (5) Certificates/documents. Issue certificates of use/occupancy, certificates of nonconforming use and other documents necessary to the administration of this Ordinance.
- (6) Record keeping. Record and file all applications for zoning permits with the accompanying plans and documents and keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building or land.
- (7) Nonconformities. When directed by the Borough Council, identify and register nonconforming uses and structures as required by the provisions of this Ordinance.
- (8) Zoning map. Maintain the Official Zoning Map of the Borough showing the current zoning classification of all land in the Borough.
- (9) Stop work. Issue stop, cease and desist orders and enforcement notices, and order, in writing, correction of all conditions found to be in violation of the provisions of this Ordinance.
- (10) Enforcement proceedings. With the approval of the Borough Council, or when directed by them, institute in the name of the Borough any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building; and to restrain, correct or abate such violations, so as to prevent the occupancy or use of any building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises which is in violation of this Ordinance.
- (11) Revocation. Revoke any order or zoning permit issued under a mistake of fact or contrary to the law of the provisions of this Ordinance.
- (12) Testimony. Upon the request of the Borough Council, the Planning Agency or the Zoning Hearing Board, present facts, records or reports which they may request to assist such body in making decisions.

- C. **Qualifications.** Pursuant to §614 of the MPC, the following minimum qualifications shall apply to any Zoning Officer appointed to serve the Borough after the adoption of this Ordinance, unless such mandatory qualifications are waived by motion of the Borough Council:
- (1) The person shall demonstrate a working knowledge of Borough zoning.
  - (2) The person shall be familiar with Constitutional issues concerning search and seizure and with the process of filing actions with the Magisterial District Judge.
  - (3) The person shall exhibit an ability to thoroughly evaluate site plans and building plans.
  - (4) The person shall demonstrate competent oral and written communication skills.
  - (5) The person shall be familiar with the MPC.

**§112-1005      Zoning Hearing Board**

A. **Membership and qualifications.**

- (1) **Membership.** The Borough Council shall create a Zoning Hearing Board, which shall have the number of members and alternate members with such powers and authority, and which shall conduct all proceedings as set forth in Article IX of the MPC
- (2) **Recommended qualifications.** Each Zoning Hearing Board member should:
  - (a) Become familiar with the MPC and the Zoning Ordinance and Subdivision and Land Development Ordinance.
  - (b) Attend seminars and/or workshops pertaining to Borough planning and/or zoning.
- (3) **Vacancies.** The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- (4) **Removal of members.** See §905 of the MPC.
- (5) **Organization.**
  - (a) **Officers.** The Board shall elect officers from its own membership who shall serve annual terms and may succeed themselves.
  - (b) **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.
  - (c) **Rules.** The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and laws of the Commonwealth of Pennsylvania.



- B. 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:
- (1) Substantive validity challenges. Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to §609.1 (Landowner Curative Amendments) and §916.1(a) (2) (Validity of Ordinances) of the MPC.
  - (2) Procedural validity challenges. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
  - (3) Zoning officer appeals. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
  - (4) Variances. Applications for variances from the terms of this Ordinance pursuant to §910.2 of the MPC.
  - (5) Special exceptions. Applications for special exceptions under this Ordinance pursuant to §912.1 of the MPC and the requirements of this Ordinance.
  - (6) Preliminary opinion appeal. Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the MPC.
  - (7) E&S; stormwater appeals. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications.

**§112-1006. Zoning Hearing Board - Hearings and Decisions.**

The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the MPC, and the provisions of this §112-1006. The hearings shall be conducted by the Board, or, the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

**§112-1007. Variances.**

- A. Jurisdiction. The Zoning Hearing Board shall hear duly filed requests for variances.
- B. 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:
- (1) Unique physical circumstances or conditions. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and

that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or District in which the property is located.

