

**BOROUGH OF EDWARDSVILLE  
LUZERNE COUNTY  
PENNSYLVANIA**

**2015  
ZONING ORDINANCE**

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**ZONING ORDINANCE**

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**ARTICLE 1**  
**GENERAL PROVISIONS**

SECTION 101      TITLE

**The official title of this Ordinance is: The Zoning Ordinance of the Borough of Edwardsville.**

SECTION 102      PURPOSE:

This Ordinance is enacted to accomplish the purposes enumerated in Section 604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The provisions of this Ordinance are designed to achieve the following:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as reservation of natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.
- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided however, that the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth and opportunities for development of a variety of residential dwelling types and nonresidential uses.

SECTION 103      COMMUNITY DEVELOPMENT OBJECTIVES

The enactment of this Ordinance is intended to assist in achieving and promoting the following goals and objectives of the Borough of Edwardsville which includes but is not limited to the following:

## LAND USE OBJECTIVES

- To adopt appropriate land use plans and zoning regulations to encourage new mixed use.
- To bring about gradual conformity of land use and minimize, to an extent consistent with this objective, conflicts involving present and future use of land.
- To exclude activities from residential areas, which may not be compatible with residential development and/or stability.
- To maintain reasonable density development to preserve the small town character of the Borough.
- To promote proximity and connectivity of new to existing development.
- To provide for orderly growth of for an economically balanced and socially viable community.
- To encourage careful aesthetic consideration and planning in private and public construction with visual compatibility between the scale of existing and new development.

## HOUSING OBJECTIVES

- To provide housing opportunities in appropriate areas to meet the needs of all residents, regardless of household size, age and/or income.
- To encourage, through the design of new residential construction and the rehabilitation of existing residential structures, a wide range of housing types, priced suitably for those working and living in the area.
- To work to encourage affordable housing, especially for young families and senior citizens; at varied densities.
- To maintain standards of construction which protect the health, safety and welfare of Borough residents through the proper enforcement of the Pennsylvania Uniform Construction Code.
- Stabilize existing residential areas in older neighborhoods through effective Code enforcement and designed to prevent blight.
- Provide a full-range of independent and assisted living housing options for senior residents that will allow them to stay in the region as their life styles and housing needs change.



## ECONOMIC DEVELOPMENT OBJECTIVES

- To encourage economic growth on a scale consistent with the Borough's basic character as a small town-based community.
- To promote continued public and private investment into Main Street.
- To provide land use regulations which will promote reinvestment and new development within existing shopping centers of the Borough
- To maintain the economic viability of existing commercial districts.
- To promote the most desirable use of land and development in accord with a well-considered plan, to promote stability of commercial development that will strengthen the economic base of the Borough and protect the character of commercial districts.
- To develop, maintain and upgrade commercial districts through emphasis on proper access, adequate parking and loading facilities; to promote greater efficiency and improved appearances in commercial uses through careful application of design standards.
- Invest in streetscape improvements to enhance the appearance of existing commercial areas and encourage attractive new commercial development.
- To insure availability of land most suitable for industrial and related activities that protects residential neighborhoods from industrial encroachment.
- To ensure that industries are reasonably free from offensive noise, vibration, smoke, odor, glare, hazards or fire, or other objectionable effects.

## TRANSPORTATION OBJECTIVES

- To provide for a safe and efficient multi-modal transportation system at a publicly acceptable cost that supports the current and future needs of residents and that strengthens preferred land use patterns, protects the environment, preserves and enhances the quality of life.
- To aid in bringing about the most beneficial relationship between land use and circulation throughout the Borough, with particular regard to vehicular traffic and the avoidance of congestion in the streets, and provision of safe and convenient access appropriate to the various uses.
- Promote actions that are intended to maintain and manage existing transportation facilities and services to optimize efficiency.
- Offer mobility options that expand transportation capacity.

- Promote needed pedestrian and bicycle facilities to use as a safe and healthy alternative to automobile travel. Support the role of walking and bicycling in promoting reducing energy consumption and reducing greenhouse gases.
- Promote and support the role of walking and bicycling through street design and walkway standards which can safely accommodate the elderly, handicapped persons and children

#### OPEN SPACE/ ENVIRONMENTAL OBJECTIVES

- Promote and encourage sustainable development practices.
- Maximize preservation/conservation of open space and natural resources throughout the Borough at appropriate locations.
- Encourage open space and recreational areas in areas such as riparian areas, along creek, wetlands areas, steep slopes and floodplains less suitable for building in order to maintain for public welfare, the natural watersheds and drainage system in the Borough.
- Provide land use regulations that are appropriate to restrict or preclude development from occurring in flood prone areas of the Borough.
- Provide a balance of active and passive outdoor recreational facilities readily accessible for all residents within the Borough.
- Encourage the use of renewable energy sources including wind and solar power.
- Minimize the negative impact of automobile off-street parking through the use of maximum permitted spaces, shared parking facilities and design mitigation measures, including required landscaping standards and the use of porous pavement, bio-swale and rain gardens.

#### GOVERNMENTAL OBJECTIVES

- To inject long-range considerations into the determination of short-range actions.
- To bring professional and technical knowledge to bear on the decision making process concerning the physical development of the community.
- To continue to cooperate with other adjoining municipalities on intergovernmental issues of mutual concern.
- To coordinate Borough plans and programs with County, State and Federal plans, policies and programs with the intent of seeking such governmental funding when applicable to the Borough's community development objectives.
- To continue to conduct Borough affairs in an open, efficient, economical and fair manner for the welfare of all citizens.

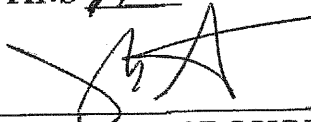
SECTION 104      REPEALING PROVISION

All Ordinances, or any parts thereof, which are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 105      EFFECTIVE DATE

This Ordinance shall become effective from the date of its approval and adoption, as provided for by law.

**APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE  
BOROUGH OF EDWARDSVILLE ON THIS 9<sup>th</sup> DAY OF JULY, 2015**

  
\_\_\_\_\_  
PRESIDENT OF COUNCIL

  
\_\_\_\_\_  
MAYOR

ATTEST:  
  
\_\_\_\_\_  
BOROUGH COUNCIL SECRETARY



CERTIFICATION

I, LEO MARTIN, Secretary of the Borough of Edwarsville, hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the majority vote of the Borough Council of the Borough of Edwarsville at a meeting duly held on the 9<sup>th</sup> DAY OF JULY and that the minutes of said meeting show how each member voted having being duly recorded in the official minutes of the Borough of Edwarsville.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 9<sup>th</sup> DAY OF JULY.

(Seal)

Leo Martin  
LEO MARTIN, Secretary  
BOROUGH OF EDWARDSVILLE



**ARTICLE 2**  
**DEFINITIONS**

**SECTION 201     APPLICATION AND INTERPRETATION**

The definition of words included herein are provided to facilitate the interpretation of this Ordinance for administrative and enforcement purposes. Unless expressly stated otherwise, within the context of the Ordinance, the following shall apply:

1. Words used in the present tense shall include the future tense.
2. The word “person” shall include a profit or nonprofit corporation, company, partnership, or individual.
3. The words “used” or “occupied” as applied to any land or building shall include the words “intended,” “arranged,” or “designed” to be used or occupies.
4. The word “building” shall include “part thereof” and “structure.”
5. The word “lot” shall include “plot” or “parcel.”
6. The word “shall” is always mandatory.
7. The singular number shall include the plural, and the plural the singular.
8. The masculine gender shall include the feminine and neuter.
9. The word “street” shall include “road,” “highway,” and “lane.”

**SECTION 202     TERMS OR 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.

**SECTION 203             DEFINITIONS**

**ABANDONED VEHICLE:**

An Abandoned Vehicle shall be deemed to include any vehicle, including a trailer, determined and classified to be a Junked Vehicle by the Zoning Officer which remains in such condition for a period of thirty (30) days or greater.

**ABANDONMENT:**

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, subject to completion of the work within one year from the issuance of a zoning permit and/or building permit.

**ABUTTING:**

Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

**ACCESS:**

A way or means of approach to provide physical ingress and/or egress to a property.

**ACCESSORY STRUCTURE:**

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

**ACCESSORY USE:**

A use incidental to, and on the same lot as, a principal use.

**ADJOINING PROPERTY:**

A property having a contiguous property boundary with a separate property, including properties with any amount of opposite front, rear or sideyard areas that are separated by a right-of-way, alley, or easement.

**AGRICULTURAL USE:**

The use of land for the cultivation of crops.

**ALTERATION:**

Any change, addition, or modification in construction or occupancy of an existing structure.

**ALTERATION, STRUCTURAL:**

Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

**AMENDMENT:**

A change in the regulations and provisions of the Borough of Edwarsville Zoning Ordinance, including changes to boundaries of Zoning Districts as provided upon the Zoning Map.

**APPLICANT:**

The person or entity filing an application under this Ordinance.

**AS-BUILT DRAWINGS:**

Construction plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location and design of all on-site improvements, which includes but is not limited to streets, structures, parking facilities, stormwater detention/retention areas, curbs, sidewalks and any other facilities approved for the subject development. As-Built Drawings shall be sealed by the engineer of record.

**AUTOMOTIVE REPAIR GARAGE:**

A building where repairs, improvements and installation of parts and accessories for motor vehicles are conducted that involves work that is more intense in character than work permitted under the definition of "Gas Station, Limited-Service." An auto repair garage shall include, but not be limited to, any use that involves any of the following work: both minor and major mechanical overhauling, paint, and body work. In addition, any use permitted under the definition of a "Gas Station, Limited-Service." is also permitted as part of an Automotive Repair Garage.

**AUTOMOTIVE SALES:**

The use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner/operator of this



business must have a valid state license for the sale or rental of such motor vehicles. Any related repair shall be conducted within an enclosed building and shall be an accessory use.

**AUTOMOBILE WRECKING YARD (ALSO SEE JUNK YARD)**

The dismantling or wrecking of junked motor vehicles or trailers, or the storage, sale, or dumping of dismantled or junked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and/or from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

**BED AND BREAKFAST:**

An owner-occupied dwelling containing units which are rented on a nightly basis for periods of less than a week. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Breakfast shall be the only meal served. Such rooms shall not have separate utilities, provisions for cooking or dormitories for sleeping and must be located within the principal structure.

**BIG BOX RETAIL STORE:**

A physically large retail establishment, usually part of a chain where the building footprint is equal to or greater than 50,000 square feet. The term sometimes also refers, by extension, to the company that operates the store. The store may sell general dry goods in which case it is a department store, or may be limited to a particular specialty (such establishments are often called "category killers") or may also sell groceries, in which case some countries use the term hypermarket. A Big Box Retail Store can generally be broken down into two categories: general merchandise (examples include Wal-Mart and Target), and specialty stores (such as Home Depot, Lowes, Barnes and Noble, or Best Buy) which specialize in goods within a specific range, such as hardware, books, or electronics.

**BOARDING HOUSE:**

A residential use in which any or all of the following applies:

- (1) individual room(s) that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons who are not "related" to the owner of record of the property, or
- (2) a dwelling unit that includes a greater than the permitted maximum number of unrelated persons (see the definition of "family"), or
- (3) if individual units of living space not meeting the definition of a dwelling unit are separately rented to person(s) who are not "related" to the owner of record of the property. Individual leases shall be deemed to have a dwelling unit classified as a boarding house

A boarding house shall not include the following uses: treatment center, abused person shelter, hotel, dormitory, motel, assisted living center, bed and breakfast use, group home or nursing home. A boarding house may either involve or not involve the providing of meals to residents.

**BOTTLE CLUB OR B.Y.O.B. CLUB.:**

An establishment operated for profit or pecuniary gain which has a capacity for the assemblage of 20 or more persons and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption. The term shall not include a license under the Act of April 12, 1951 (P.L. 90, No. 21) known as the "Liquor Code" or any organization as set forth in Section 6 of the Act of December 19, 1990 (P.L. 1200, No. 202) known as the "Solicitation of Funds for Charitable Purposes Act. Said Club shall not be operated in a manner in which it could also be classified as either an After Hours Club or a Sexual Oriented Business as so defined by this Ordinance.

**BUFFER AREA:**

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. Unless specified otherwise, for the purpose of this Ordinance when a buffer area is required it shall be deemed to represent a solid fence or stone wall with cork fitting, eight (8) feet in height with two staggered rows of evergreen trees planted in front of the fence with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. A Buffer Area shall not be occupied by any building, parking, outdoor storage or any use other than open space and approved vegetative plantings.

**BUILDING:**

Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or property.

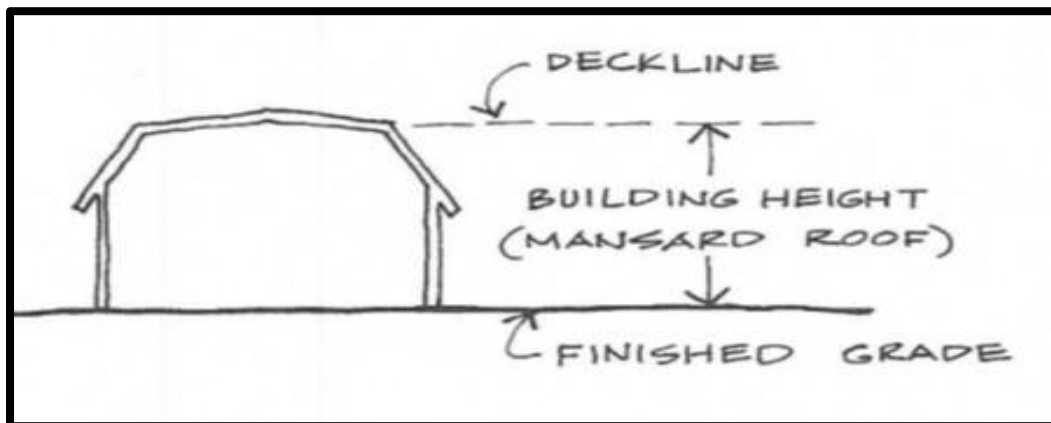
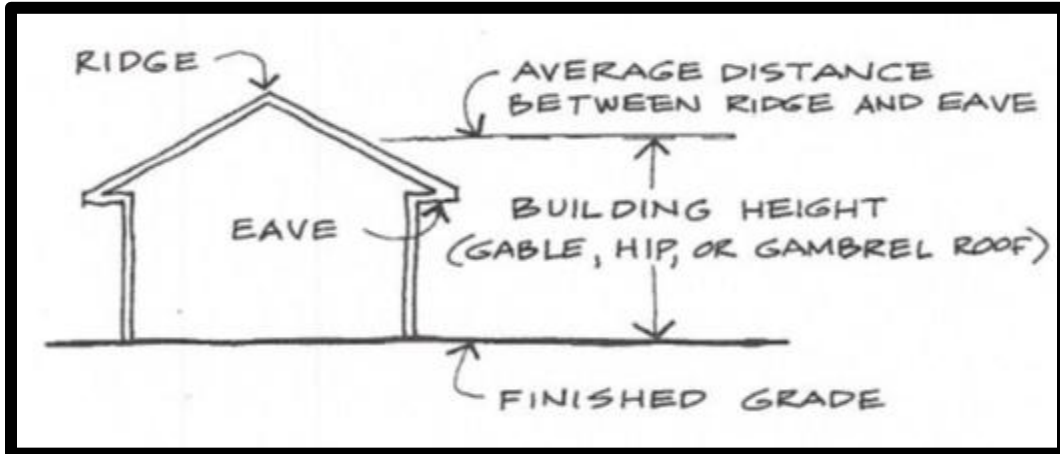
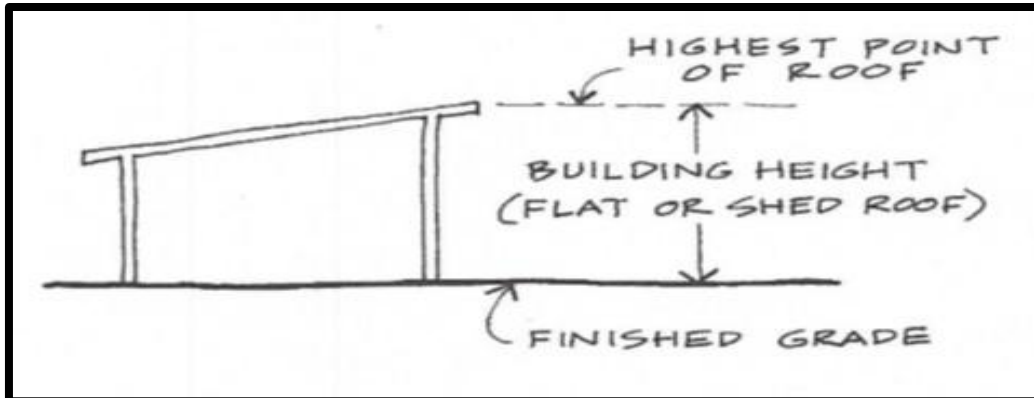
Building, Accessory: A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

Building Coverage: The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building Envelope: An area of a lot upon which development may occur. Excluding deed restrictions, covenants, easements or other site conditions, the governing minimum setbacks requirements for a given zoning district establishes the building envelope.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Height: The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.



**CAR WASH:**

An area of land and/or a structure with machine-or-hand-operated facilities used principally for the interior and/or exterior cleaning, washing, polishing, waxing and/or detailing of motor vehicles.

**CARPORT:**

A roofed structure opened on two (2) or more sides and used for the storage of private motor vehicles. It may be constructed as a separate accessory structure or part of the principal structure.

**CELLAR:**

A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 6 ½ feet.

**CEMETERY:**

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including chapels, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

**CERTIFICATE OF ZONING COMPLIANCE:**

A statement, form or similar written documentation signed by the zoning officer, setting forth that a building, structure, or use upon inspection of the property complies with the zoning ordinance and the same may be used for the purposes stated on the approved zoning permit application. Said certificate shall not be construed in any manner to certify or warranty the safety as related to the construction of a building, structure, or use.

**CHANGE OF USE:**

Any use which differs from the last previously approved use of a building, structure or land.

**CHURCH: (SEE PLACE OF WORSHIP)**

**CLUB PRIVATE (NONPROFIT)**

Buildings or facilities used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that is limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. Said Club shall not be operated in a manner in which it could also be classified as a Bottle Club, and/or a Sexual Oriented Business as so defined by this Ordinance.

**COMMERCIAL COMMUNICATION ANTENNA:**

Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio services, or any wireless communication signals, including without rotation, omni-directional or whip antennas and directional or panel antennas, owned and operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residences mounted satellite dishes or television antennas or amateur radio equipment, including without limitation, ham or citizen band radio antennas.

**COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:**

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna.

## **COMMERCIAL COMMUNICATIONS FACILITY**

The components normally associated with the use and operation of a Commercial Communication Antenna including a Commercial Communication Tower and Commercial Communications Equipment Building.

## **COMMERCIAL COMMUNICATION TOWER**

A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support a Commercial Communication Antenna.

## **COMMERCIAL COMMUNICATIONS TOWER; HEIGHT:**

The vertical distance measured from the ground to the highest point on a communications Tower, including antennas mounted on the tower.

## **CONTINUING CARE FACILITY:**

An age-restricted residential facility as defined in current state licensing requirements, designed, operated and maintained to provide a continuum of accommodations and care for retired adults that may include:

- Independent Dwelling Units
- Skilled Nursing Facilities
- Intermediate Care Facilities
- Personal Care Facilities

A Continuing Care Facility may also include supporting services and facilities that encompass dining, recreational and social activities limited to residents within said facility.

## **CONTRACTOR'S STORAGE:**

A lot, building, or part thereof, used to store materials used by a contractor in the construction of a road, highway, structure or building, landscaping or utilities.

## **CONVENIENCE STORE:**

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

## **CONVENIENCE STORE WITH GAS SALES:**

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, along with the retail sales of gasoline and related fuel products.

## **CRITICAL AREAS:**

An area with one or more of the following characteristics: stream corridors, streams, flood plain areas, wetlands, slopes which equal or exceed fifteen (15) percent, soils classified as highly acidic or highly erodible, soils classified as having a high water table, land and associated soils which display poor percolation and mature stands of native vegetation.

**DAY CARE FACILITIES:** The provision of out-of-home care for children or adults for part of a 24 hour day, excluding the care provided by relatives.

- A. Adult Day Care Center: A facility licensed by the state providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

- B. Child Day Care Center: A premises in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the provider of the child day care home, where such facility is subject to PA Department of PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.
- C. Family Day Care Home: A premise in which child day care is provided at any one time to between four (4) to six (6) children who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.
- D. Group Day Care Home: A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

**DECISION:**

Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be subject to appeal to the Court of Common Pleas of Luzerne County.

**DEVELOPMENT:**

Any man-made improvements to improved or unimproved real estate. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure, any mining, dredging, filling, grading, paving, excavation, drilling, land disturbance and any use or extension of the use of land shall be deemed to constitute a development.

**DETERMINATION:**

Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the governing body;
2. the zoning hearing board; or
3. the planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

**DETENTION FACILITY:**

A publicly or quasi- publicly operated facility used to house and/or rehabilitate individuals detained, sentenced by, or under the jurisdiction of the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories, half-way houses and similar facilities.