- (2) Necessary for reasonable use. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- (3) Self-creation. That such unnecessary hardship has not been created by the appellant.
- (4) Neighborhood; adjacent property; public welfare. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) Minimum Variance. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

#### **§112-1008. Conditional Uses and Special Exceptions.**

##### **A. Pre-submission conference; applications.**

- (1) Pre-submission conference. The applicant for a conditional use or special exception shall contact the Zoning Officer to arrange a pre-submission conference to outline the nature of the proposed application and to determine the nature and extent of the information to be supplied on the site development plan. In addition to the site development plan, the applicant shall also submit a statement setting forth full particulars of the need, purpose and operation of the structure or use.
- (2) Electronic format. In addition to submitting the application in paper format, applications for conditional uses and special exceptions shall be submitted on compact disk in PDF or other electronic format approved by the Zoning Officer.
- (3) Application information. Applications for conditional uses and special exceptions shall, at a minimum, include a narrative detailing how the development or proposed use will comply with the standards in §112-1008.D and a site development plan. The plan shall be prepared by a civil engineer, surveyor, land planner, architect or other competent person. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated by the Zoning Officer in the pre-submission conference.
  - (a) Legal Data
    - i. The tax number of the property from the latest tax records.
    - ii. The name and address of the owner of record.
    - iii. The name and address of the person, firm or organization preparing the map, including the seal and signature of the responsible professional(s).

- iv. The date, North point and written and graphic scale.
  - v. Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest ten (10) seconds or closer. The error of closure shall not exceed one (1) in five thousand (5,000).
  - vi. The locations, names and existing widths of adjacent streets and curb lines.
  - vii. The locations and owners of all adjoining lands as shown on the latest tax records.
  - viii. The locations, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
  - ix. A complete outline of existing deed restrictions or covenants applying to the property.
  - x. The zoning district in which the property is located.
- (b) Natural features.
- i. The existing contours with intervals of ten (10) feet or less, as determined at the pre-submission conference, referenced to a datum satisfactory to the Zoning Officer.
  - ii. The proposed finished contours with intervals of ten (10) feet or less referenced to the same datum.
  - iii. The boundary of any area in the one-hundred-year floodplain, and stormwater overflow area.
  - iv. The location of existing wetlands, swamps or marshes, watercourses, including intermittent streams, wooded areas and any other pertinent natural pre-submission conference feature.
  - v. Soil survey data, including capabilities for on-lot septic systems, as taken from the Soil Conservation Survey or as mapped by a qualified soil scientist.
  - vi. Soil percolation test results and/or comments from the County Conservation District, as requested in the pre-submission conference.
- (c) Utilities, structures and uses on and within 200 feet of the site.
- i. The location of all utilities, including:
    - Power lines.
    - Telephone lines, including cellular transmission towers; and cable television lines.
    - Storm sewers (including culverts), giving dimensions, grades and direction of flow.
    - Sanitary sewers, giving dimensions, grades, elevations and direction of flow.
    - Waterlines, giving dimensions and elevations.
  - ii. Curbs and gutters, sidewalks, paved areas and access.

- iii. The outline of structures and use areas.
  - iv. Fences, landscaping, screening and other improvements, as determined at the pre-submission conference.
- (d) Proposed improvements and use.
- i. The design and location of all uses and use areas not requiring structures.
  - ii. The location of proposed buildings or structures.
  - iii. The design and location of all outdoor signs, if any.
  - iv. The design and locations of driveways, parking areas, sidewalks and other paved areas, including existing and proposed profiles and cross sections.
  - v. The location of proposed or existing well and sewage disposal systems or water- and sewer lines.
  - vi. The plan and location of any proposed grading, landscaping or screening.
  - vii. A copy of any proposed deed restriction or covenants.
  - viii. The plan and location of any proposed public improvements on or adjacent to the property.
- (e) Evidence shall be shown of compliance with the Department of Environmental Protection, PennDOT highway occupancy standards and Department of Labor and Industry Standards.
- (f) The location of all areas or features of the project parcel which are subject to the Borough Official Map and the type of reservation as specified on the Official Map.
- (g) A narrative documenting compliance with the standards and criteria in §112-1008.D.
- (h) Any other information which may be determined during the pre-submission conference to be necessary to ascertain the conformity of the site plan with the intent and requirements of this Ordinance.
- B. Conditional uses. Uses specified as conditional uses shall be permitted only after review and approval by the Borough Council pursuant to the express standards as provided for specific conditional uses in this Ordinance, in § and any other applicable standards in this Ordinance.
- (1) Expansions. Expansions or additions to uses classified as conditional uses shall also be considered conditional uses. The addition of an accessory structure of less than five hundred (500) square feet of gross floor area shall not be considered a conditional use.
- (2) Procedure
- (a) Submission. The application shall be submitted to the Zoning Officer. The Zoning Officer may refuse to accept an application which does not provide all information required to determine compliance with this Ordinance.