**DOMICILE:**

Domicile is a person's permanent place of dwelling and legal address. A domicile represent the residence where a person uses as a permanent home or principal establishment to which he or she intend to return whenever absent. Domicile determines where a person votes and where a

person's driver's license is issued. Every person is compelled to have one and only one domicile at a time.

**DRIVE-IN COMMERCIAL USE:**

An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permit customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

**DRIVEWAY:**

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

**DRUG TREATMENT CENTER:**

Facilities for the treatment of persons who abuse or are addicted to the use of legal or illegal controlled substances, such as a methadone clinic, where such treatment is designed to cure persons of such addictions, but not including overnight stays.

**DWELLING:**

One or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family. A mobile home or similar manufactured housing unit which is permanently attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar. The term "Townhouse" is excluded under this term (See Definition of Townhouse)
- D. TOWNHOUSE: A residential structure constructed as a single entity containing a row of more than two (2) single-family attached dwelling units but not more than four (4) single-family attached dwelling units, whereby each unit may be sold as an individual single-family attached unit, with each unit having a lot under individual or association ownership. Each unit shall have its own front and rear access to the outside and may have a common or public open space, such as an off-street parking area, yard area, recreational area, or similar common area. No dwelling units shall be located over another unit and each unit shall be separated from another unit by one (1) or more party walls without openings.

- E. **MOBILE HOME:** A transportable, single family dwelling intended for permanent occupancy, contained in one unit, or in two or more 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.

**DWELLING UNIT:**

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilet facilities and separate cooking facilities for exclusive use by the family residing therein.

**EARTH DISTURBANCE ACTIVITY:**

Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth. Any construction or activity which shall result in an earth disturbance shall be subject to the applicable governing regulations of the Borough of Edwardsville Stormwater Management Ordinance.

**EASEMENT:**

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

**EMERGENCY SERVICES FACILITY:**

A publicly owned building for the housing of fire, emergency medical or police equipment and for related activities.

**ENTERTAINMENT FACILITIES:**

Commercial establishments engaged in providing entertainment for a fee or an admission charge, including but not necessarily limited to a movie theater, an arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

**ENVIRONMENTAL IMPACT STATEMENT**

A report and/or series of reports on the effect of a proposed development or major action which may significantly affect the environment and associated features thereunder.

**EXCAVATION:**

Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

**FACILITY:**

A structure or place which is built, installed, or established to serve a particular purpose.

**FAMILY:**

Any number of individuals related by blood, marriage or legal adoption, including foster children, occupying a dwelling unit as their domicile as a single nonprofit housekeeping unit. A



family shall also be deemed to include not more than 4 unrelated persons occupying a dwelling unit as their domicile and living as a single, nonprofit housekeeping unit. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first sentence of this definition.

**FENCE:**

A structure functioning as a boundary or barrier constructed of materials recognized by the fencing industry. Hedges, shrubbery and/or similar vegetation shall not be deemed or considered to be a fence.

**FLEA MARKET:**

An occasional or periodic market held in an enclosed structure where groups of individual sellers offer goods for sale to the public.

**FLOOD PLAIN MANAGEMENT ORDINANCE:**

The governing Flood Plain Management Ordinance for Borough of Edwardsville

**FLOOR AREA, GROSS RESIDENTIAL:**

The interior floor area of a dwelling, including stairways, halls, and closets but not including basements, porches, garages, breezeways, or carports.

**FLOOR AREA, GROSS NONRESIDENTIAL:**

Unless specified otherwise, it represent the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including: (1) attic or basement storage space; (2) mechanical utility equipment areas; (3) stairs.

**FORESTRY:**

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes which does not involve any land development.

**FRONTAGE:**

The length of any one property line of a premises, which property line abuts a legally accessible street right-of-way.

**GARAGE, PRIVATE RESIDENTIAL:**

A building for the private use of the owner or occupant for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

**GARDEN CENTER:**

A place of business where products and produce are sold to the general public. These centers may include a nursery and/or greenhouses, plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

**GAS STATION, LIMITED-SERVICE:**

A facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories. In addition, such a facility may provide minor vehicle servicing, minor repairs, and maintenance, excluding those services provided under the definition of "Automotive Repair Garage."

**GENERAL NUISANCE:**

- A. Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare, including the following: fire and explosion hazards; electrical and radioactive disturbances; noise and vibration; dust, dirt, and fly ash; glare; smoke and odors; and other forms of air pollution.
- B. Any use operated or conducted in a manner which directly or indirectly endangers the public health safety and/or welfare, including but not limited to having a detrimental effect on an adjoining property or use of property and/or the community.
- C. A property in a continuing state of disrepair that is not fit for human habitation and/or occupancy with the potential to attract vermin and/or deemed to be a fire hazard to adjoining properties.
- D. A property that contains trash, junk and/or one or more inoperable motor vehicles.

**GOVERNING BODY:**

The Borough Council of the Borough of Edwardsville, Luzerne County, Pennsylvania.

**GRADE:**

The slope of a road, street or other public or private way, specified in percentage (%) terms.

**GRADING:**

Any stripping, gutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

**GROUP HOME**

A dwelling unit shared by more than 4 individuals, who are not related by blood, marriage or legal adoption occupying the premises as their domicile and living together as a single nonprofit housekeeping unit. The term "group home" shall not include:

- A. A boarding house and/or a personal care home
- B. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or addiction to a controlled substance
- C. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution, including, but not limited to a halfway house or other housing facilities serving as an alternative to incarceration.

**HALFWAY HOUSE:**

A State licensed house for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision,

rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

**HAZARDOUS SUBSTANCES:**

Any material that, by reason of its quantity, concentration, or physical, chemical or infectious characteristics may:

- A. Cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating illness.
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- C. This definition shall be deemed to include substances that are radioactive material, medical waste, explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, corrosives, carcinogens, irritants, sensitizers, and other hazardous substances. This term also includes the list of extremely hazardous substances set forth in 29 Code of Federal Regulations Part 355 or any successor provisions.

**HEALTH SPA**

An indoor facility where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Said facility may also include game courts, swimming facilities, saunas and massage rooms

**HIGHWAY OCCUPANCY PERMIT:**

A permit, issued by the Pennsylvania Department of Transportation or any other level of government which authorizes access from a parcel of land onto a street or highway which is under its respective jurisdiction.

**HOME IMPROVEMENTS STORE:** A store selling household hardware for home improvement including but not limited to lumber, plumbing supplies, electrical supplies, paint, tools, keys, locks, hinges, chains, lawn and garden products directly to consumers for use at home or for business.

**HOME OFFICE:**

Residences of clergymen, architects, landscape architects, professional engineers, professional planners, registered land surveyors, lawyers, real estate agents, financial consultants, artists, teachers, musicians, or persons in other recognized professions used to conduct their professions where the office use is incidental to the residential use of the premises. The following uses and/or services, including those which are similar in nature, are excluded from the classification as a Home Office: hair stylists, barbers, massage parlors, tanning salons, health spas, beauty spas, nutrition and weight management services manicure and pedicure services, animal grooming services, body piercing and body painting services.

**HOME OCCUPATION:**

An occupation, profession, activity, or use that is clearly a customary, incidental, and

secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HOTEL (SEE MOTEL):**

A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

**HOME OCCUPATION:**

An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HUB HEIGHT:**

The distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached.

**IMPACT ANALYSIS:**

A study and/or report, which may be required at the discretion of the Borough Council or Zoning Hearing Board prior to approval of a conditional use or a special exception use, as the case may be to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, and the public health, safety and welfare and other factors which may be directly or potentially affected. The applicant shall be responsible for all costs related to any and all report and/or studies required by the Borough Council or the Zoning Hearing Board, as the case may be, under or within the context of the term "IMPACT ANALYSIS."

**IMPERVIOUS MATERIAL:**

Any material and/or development that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land as further defined by the Borough of Edwardsville Stormwater Management Ordinance.

**IMPROVEMENTS:**

Man-made physical additions, alterations, and/or changes which become part of, placed upon, or affixed to real estate.

**INDUSTRY, HEAVY:**

A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions and having potential to produce noise, dust, glare, odors or vibration beyond its property line.

**INDUSTRY, LIGHT:**

Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, "light industrial" shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories, or the like. Light industry must be capable of

operation in such a manner to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Light industry shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal and/or any form of basic industrial processing, including but not limited to the use of hazardous materials

**INSTITUTIONAL USE:**

A structure or facility which provides medical, health, educational, social and/or rehabilitate services to more than seven (7) persons on a continuous and/or regular basis excluding overnight stays and, excluding a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

**INTERMEDIATE-CARE FACILITY**

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other personal health services to patients on a planned program of care and administrative management, supervised on a continuous twenty- four hour basis in an institutional setting.

**JUNKED VEHICLE:**

Any vehicle, including a trailer, which does not bear current license and inspection stickers or is incapable of being moved under its own power, or presents a hazard or danger to the public by virtue of its state or condition of disrepair. The following conditions, which are not exclusive, are examples of what may constitute a state or condition of disrepair to classify a vehicle to be a junked vehicle.

- a. rusted and/or jagged metal on or protruding from the body of a vehicle;
- b. deflated tires
- c. broken glass or windows on or in the vehicle;
- d. leaking of any fluids from the vehicle;
- e. unsecured and/or unlocked doors, hood or trunk;
- f. storage or placement of the vehicle on concrete blocks;
- g. harboring or rodents, insects or other pests

**JUNKYARD: (SEE ALSO AUTOMOBILE WRECKING YARD):**

An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

**LAND DISTURBANCE:**

Any activity, which exposes soils, alters topography and/or alters wooded vegetation, except for removal of a safety hazard, diseased trees, or invasive vegetation.

**LANDOWNER:**

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

**LAUNDROMAT, SELF-SERVICE:**

A business that provides home-type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

**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, for principal and accessory buildings or structures.

**LOT AREA:**

The total horizontal area within the lot lines of a lot.

**LOT AREA, GROSS:**

The area of land contained within the limits of the legally described property lines bounding the lot.

**LOT AREA, NET:**

The area of land contained within the limits of the legally described property lines bounding the lot, exclusive of any street or railroad rights-of-way, common open space, easements for the purposes of access, utility, or stormwater management, prohibitively steep slopes, land within the delineated boundaries of a One Hundred (100) Year Flood Plain, surface waters and wetlands as defined by this Ordinance.

**LOT, CORNER:**

A lot abutting on and at the intersection of two (2) or more streets.

**LOT COVERAGE:**

Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings and structures, by the gross area of that lot.

**LOT DEPTH:**

The average horizontal distance between the front and rear lot lines.