- (b) Zoning officer review. The Zoning Officer may report, in writing or in person, to the Planning Agency or the Borough Council stating whether the application complies with this Ordinance. The Zoning Officer may recommend a review by the Borough Engineer.
  - (c) Planning Agency review of conditional use
    - i. In accord with §603(c)(2) of the MPC, the Borough Planning Agency shall be provided with an opportunity to review any proposed conditional use. The Commission, at its option, may provide a written advisory review.
    - ii. If such review is not received by the Borough Council within the time limit within which the Borough Council shall issue its decision then the Borough Council may make its decision without having received comments from the Planning Agency.
  - (d) Borough Council action. The Borough Council shall conduct hearings and make decisions in accordance with §908 and §913.2 of the MPC. In granting a conditional use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it determines are necessary to implement the purposes of the MPC and this Ordinance, and to protect the public health, safety, and welfare.
  - (e) 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 County tax assessment records.
- C. 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 §112-1008.D.
- (1) Expansions. Expansions or additions to uses classified as special exceptions shall also be considered special exceptions. The addition of an accessory structure of less than five hundred (500) square feet of gross floor area shall not be considered a special exception.
  - (2) Procedure.
    - (a) Submission. The application shall be submitted to the Zoning Officer.
    - (b) Zoning Officer review. The Zoning Officer may report, in writing or in person, to the Planning Agency or the Zoning Hearing Board stating whether the application complies with this Ordinance. The Zoning Officer may recommend a review by the Borough Engineer.
    - (c) Planning Agency review of special exception uses.
      - i. The Borough Planning Agency shall be provided with an opportunity to review any proposed special exception use. The Planning Agency, at its option, may provide a written advisory review.

- ii. If such review is not received by the Zoning Hearing Board within the time limit within which the Board must issue its decision then the Zoning Hearing Board may make a decision without having received comments from the Planning Agency.
- (d) Zoning Hearing Board action on special exception uses.
- i. The Board shall hear and decide a request for a special exception use under the procedures in §112-1006 of this Ordinance and §908 of the MPC.
  - ii. 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.
- D. Standards and criteria for conditional uses and special exceptions. 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 standards and criteria in this §112-1008.D shall be applied in the review of applications for conditional uses and special exceptions. 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.
- (1) Comprehensive plan; ordinances. The proposed use shall be consistent with the purposes, goals, objectives and standards of the Comprehensive Plan, this Ordinance, and all other ordinances of the Borough.
  - (2) Location. The proposed use shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
  - (3) Adverse effects. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Borough or other government agency having jurisdiction to guide growth and development.
  - (4) Public improvements. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Borough, whether such services are provided by the Borough or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, and services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use, the applicant shall be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this and other Ordinances of the Borough. The permit approval shall be so conditioned.
  - (5) Additional factors. The following additional factors shall be considered:

- (a) Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.
  - (b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
  - (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - (d) Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  - (e) Adequacy of storm water and drainage facilities.
  - (f) Adequacy of water supply and sewage disposal facilities.
  - (g) Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  - (h) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  - (i) Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- E. Conditions of approval for conditional uses and special exceptions. 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 Borough Council or Zoning Hearing Board to protect the general health, safety, and welfare, as well as to implement the purposes of this Ordinance and the MPC, shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the MPC, as the case may be. Conditions which may be imposed may 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.
- F. Subdivision and land development plans.
- (1) Timing of Submission. The Borough Planning Agency and Borough Council or the Zoning Hearing Board will process an application for a conditional use or a special exception, respectively, prior to, or concurrently with, land development approval, if such subdivision or land development approval is required under the provisions of the Subdivision and Land Development Ordinance. The intent of prior action on a conditional use or a special exception is to afford the applicant the opportunity to obtain initial zoning approval before committing the resources necessary to prepare and submit a detailed plan to conform to the requirements of the Subdivision Ordinance
  - (2) Conditions. At the time of land development approval which has been preceded by conditional use or special exception approval, the Borough Council shall have the right to attach any and all

reasonable conditions of approval to any subdivision or land development plan which was preceded by conditional use or special exception approval.