**LOT LINE:**

A line dividing one lot from another lot or from a street or alley.

**LOT LINE, REAR:**

The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lines will not have a rear lot line.

**LOT LINE, SIDE:**

Any lot line not a front or rear lot line.

**LOT OF RECORD:**

A lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, on the effective date of the adoption of this Ordinance.

**LOT, THROUGH:**

A lot having its front and rear yards each abutting on a street.

**LOT WIDTH:**

The horizontal distance between side lot lines, measured at the required front setback line.

**MASSAGE ESTABLISHMENT:**

An establishment or business operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy.

**MANUFACTURED HOME:**

A structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational, and other similar vehicles placed upon a site for more than 180 consecutive days.

**MANUFACTURED HOME PARK:**

A parcel or contiguous parcels of land, which has been planned and improved for the placement of two (2) or more manufactured homes.

**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.

**MEDICAL CLINIC/CENTER**

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by State-licensed physicians, dentists, chiropractors or other licensed medical specialists, in which said medical practitioners may or may not work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service. Satellite hospital facilities which do not include facilities for the overnight stay of patients are also included in this use category. Such treatment may include day surgery, out-patient surgery, magnetic resonance imaging centers and similar uses, but, they may not include drug rehabilitation facilities or drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from abusing and/or overdosing on legal or illegal controlled substances. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

**METHADONE TREATMENT FACILITY:**

A facility licensed by the Pennsylvania Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

**MINERALS:**

Any aggregate or mass of mineral matter, whether or not coherent. The term shall include, but it 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.

**MOBILE HOME LOT:**

A parcel of land in a mobile home park, improved with all necessary utility connection and other appurtenances necessary for the erections thereon of a single mobile home.

**MIXED USE STRUCTURE**

A structure which contains two or more distinctly separate uses such as a commercial use and a residential use.

**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.

**MOBILE HOME SALES LOT:**

An open lot, used for the outdoor display or sales of new or used recreation vehicles, or mobile homes,

**MOTEL (SEE ALSO HOTEL):**

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

**MUNICIPALLY OWNED BUILDINGS:**

A building or structure providing a municipal service or function that is owned and operated by the Borough of Edwardsville.

**MUNICIPALITY:**

Borough of Edwardsville, Luzerne County, Pennsylvania.

**NO IMPACT HOME BASED BUSINESS:**

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use.

**NONCONFORMING LOT:**

A lot area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

**NONCONFORMING STRUCTURE:**

A structure or part of a structure manifestly not designed to comply with the applicable use or extend of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such 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 in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

**NO IMPACT HOME BASED BUSINESS:**

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use.

**OFFICES:**

**PROFESSIONAL OFFICE:**

An office (other than a service office) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, veterinarians, engineers, artists, musicians, teachers, and others who, through training, are qualified to perform services of a professional nature.

**SERVICE OFFICE:**

An office in which are offered services by real estate agents, travel agents, insurance agents, accountants, public stenographers, brokers, or others who, through training, are duly qualified to perform services of an executive nature as distinguished from a professional office.

**OUTDOOR STORAGE**

The keeping, in an unroofed area, of any goods, material, merchandise, equipment or vehicles which are related to the operation of a commercial business, excluding the storage of solid waste, hazardous substances, refuse, junk or any inoperative durable items.

**PARKING SPACE:**

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

**PATIO:**

A level surfaced area directly adjacent to a principal building constructed above the existing grade which has an average elevation of not more than 30 inches, and without walls or a roof.

**PATIO (COVERED):**

A roofed structure, which may be attached to the principal structure, open on three or more sides, excluding screening designed for outdoor recreational use.

**PERMITTED USE:**

Any use which is specifically authorized in a particular zoning district.

**PERSONAL-CARE HOME:**

A facility, as defined under current State licensing requirements, in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four

consecutive hours for more than three (3) adults who are not relatives of the operator of the facility and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self-administration but who do not require hospitalization or care in a skilled nursing or intermediate care facility.

**PERSONAL SERVICES:**

Any enterprise conducted for gain, which primarily offers services to the general public, such as shoe repair, valet service, watch repairing, hair stylists, barbers, tanning salons, beauty spas, manicure and pedicure services, animal grooming services ,and similar services.

**PET DAY CARE SERVICES:**

A fully enclosed structure in which short term pet boarding services are provided for domestic animals.

**PHOTOCOPY SERVICE:**

A business that reproduces drawings, plans, maps, or other copy by means of blueprinting or photocopying.

**PLACE OF WORSHIP:**

A building or portion thereof used for religious services either on a permanent or periodic basis, including churches, synagogues, mosques and similar edifices.

**PLANNING COMMISSION:**

The Planning Commission of the Borough of Edwardsville.

**PRINCIPAL USE:**

The main use of land or structures, as distinguished from a secondary or accessory use.

**PUBLIC:**

Anything owned or operated by any department or branch of federal government, state government, county government or municipal government.

**PUBLIC BUILDING AND/OR FACILITY:**

Any building and/or facility held, used or controlled exclusively for public purposes by any department or branch of federal government, state government, county government or municipal government.

**PUBLIC HEARING:**

A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act."

**PUBLIC MEETING:**

A formal meeting held pursuant to public notice by the Governing Body, Planning Commission or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action on a particular subject matter or development.

**PUBLIC NOTICE:**

Notice published once each week for two (2) successive weeks in a newspaper of general

circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

**PUBLIC UTILITIES FACILITIES (ESSENTIAL):**

Telephone, electric and cable television lines, equipment structures; water or gas pipes, mains, valves, or other structures, pumping stations; telephone exchanges and all other facilities, equipment and structures necessary for conducting a service by a public utility, under the jurisdiction of the Pennsylvania Public Utility Commission, in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended

**PUBLIC UTILITY TRANSMISSION TOWER:**

A structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commission, designed and used to support overhead electricity transmission lines.

**RECREATIONAL FACILITIES, COMMERCIAL:**

Recreational facilities operated as a business and open to the public for a fee.

**RECREATIONAL FACILITIES, PRIVATE:**

Recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

**RECREATIONAL FACILITIES, PUBLIC:**

Recreational facilities operated by a governmental entity open to the general public.

**RECYCLING COLLECTION CENTER:**

A publically owned facility which is limited to the collection, separating and processing of used material prior to shipment to others who will use those materials to manufacture new products. Hazardous or toxic substances shall not be accepted, located and or stored at such a facility. This definition shall not include a junkyard.

**REPORT:**

Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceedings upon request, with copies thereof provided at the cost of reproduction.

**RESTAURANT:**

A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

**RETAIL SALE ESTABLISHMENTS:**

An establishment selling products as opposed to services or entertainment to the general public, such as antique shop; appliance store; artist, music, and automotive parts store; beverage packaging store; building or plumbing supplies; crafts and hobby supplies; clothing store; dairy products store; dry goods and variety stores; florist; garden supplies; hardware store; newspapers, books and stationary products; office furniture, equipment and supplies; paintings and photography store; pet store; pharmacy; specialty gifts; sporting goods store; and other establishments selling related products

**RIGHT-OF-WAY:**

A defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley, which usually include cartways, shoulders, and sidewalks.

**RIPARIAN LAND:**

Land that is traversed or bounded by a natural watercourse. counters located within the building.

**ROOMING HOUSE:**

A structure thereof which contains rooming units which are rented or leased, with the occupants of said units being non-transient, and utilizing said location as a legal place of residence. The term "Rooming House" shall specifically exclude the following:

Dwelling, Dwelling Unit, Dormitory, Hotel, Motel, Bed and Breakfast Facility, Group Residence.

**ROOMING UNIT:**

A room or rooms, in a Rooming House and/or Boarding House, forming a single habitable unit intended for living quarters but lacking separate bathroom and toilet facilities and/or cooking facilities for exclusive use by the occupant or occupants of the rooming unit.

**SATELLITE DISH ANTENNA:**

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations. TVROs (television reception only satellite dish antennas), and satellite microwave antennas. A satellite dish antenna that does not exceed three (3) feet in diameter and is attached to a building shall be exempt from securing zoning approval.

**SCHOOL:**

A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools that are licensed by the State as such.

**SCREENING:**

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, wall, hedges, berms, or other features.

**SEATING CAPACITY:**

The actual seating capacity of an area based upon the number of seats or one (1) seat per eighteen (18) inches of bench or pew length. For other areas where seats are not affixed, the seating capacity shall be determined by the applicable standards of the most recent Pennsylvania Uniform Construction Code.

**SELF-STORAGE FACILITY:**

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or wares. The units shall be used solely for dead storage of non-hazardous materials and no processing, manufacturing, sales, research and development, service or repair, or other storage activities shall occur.

**SETBACK:**

The required minimum horizontal distance between the building line and the related front, side or rear property line.

**SEXUALLY ORIENTED USES:**

Sexually Oriented Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Sexually Oriented Entertainment: A nightclub, bar, tavern, restaurant, club or similar establishment that regularly features live performances 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.

Adult Massage Parlor: A private or semi-private establishment where a massage is performed for some form of consideration on a person with the use of one's hand or a mechanical device. This term does not include any type of massage therapy or treatment performed by a licensed medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the state, or any accessory use to a permitted athletic or health club, educational facility, or similar establishment.

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region,

buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as a "Sexually Oriented Use".

**SHOPPING CENTER:**

A grouping of retail business and service uses on a single site with common parking facilities.

**SIGN:**

A structure or device designed or intended to convey information to the public in written or pictorial form.

**SITE:**

A plot or parcel of land or combination of contiguous lots or parcels of land.

**SITE PLAN:**

A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and features proposed for a specific parcel of land.

**SKILLED NURSING FACILITY:**

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other health services for a period of twenty-four hours or more for individuals not in need of hospitalization, but who because of age, illness or other infirmity, require high-intensity comprehensive planned nursing care.

**SPECIAL EXCEPTION:**

A use which may only be permitted in a particular zoning district by special approval, granted by the Zoning Hearing Board in accordance with the applicable provisions of the Ordinance.

**SIGN:**

A structure or device designed or intended to convey information to the public in written or pictorial form.

**SITE:**

A plot or parcel of land or combination of contiguous lots or parcels of land.

**SITE PLAN:**

A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and features proposed for a specific parcel of land.

**SOIL EROSION AND SEDIMENTATION CONTROL PLAN:**

A plan that indicates necessary land treatment designed to effectively minimize soil erosion and sedimentation measures requiring approval by the Luzerne County Conservation District.

**SPECIAL EXCEPTION:**

A use which may only be permitted in a particular zoning district by special approval,

granted by the Zoning Hearing Board in accordance with the applicable provisions of this Ordinance.

**SOCIAL HALL:**

A room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

**STEEP SLOPES:**

Areas of land where the grade is 15 percent or greater. Steep slopes are divided into two categories:

- A. Precautionary slopes are those areas of land where the grade is 15 to 25 percent.
- B. Prohibitive slopes are those areas of land where the grade is greater than 25 percent.

Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three 2-foot contour intervals (six cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice by the Commonwealth of Pennsylvania.

**STORWATER MANAGEMENT ORDINANCE:**

The governing Stormwater Management Ordinance for the Borough of Edwardsville.

**STORY:**

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be counted as a story if its ceiling equals or exceeds five (5) feet of the finished ground surface adjoining the exterior walls of such story.

**STREET:**

A public (dedicated) or private (undedicated) right-of-way, whether or not improved, intended for use by vehicular and pedestrian traffic.

**STRUCTURE:**

Any man-made object, having an ascertainable stationary location on or in land or water, whether or not it is 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 for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devise, transfer of ownership or building or lot development, provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUBDIVISION AND LAND DEVELOPMENT ORDINANCE:**

The official and most recent version of the Borough of Edwardsville Subdivision and Land Development Ordinance, as amended.

**SWIMMING POOL, PRIVATE NONCOMMERCIAL:**

A water-filled enclosure, having a depth of twenty-four (24) inches or greater, permanently constructed or portable, designed to be used or intended to be used for swimming purposes by any family or persons residing on the premises or their guests. The use shall not be operated for financial gain and the use shall be considered an accessory use to the dwelling on the lot thereon.

**TATTOO PARLOR/BODY-PIERCING STUDIO:**

An establishment whose principal business activity is the practice of one or more of the following:

- (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;
- (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

**TAVERN**

A place where alcoholic beverages are served as a primary or substantial portion of the total trade, which may or may not include the sale of food and/or live entertainment.

**TRUCKING FACILITY:**

A structure, building and/or land consisting of a storage area, management and dispatch office and loading and unloading facilities connected with receipt of delivery of freight shipped by truck.

**TRUCK REPAIR & STORAGE:**

A building and/or land used primarily for the maintenance and storage of large commercial vehicles.

**TURBINE HEIGHT:**

The distance measured from the surface of the tower's foundation to the highest point of the turbine rotor plane at its furthest vertical extension.

**USE:**

Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

**VARIANCE:**

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1409 of this Ordinance.

**WAREHOUSE:**

A building used primarily for storage of goods, and materials.



**WAREHOUSING AND DISTRIBUTION:**

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of materials that are inflammable, explosive, hazardous, or commonly recognized as offensive.

**WATERCOURSE:**

A permanent or intermittent stream, river, brook, creek, or channel or ditch for collection and conveyance of water, whether natural or man-made.

**WETLANDS:**

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

**WIND ENERGY CONVERSION SYSTEM (“WECS”):**

A machine designed for the purpose of converting wind energy into electrical energy. (Commonly known as “wind turbine” or “windmill”). The term WECS shall be used interchangeably with the terms “wind turbine” or “windmill,” with said terms having the same meaning as a WIND ENERGY CONVERSION SYSTEM (“WECS”)

**WIND ENERGY FACILITY:**

An electric generating facility, whose main purpose is to supply electricity, consisting, of one or more Wind Turbines.

**WIND MILL, STANDALONE NONCOMMERCIAL**

A wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for on-site use, which is intended to primarily reduce consumption of utility power at that location and not for resale.

**WIND TURBINE:**

A wind energy conversion system that converts wind energy into electricity through the use of wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

**YARD:**

An open space that lies between the principal building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Ordinance.

**YARD, FRONT:**

A space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

**YARD, REAR:**

A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

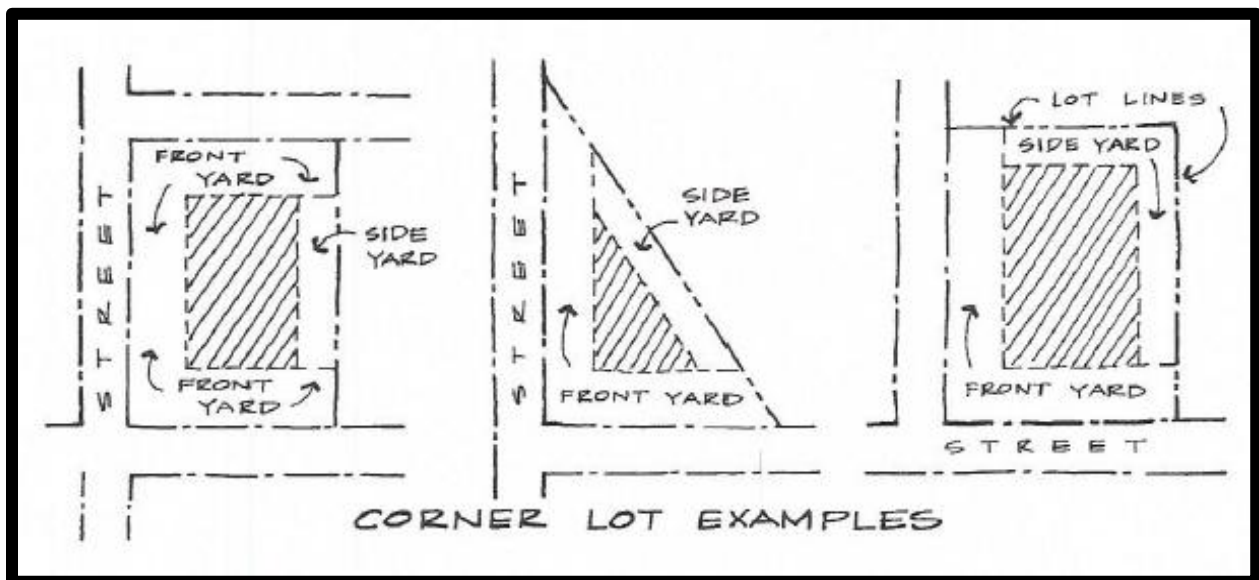
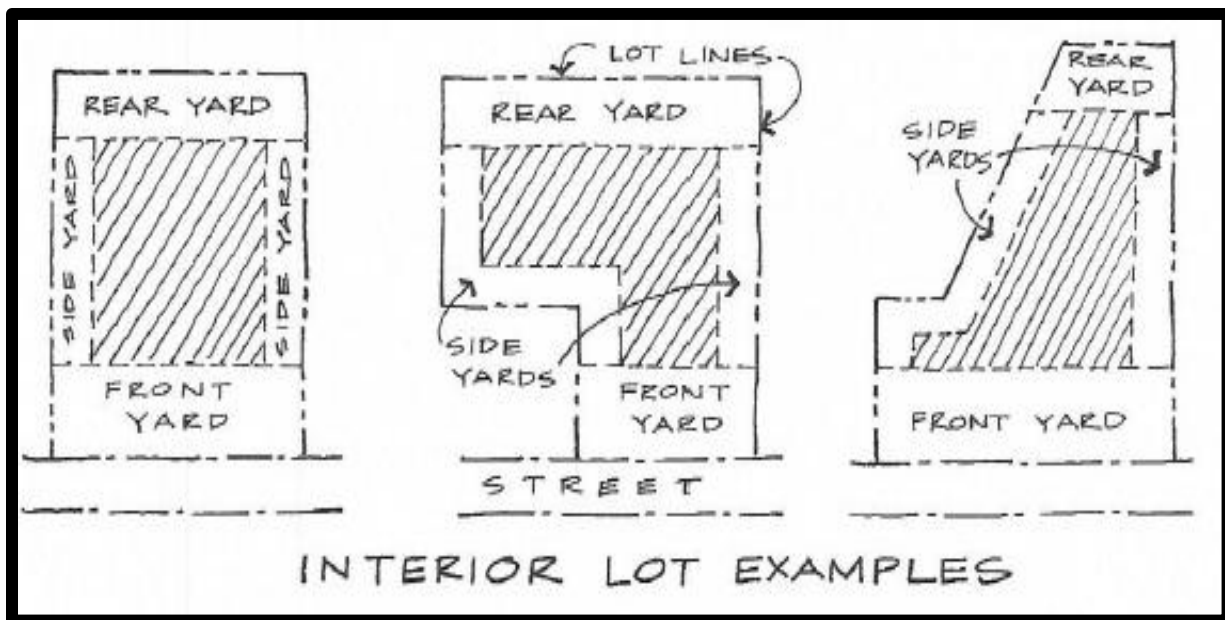
**YARD, SIDE:**

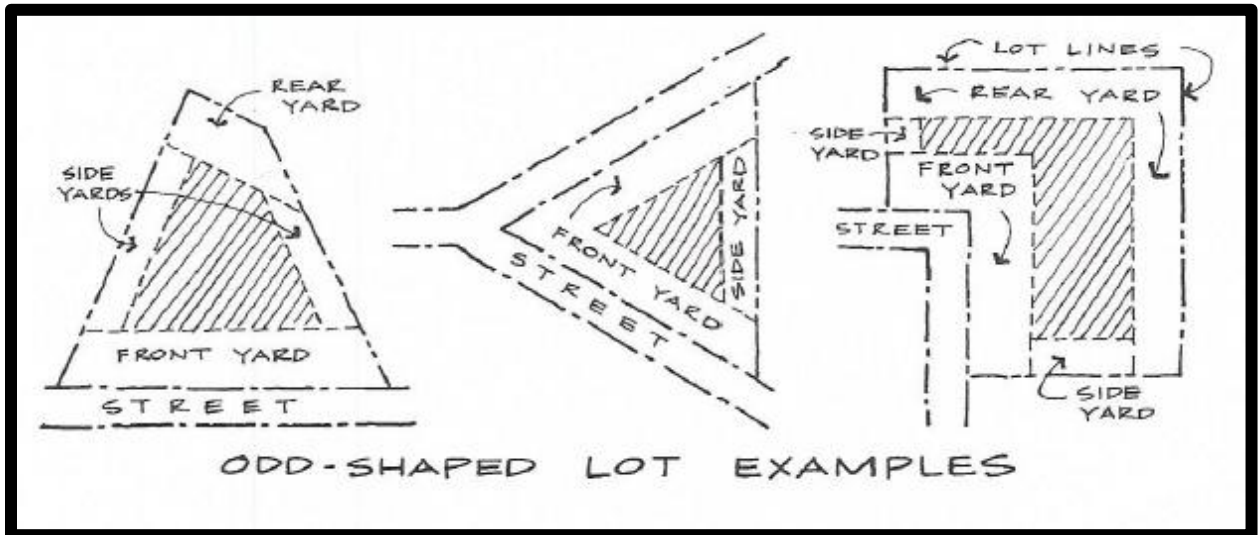
A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

**YARD, REQUIRED:**

The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as otherwise provided for in this Zoning Ordinance.