**§112-1009. Reserved.**

**§112-1010. 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.

**§112-1011. Time Limits for Appeals.**

The time limitations for appeals shall be as follows:

- A. Zoning Hearing Board. County Court. No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the officially issued decision of the Zoning Officer, or appeal to the County Court of Common Pleas later than thirty (30) days after the officially issued decision of the Borough Council or the Zoning Hearing Board, except as may be provided under §914.1 of the MPC.
- B. Revoked permits. This thirty (30) day time limit for appeal shall not apply to the revocation of a permit by the Zoning Officer in accord with §112-1002.L.

**§112-1012. 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.

**§112-1013. Public Utility Corporation Exemptions.**

In accord with §619 of the MPC, this Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings

**§112-1014. Limited Borough Exemption.**

The minimum lot area requirements of this Ordinance shall not apply to uses or structures owned by the Borough for uses and structures that are intended for a legitimate governmental, recycling, public recreation, storm water control or public health and safety purpose.

**§112-1015. Amendments.**

The Borough Council may amend this Ordinance by complying with the requirements set forth in Article VI of the MPC. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §609.1 and §916.1 of the MPC.



**§112-1016. Violations.**

- A. Compliance. Failure to comply with any provision of this Ordinance; failure to secure or comply with a decision of the Borough Council or Zoning Hearing Board; or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a certificate of use/occupancy, shall be violations of this Ordinance.
- B. Complaints. Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. Any complaint filed in writing with the Zoning Officer, and which includes the full name, address and telephone number of the complainant, shall be investigated by the Zoning Officer with the results reported to the complainant. Any verbal complaints may be investigated at the discretion of the Zoning Officer.
- C. 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 §112-1016.C, such violation shall be discontinued or corrected as set forth in said notice.
- (1) Violation. If it appears to the Borough that a violation of this Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in §112-1016.C.3.
  - (2) Notice recipient(s). The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested, in writing, by the owner of record.
  - (3) Notice content. An enforcement notice shall state at least the following:
    - (a) The name of the owner of record and any other person against whom the Borough intends to take action.
    - (b) The location of the property in violation.
    - (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
    - (d) The date before which the steps for compliance shall be commenced and the date before which the steps shall be completed.
    - (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
    - (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
  - (4) Appeal. In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.

- (5) Filing fee. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

**§112-1017. Penalties and Remedies.**

- A. 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 Borough Council or, with the approval of the Borough Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, 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 Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Borough Council. No such action may be maintained until such notice has been given.
- B. Enforcement remedies.
- (1) Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than five hundred (\$500) dollars (state law) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. 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 Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) such violation until the fifth (5th) 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.
  - (2) The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
  - (3) Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough, the right to commence any action for enforcement pursuant to this section.

**§112-1018. Liability.**

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the flood plain, site plan review, subdivision or land development approval, erosion control, storm water runoff, activity on steep slopes, or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability

upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto.

If the Zoning Officer mistakenly issues a permit under this Ordinance, the Borough shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

**ARTICLE XI  
ADOPTION**

This Zoning Ordinance **ORDAINED AND ENACTED** this 17<sup>th</sup> Day of December, 2012, by the Borough Council of the Borough of Montrose, Susquehanna County, Pennsylvania, to be effective immediately.

**BOROUGH OF MONTROSE**

By: \_\_\_\_\_  
Thomas LaMont, Council President

ATTEST:

\_\_\_\_\_  
Erin Jenner, Borough Secretary

**APPROVED** this 17<sup>th</sup> Day of December, 2012

By: \_\_\_\_\_  
John Wilson, Mayor