The following diagrams provide examples of yard area based upon the configuration of a lot.





**ZONING DISTRICT:**

A portion of the Borough of Edwardsville illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of the Zoning Ordinance.

**ZONING HEARING BOARD:**

The Zoning Hearing Board of Borough of Edwardsville, Luzerne County, Pennsylvania.

**ZONING MAP:**

The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of Borough of Edwardsville, Luzerne County, Pennsylvania.



**ARTICLE 3**  
**GENERAL REGULATIONS**

**SECTION 301**    **COMPLIANCE REQUIRED**

No structure or land shall be used or occupied, and no structure or part of a structure shall be erected, demolished, reconstructed, altered, converted or moved, unless in compliance with all applicable provisions and regulations of this Ordinance.

**SECTION 302**    **INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the protection and promotion of the public health, safety, convenience, comfort, morals, and general welfare of the residents of the Borough. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

**302.1**    **Public Provisions:** The regulations of this Ordinance 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 land, structure or building than any other previously adopted ordinance, rules, or regulations of the Borough, the provisions of this Ordinance shall apply.

**302.2**    **Private Provisions:** The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant or other form of 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 any easement, covenant or other form of private agreement or restriction imposes obligations, duties and/or requirements which are more restrictive and/or impose higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with the requirements of this Ordinance, then such private provisions shall be operative and supplemental to the requirements of this Ordinance. The Borough of Edwardsville shall not be responsible or be a party to any action intended to enforce or carry out the terms of any private agreement or restriction, including but not limited to easements, covenants or other forms of private agreements or restrictions.

**302.3**    **Conflicting Regulations:** In the event that any provisions within this Ordinance are found to be in conflict with another provision of this Ordinance, and/or any other ordinance, law, or regulation of the Borough, the Commonwealth of Pennsylvania or United States Government, the most restrictive shall apply.

**SECTION 303**    **REQUIRED ACCESS**

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.

## SECTION 304 ATTACHED ACCESSORY STRUCTURES

Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

## SECTION 305 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures shall include but not be limited to patios, gazebos, noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, satellite antenna dishes, and other similar accessory uses.

## SECTION 306 UNATTACHED ACCESSORY STRUCTURES

### 306.1 NONRESIDENTIAL

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than fifteen (15) feet from any side yard lot line or rear yard lot line. If a proposed unattached nonresidential structure adjoins the property line of a property containing an existing residential use the required setback distance along that particular boundary shall be increased to twenty (20) feet.

A proposed unattached nonresidential structure to an principal use and/or structure which is classified as a special exception use, shall not be subject to the standards and regulations under Article 6 (Special Exceptions) of this Ordinance, excluding the proposed construction, establishment or use of a structure which equals or exceeds seven hundred fifty (750) square feet of gross floor area.

### 306.2 RESIDENTIAL

When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:

- (A) An accessory structure must be located upon the same lot as the principal structure.
- (B) The maximum height shall not exceed twenty (20) feet. (See Article 2, definition of Building Height)
- (C) An accessory structure shall not be located less than five (5) feet from a side lot line or the rear lot line; in cases where an accessory structure abuts a street or an alley, a minimum setback distance of fifteen (10) feet shall be required. An accessory structure located upon a corner lot shall be also be governed the requirements set forth in Section 322 of this Ordinance.
- (C) The maximum gross floor area of an accessory structure shall not exceed seven

hundred fifty (750) square feet. In no case however shall the maximum square foot area of any accessory structure, other than a swimming pool, exceed the square foot area of the footprint of the principal use.

- (E) An accessory residential structure shall be located not less than ten (10) feet from the principal structure.
- (F) While utilities may be provided within an accessory residential structure, said structure, nor any portion thereof, shall be utilized as a habitable living space or as a dwelling.
- (G) In cases when a residential structure is a nonconforming use, located in a zoning district in which residential uses are not permitted by right, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations otherwise applicable to a residential accessory structure.

#### SECTION 307      OUTDOOR WOOD-FIRED BOILER

An Outdoor Wood-Fired Boiler, as defined in Article 2, shall be deemed to be an residential accessory structure permitted in all Zoning Districts, as a special exception use, requiring approval from the Zoning Hearing Board and subject to supplemental standards as set forth in Article 8 of this Ordinance.

#### SECTION 308      STANDALONE NONCOMMERCIAL WINDMILL

A standalone noncommercial windmill, whether free standing or roof mounted shall be deemed to be an accessory structure permitted in all Zoning Districts, as a special exception use, requiring approval from the Zoning Hearing Board and subject to supplemental standards as set forth in Article 8 of this Ordinance.

#### SECTION 309      INSTALLATION AND USE OF ACCESSORY STRUCTURES

Accessory structures, including any related equipment, shall be installed and used in accordance with the manufacturer's written recommendations.

#### SECTION 310      CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located. This provision shall apply to both accessory and principal structures.

#### SECTION 311      STORAGE ON VACANT LOTS

In any Residential District, it shall be prohibited for any person or persons to allow and/or use a vacant lot for the storage of commercial material, equipment, construction debris and/or the storage or parking of commercial vehicles.

SECTION 312      NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located. The following supplemental provisions shall apply.

A.      Location on Lot

A satellite dish antenna, excluding those that are roof-mounted, shall be located not less than ten (10) feet from any property line and shall be affixed to a permanent location on a zoning lot in a stationary manner. No satellite dish antenna shall be installed on a portable or moveable device.

B.      Number on Lot

Not more than one (1) satellite dish antenna shall be permitted on a zoning lot.

C.      Size Limitations

The dimensions of a satellite dish antenna measured from its outermost edges shall not exceed twelve (12) feet in diameter.

D.      Roof-Mounted

A roof-mounted satellite dish antenna having a diameter not greater than three (3) feet and installed in accordance with the manufacturer's specifications shall be exempted from securing zoning approval.

SECTION 313      EXEMPTIONS FOR CERTAIN SIDE YARD SETBACKS

Any property, proposed to be subdivided, containing two or more horizontally attached residential or nonresidential units, shall be exempted from the governing side yard setback requirements under the Zoning Ordinance relative only to interior side yards when a side yard of a proposed subdivision is directly attached to another unit within the structure. Under such circumstances subdivision approval shall exempt the property from requiring and/or securing an interior side yard variance from the Zoning Hearing Board.

SECTION 314      PRIVATE NONCOMMERCIAL SWIMMING POOLS

A private noncommercial swimming pool capable of containing water to a depth of twenty-four (24) inches or greater shall be permitted as an accessory use in any Zoning District subject to the following:

314.1      Yard Area and Setback Requirements

A private swimming pool shall be located in either a side yard or rear yard with a minimum side yard and rear yard setback of five (5) feet as measured from the water's edge. Said pool shall be located not less than ten (10) feet from any roofed structure located upon the property.



314.2            In-Ground Pools

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock. The required fencing for an in ground pool must be installed upon the completion of the excavation work for said pool.

314.3            Above Ground Pools

A.    Pools With Exterior Supports

An above ground pool which is manufactured, designed and erected with supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 314.2 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. If access into a pool includes a deck, the deck area shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall require a side yard and/or rear yard setback of not less than five (5) feet.

B.    Inflatable Pools without Exterior Supports

An above ground pool which may be inflated and used without supporting devices around and/or within the outer wall or edge of a pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 314.2.

SECTION 315            LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing ninety (90%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining ten (10%) percent or less of the lot so divided.

SECTION 316            PROJECTIONS INTO REQUIRED YARDS

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

- (A)    Terraces or Patios: provided that such terraces or patios are located in the rear yard or side yard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line. Those with a roof shall be not less than ten (10) feet from any adjacent lot line.
  
- (B)    Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, stairways, balconies, canopies or other similar architectural features provided that any of the aforementioned features

do not extend more than three (3) feet into any required setback and provided that any single feature does not exceed ten (10) square feet in external area.

- (D) Porches and Decks: provided such porches or decks are not under roof, are located in the rear yard or side yard, and do not exceed four and one-half (4<sup>1/2</sup>) feet in depth and five (5) feet in length as extended from the principal structure.
- (E) Handicapped Ramps: The installation of a handicapped ramp in any zone, designed to provide access to handicapped persons, shall be exempt from meeting any applicable front yard or rear yard setback requirements, but shall have a minimum side yard setback of not less than five (5) feet.
- (F) Lamp posts, walkways, driveways, retaining walls or steps shall be permitted within any required yard area.

SECTION 317            LIMITED EXEMPTIONS FROM YARD REQUIREMENTS:

In all zoning districts any area of a structure already under roof can be enclosed and shall be exempt from meeting the front, side and/or rear yard requirements subject to not exceeding the area covered by the existing roof.

SECTION 318            CERTAIN EQUIPMENT EXEMPT FROM ZONING APPROVAL

In any zoning district, a Zoning Permit Application and approval of the same shall not be required for any mechanical equipment or apparatuses thereto utilized for heating, plumbing, ventilation, electrical service, or similar functional utilities of a building and/or structure when the following conditions exist.

- A. The subject building and/or structure serviced by such equipment represents new construction.
- B. The equipment is not physically attached to the building and/or structure as an integral part of its design and/or construction.
- C. Said equipment shall not be located a distance of more than three feet from the subject building and/or structure which it serves, otherwise the applicable setback distances to property lines shall apply.

For the purpose of administration of this Ordinance, any piping, wiring, poles, valves or similar features which represent the connection of the subject equipment to service the building and/or structure shall not be deemed to be physically attached and/or an integral part of the design and/or construction of the building and/or structure.

SECTION 319            SETBACK EXEMPTION FOR STRUCTURAL REPLACEMENTS

Any structural portion of a residential building, such as a deck, patio, porch or similar feature which is need of repair to the point of replacement shall be exempt from complying with the applicable setback requirements when all of the following conditions exist:

- A. The use of the building represents a use permitted by right in the district in which it is located.

- B. There are no outstanding zoning or building code violations against the owner of the property.
- C. The structural replacement shall be at the exact same location and said structural replacement shall be the same size and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed zoning permit application, along with any other information deemed necessary by the Zoning Officer to process the application.

SECTION 320            LAND DEVELOPMENT APPROVAL REQUIRED:

In addition to zoning approval, if the proposed development and/or use of a property is deemed to be a land development based upon the definition of said term as contained within the Borough of Edwarsville Subdivision and Land Development Ordinance, approval shall also be required.

SECTION 321            EXEMPTIONS FROM HEIGHT REQUIREMENTS:

Unless stated otherwise, height limitations in this Ordinance as so specified for each Zoning District shall not apply to church spires, belfries, cupolas and domes, monuments, water towers, wind energy conversion systems, commercial communication towers, chimneys, smokestacks, flag poles, radio towers, masts and aerials accessory mechanical appurtenances usually located above the roof level or to parapet walls extending not more than four (4) feet above the roof line of the principal building.

SECTION 322    VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

322.1    INTERSECTION OF STREETS

On any corner lot no visual obstruction, including but not limited to fences, structures and/or vegetation, exceeding a height of two and one-half (2<sup>1</sup>/<sub>2</sub>) feet, excluding street signs, utility poles or traffic signs, shall be erected, planted and/or maintained within the triangle formed by a line projected between two points measured at a minimum distance of thirty (30) feet from the intersection of the side yard lot lines of the property which abut the public right-of-way.

322.2    PRIVATE DRIVEWAYS

No visual obstruction including but not limited to fences, structures and/or vegetation, exceeding a height of two and one-half (2<sup>1</sup>/<sub>2</sub>) feet, shall be erected or maintained within the triangles formed by a line projected between two points measured at a minimum distance of eight (8) feet from the outer edge of each side of the driveway in each direction to a depth of eight (8) feet along the centerline of the driveway.

SECTION 323      FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed. Height measurements for compliance with this Section shall be based upon the ground elevation directly below the fence.

323.1 RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A.      FRONT YARD

No fencing shall be permitted in the front yard area of a property based upon the definition of a “Front Yard” as defined in Article 2 of this Ordinance.

B.      SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height above the ground elevation directly below the fence.

C.      MATERIALS

All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

D.      RETAINING WALLS

All retaining walls must be designed by a professional engineer registered in the Commonwealth of PA and must contain adequate provisions for drainage. Any wall exceeding six (6) feet in height shall provide a continuous four (4) foot high protective fence within one (1) foot of the wall edge and must comply with all requirements of the Uniform Construction Code.

323.2 NONRESIDENTIAL

Fences to be constructed for a nonresidential use shall not exceed eight (8) feet in height above the ground elevation directly below the fence.

323.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link fence in excess of eight (8) feet in height, designed as an enclosure to a public park, a public playground or similar public outdoor recreational facility.

SECTION 324      PUBLIC UTILITIES

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 325      SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Borough's Act 537 Sewage Facility Plan, including but not limited to mandatory connection to public sewers.

SECTION 326      STEEP SLOPE LAND

Land having a slope of 25% or more shall be deemed steep slope land. Any proposed development and/or use of such land shall require that the applicant prepare and submit Soil Erosion and Sedimentation Control Plan to the Luzerne County Conservation District. No zoning permit shall be issued until the Borough receives written notice of the Plan's approval from the Luzerne County Conservation District.

SECTION 327      JUNK AND/OR JUNKED VEHICLES

The storage of junk and/or junked vehicles as so defined in Article 2 of this Ordinance shall be prohibited to be located and/or stored upon any lot or property within the Borough which is not located upon a property in an I-1 District which represents a legally established Junkyard or Automobile Wrecking Yard consistent with the definitions of said terms as so defined in Article 2 of this Ordinance.

SECTION 328      PROHIBITION OF GENERAL NUISANCES

The use, operation and/or condition of any property found to be a "General Nuisance" as so defined in Article 2 of this Ordinance shall constitute a violation of this Ordinance and shall be subject to the violation procedures and penalties as set forth in Section 1304 (Enforcement Procedures) of this Ordinance

SECTION 329      HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use, change of use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Borough road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable entity having jurisdiction over the same.

SECTION 330      GRADING AND STORMWATER MANAGEMENT

Any proposed development or use of property which results and/or requires a land disturbance shall be undertaken in compliance with the following:

- a. All new grading and stormwater management facilities must comply with

the Borough of Edwardsville Stormwater Management Ordinance and the PA DEP Erosion and Sediment Control Manual, as amended.

- b. No grading shall result in a slope of steeper than 2 to 1 within 20 feet of any property line unless a retaining wall is constructed in accordance with Section 323 of this Ordinance.

SECTION 331      RIPARIAN BUFFER:

Excluding stormwater detention facilities, flood proofing structures and/or similar devices, a minimum setback of one hundred (100) feet from any Watercourse, as defined in Article 2, shall be required in all Zoning Districts for any form of development and/or improvements.

SECTION 332      FLOOD PLAIN MANAGEMENT ORDINANCE

Any improvements to structures or land located within a 100 Flood Plain as established by the most recent mapping provided by FEMA shall be in compliance with all applicable and governing provisions and regulations of both this Ordinance and the Borough of Edwardsville Flood Plain Management Ordinance

SECTION 333      USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor prohibited and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Borough Council to hear and decide such request as a conditional use. The Borough Council shall have the authority to permit the use or deny the use in accordance with the standards governing conditional use applications. The proposed use may be permitted if only if it is determined to be similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a conditional use as contained in Section 704 and Section 705 of this Ordinance and would not be detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

SECTION 334      SUPPLEMENTAL REQUIREMENTS

A use, provided for under any Zoning District within this Ordinance, shall, in addition to all other applicable provisions of this Ordinance, shall also be governed by supplemental regulations applicable to such use contained within Article 8 (Supplemental Regulations) of this Ordinance.

**ARTICLE 4**  
**ZONING MAP AND ZONING DISTRICTS**

SECTION 401 OFFICIAL ZONING MAP

The Borough of Edwardsville is hereby divided into zoning districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

Any changes to the location of zoning district boundaries or other matters portrayed upon the Official Zoning Map shall be undertaken in accordance with the provisions of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such changes shall be provided upon the Official Zoning Map promptly after the enactment of the subject amendment by the governing body.

SECTION 403 INTERPRETATION OF BOUNDARIES

For the interpretation of zoning district boundaries, the following subsections shall apply if or when a determination is not made by the Zoning Officer.

403.1 ZONING HEARING BOARD

If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in Section 403.2.

403.2 GUIDELINES

- (A) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- (B) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- (C) If the guidelines as stated above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404 CLASSES OF ZONING DISTRICTS

For the purpose of this Ordinance, the Borough of Edwarsville is hereby divided into Zoning Districts as designated below:

- R-1 ONE FAMILY RESIDENCE DISTRICT
- R-2 TWO FAMILY RESIDENCE DISTRICT
- R-3 MULTI-FAMILY RESIDENTIAL DISTRICT
- C-2 GENERAL BUSINESS DISTRICT
- C-3 DOWNTOWN BUSINESS DISTRICT
- C CONSERVATION DISTRICT
- I-1 INDUSTRIAL DISTRICT



**ARTICLE 5  
ZONING DISTRICT REGULATIONS**

**SECTION 501                      PERMITTED USES, CONDITIONAL USES, SPECIAL EXCEPTION USES AND NON-PERMITTED USES.**

- (1) Permitted Uses. The letter “P” designated under any of the zoning districts in the Use Table of this Ordinance indicates a permitted use in that district, which use is permitted by right within that zoning district, thereby not requiring the Borough Council or Zoning Hearing Board approval, but only a determination by the Zoning Officer.
- (2) Conditional Uses. The letters “C” designated under any of the zoning districts in the Use Table of this Ordinance indicates a conditional use in that district, which use requires the Borough Council approval. The Borough Council may either approve or deny a conditional use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring a conditional use approval.
- (3) Special Exception Uses. The letters “SE” designated under any of the zoning districts in the Use Table of this Ordinance indicates a special exception use in that district, which use requires Zoning Hearing Board approval. The Zoning Hearing Board may either approve or deny a special exception use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring special exception approval.
- (4) Non-Permitted Uses. The letter “N” designated under any of the zoning districts in the Use Table of this Ordinance indicates a use not permitted in that district, which use requires a use variance to be approved or denied by the Zoning Hearing Board in accordance with the provisions of this Ordinance.

**SECTION 502**

**Symbol Key**

- P- Permitted Use
- SE- Special Exception
- C – Conditional Use
- N- Non-Permitted Use

**BOROUGH OF EDWARDSVILLE  
USE TABLE**

**ZONING DISTRICTS**

<b>TYPES OF LAND USES</b>							
<b>RESIDENTIAL USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Single-Family Dwelling Units	P	P	P	N	N	N	N
Two-Family Dwelling Units	N	P	P	N	N	N	N
Multi Family Dwelling Units	N	N	C	N	N	N	N
Townhouses	N	SE	SE	N	N	N	N

<b>RESIDENTIAL USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Mobile Home on permanent foundation	P	P	P	N	N	N	N
Mobile Home	N	N	SE	N	N	N	N
Mobile Home Parks	N	N	C	N	N	N	N
Boarding House/Rooming House	N	N	SE	N	N	N	N
Bed and Breakfast	N	N	N	N	SE	N	N
Personal-Care Home	N	N	N	P	N	N	N
No Impact Home Based Business	P	P	P	P	P	N	P
Home Office	P	P	P	P	P	P	P
Home Occupation	SE	SE	SE	N	N	N	N
Group Home	N	N	SE	N	N	N	N
Half-Way House	N	N	N	C	N	N	N
Dwelling Over or Attached to a Business)	N	N	N	P	P	N	N
Accessory Residential Structures	P	P	P	P	P	N	N
<b>NONRESIDENTIAL USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Agriculture Use	N	N	N	N	N	N	P
Artist and Hobby Supplies (sale of)	N	N	N	P	P	N	N
Automotive Repairs	N	N	N	N	N	SE	N
Automotive Sales (sale of vehicles)	N	N	N	P	P	N	N
Automotive Supplies (sale of)	N	N	N	P	p	N	p
Automotive Wrecking Yard	N	N	N	N	N	C	N
Banks & Similar Financial Services	N	N	N	P	P	N	N
Bakery	N	N	N	P	P	N	N
Beauty and Barber Shops	N	N	N	P	P	N	N
Big Box Retail Store	N	N	N	C	N	N	N
Bulk Fuel Storage Facility	N	N	N	N	N	C	N
Bottle Club or BYOB Club	N	N	N	C	N	N	N
Car Wash and Auto Detailing	N	N	N	P	N	N	N
Cemeteries	N	N	SE	N	N	N	N
Clothing and Clothing Accessories (sale of)	N	N	N	P	P	N	N
Commercial Communications Facility	N	N	N	C	N	C	C
Commercial Communications Antenna	N	N	N	P	P	P	P
Commercial Greenhouses and Nurseries	N	N	N	N	P	N	P
Continuing Care Facility	N	N	N	P	N	N	N
Contractors Storage Yards	N	N	N	N	N	N	P
Convenience Stores with Gas Sales	N	N	N	P	N	N	N
Day Care Facilities	N	N	N	P	P	N	N
Detention Facility	N	N	N	C	N	N	N
Drive Through Commercial Uses	N	N	N	P	N	N	N
Drug Treatment Center	N	N	N	C	N	N	N
Dry Goods (sale of)	N	N	N	P	P	N	N
Emergency Services Facility	N	P	N	N	P	N	N

<b>NONRESIDENTIAL USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Entertainment Facilities	N	N	N	P	P	N	N
Equipment Sales and Repairs	N	N	N	P	P	P	N
Extraction of Minerals	N	N	N	N	N	N	C
Food Products (sale of)	N	N	N	P	P	N	N
Forestry (as defined in Article 2)	P	P	P	P	P	P	P
Furniture or Office Supplies and Equipment	N	N	N	P	P	N	N
Garden Center	N	N	N	P	N	N	P
Gas Station, Limited-Service	N	N	N	P	N	N	N
Health Spa	N	N	N	P	P	N	N
Home Improvements Store	N	N	N	P	P	N	N
Hotels and Motels	N	N	N	C	N	N	N
Household Goods and Appliances	N	N	N	P	P	N	N
Industry, Heavy	N	N	N	N	N	C	N
Industry, Light	N	N	N	N	N	P	N
Institutional Use	N	N	N	SE	N	N	N
Intermediate-Care Facility	N	N	N	P	N	N	N
Junk Yards	N	N	N	N	N	C	N
Laundromat, Self-Service	N	N	N	P	P	N	N
Medical Clinic	N	N	N	P	P	N	N
Massage Establishment by Medical Practitioner	N	N	N	P	N	N	N
Methadone Treatment Facility	N	N	N	C	N	N	N
Mortuaries and Crematories	N	N	N	P	N	N	N
Newspapers, Books and Stationery Supplies	N	N	N	P	P	N	N
Nonprofit Social Hall and Clubs	N	N	N	SE	N	N	N
Nursing Home	N	N	N	P	N	N	N
Personal Services	N	N	N	P	P	N	N
Pharmaceutical Products (sale of)	N	N	N	P	P	N	N
Photocopying Services	N	N	N	P	P	N	N
Photographic Studios & Commercial Photography	N	N	N	P	P	N	N
Place of Worship	N	N	N	SE	N	N	N
Professional Offices	N	N	N	P	P	N	N
Public Uses	N	N	N	P	SE	N	N
Public Utility Facilities, Essential (excluding storage yards)	SE	SE	SE	SE	SE	SE	SE
Recreational Facilities, Commercial	N	N	N	P	N	N	N
Recreational Facilities, Private	N	N	N	C	N	N	N
Recreational Facilities, Public	P	P	P	P	P	N	P
Recycling Collection Center (publicly owned)	N	N	P	N	N	N	P
Repair Services, Miscellaneous	N	N	N	P	P	N	N
Restaurants	N	N	N	P	P	N	N
Retail Sale Establishments (as define in Article 2)	N	N	N	P	P	N	N

<b>NONRESIDENTIAL USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Self-Storage Facility	N	N	N	P	N	P	N
Service Offices	N	N	N	P	P	N	N
Sexually Oriented Uses as defined in Article 2.	N	N	N	C	N	N	N
Sporting Goods (sale of)	N	N	N	P	P	N	N
Tattoo Parlor/Body-Piercing Studio	N	N	N	P	P	N	N
Taverns	N	N	N	P	P	N	N
Taverns (with live entertainment)	N	N	N	SE	SE	N	N
Trucking Facility	N	N	N	N	N	P	N
Truck Repair & Storage	N	N	N	N	N	P	N
Variety and Sundry Goods (sale of)	N	N	N	P	P	N	N
Warehouse Facilities (including storage yards)	N	N	N	N	N	P	N
Wind Energy Facility	N	N	N	N	N	C	N
Accessory Nonresidential Structures	N	N	N	P	P	P	P
<b>MISCELLANEOUS NONRESIDENTIAL USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Any nonresidential use permitted by right or by special exception excluding agricultural uses, and forestry shall be deemed a conditional use if it involves either of the following:							
(a) the initial or cumulative earth disturbance activity or use of property which equals or exceeds 30,000 square feet of surface area. OR	C	C	C	C	C	C	C
(b) the initial or cumulative construction, placement or installation of a building, structure and/or development which equals or exceeds 20,000 square feet.	C	C	C	C	C	C	C
<b>OTHER MISCELLANEOUS USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>1-1</b>	<b>C</b>
Any use which utilizes and/or stores any hazardous substances (as defined in Article 2)	N	N	N	N	N	C	N
Outdoor Wood-Fired Boilers	SE	SE	SE	SE	SE	SE	SE
Standalone Noncommercial Windmill	SE	SE	SE	SE	SE	SE	SE
Satellite Dish Antenna ( Noncommercial)	P	P	P	P	P	P	P

**SECTION 503      ZONING DISTRICT DIMENSIONAL REGULATIONS.**

Except as otherwise provided in this Ordinance or by state or local law or regulation, each building, structure and use shall be governed by the dimensional regulations listed in the following Table:

**TABLE OF ZONING DISTRICT DIMENSIONAL REGULATIONS**

<b>BOROUGH OF EDWARDSVILLE</b>								
<b>ZONING DISTRICT</b>	<b>MINIMUM<sup>1</sup></b>					<b>MAXIMUM<sup>1</sup></b>		
	<b>LOT SIZE<sup>3</sup></b>	<b>WIDTH feet</b>	<b>FRONT YARD SETBACK feet</b>	<b>REAR YARD SETBACK feet</b>	<b>SIDE YARD SETBACK One Side</b>	<b>SIDE YARD SETBACK Both Sides</b>	<b>LOT COVERAGE</b>	<b>BLDG. HEIGHT</b>
R-1	6,000 <sup>4</sup>	60	25	35	8	20	40%	2½ Stories or 35 feet
R-2	5,000 <sup>4</sup> SF <sup>5</sup> 3,500 <sup>4</sup> TW <sup>6</sup>	50 SF <sup>5</sup> 70 TW <sup>6</sup>	25	30	8	18	45%	2½ Stories or 35 feet
R-3	5,000 <sup>4</sup> SF <sup>5</sup> 3,500 <sup>4</sup> TW <sup>6</sup> 2,000 <sup>4</sup> MF <sup>7</sup>	50 SF <sup>5</sup> 70 TW <sup>6</sup> 70 MF <sup>7</sup>	20	25	8 8 8	20 SF <sup>5</sup> 18 TW <sup>6</sup> 16 MF <sup>7</sup>	60%	2½ Stories or 35 feet
C-2	15,000	100	25	20	10	20	60%	3 Stories or 40 feet
C-3	NONE	NONE	5	15	5	10	80%	3 Stories or 40 feet
I-1	One Acre	150	50	50	25	50	50%	3 Stories or 40 feet
C	One Acre	150	50	50	25	50	10%	2½ Stories or 35 feet

1. Except as otherwise provided by supplemental provisions, and/or other requirements contained in this Ordinance.
2. Any lot not service by public sewer and water shall require a minimum lot size of not less than one (1) acre.
3. Expressed in square feet unless noted otherwise.
4. Area required per dwelling unit
5. SF = Single Family
6. TF = Two Family
7. MF = Multifamily, excluding Townhouses (see Article 8)



**ARTICLE 6**  
**SPECIAL EXCEPTIONS**

SECTION 601      PURPOSE

The purpose of a use classified as a "special exception" is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning district, as provided in Article 5, Zoning District Regulations.

SECTION 602      GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 14. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in Section 1410.2, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, including but not limited to Supplemental Standards as set forth in Article 8 of this Ordinance, other ordinances of Edwardsville Borough and any applicable State and/or Federal regulations.

SECTION 603      SITE PLAN

Uses classified as a special exception shall file, in addition to a zoning permit application and an application for hearing before the Zoning Hearing Board, a site plan at a scale of not greater than

One (1) inch equals fifty (50) feet for uses/developments located upon properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for uses/developments located upon properties being two (2) acres or less.

Please note that the subject applications must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.

Such site plan shall provide all applicable information required for the Zoning Hearing Board to render a decision, including but not limited to the following:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.

4. Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths. (Excluded for a special exception application for a home occupation.)
5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site. (Excluded for a special exception application for a home occupation.)
7. Any areas of the property that are subject to flooding including but not limited to the boundaries of a 100 Flood Plain as established by FEMA.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site. (Excluded for a special exception application for a home occupation.)
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
11. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough. (Excluded for a special exception application for a home occupation.)
12. In cases when a proposed use includes new construction and/or grading of the site, the applicant, in addition to compliance with the Borough Stormwater Management Ordinance, shall provide upon the site plan the contours of the site at vertical intervals of:
  - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
  - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
  - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks. (Excluded for a special exception application for a home occupation.)

13. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan



and/or NPDES Permit for review and approval by the Luzerne County Conservation District.

14. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
15. The applicant shall supply any other information required by the Edwardsville Borough Zoning Hearing Board for determining the conformance of the special exception use with the applicable regulations for that particular use.

SECTION 604      IMPACT ANALYSIS

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an "Impact Analysis" on a particular aspect of the subject application and/or potential effect of the subject application in relationship to surrounding properties in accordance with the definition of said term as provided within Article 2 of this Ordinance.



**ARTICLE 7**  
**CONDITIONAL USES**

SECTION 701      PURPOSE

The purpose of a use classified as a “Conditional Use” is to provide expressed standards to regulate uses classified as such in particular zoning districts, as provided in Article 5 of this Ordinance.

SECTION 702      GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the Borough Council with the Borough Planning Commission having the authority to review and submit their recommendations to the Borough Council. Decisions by the Borough Council shall be made in accordance with standards and criteria set forth in this Article, any studies and reports required within the context of an Impact Analysis, as so defined in Article 2 of this Ordinance, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Borough and all applicable State and/or Federal regulations.

SECTION 703      PLANS, INFORMATION AND PROCEDURES FOR CONDITIONAL USES

The procedure for approval or denial of a conditional use shall be in accordance with the following:

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than:

One inch (1) equals fifty (50) feet for properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for properties being two (2) acres or less.

Such plan shall, at minimum, indicate:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including

the width and pavement of traffic lanes, and aisle widths.

5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
7. Any areas of the property that are subject to flooding including but not limited to the boundaries of any FEMA designated 100 Year Flood Plains based upon the most recent Flood Insurance Rate Maps (FIRM) for the Borough.
8. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
9. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
10. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
11. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
12. In cases when a proposed use includes new construction and/or grading of the site, the applicant, in addition to compliance with the Borough Stormwater Management Ordinance, shall provide upon the site plan the contours of the site at vertical intervals of:
  - not more than five (5) feet for land with an average natural slope of five (5%) percent or less.
  - not more than ten (10) feet for land with an average natural slope exceeding five (5%) percent.
  - not more than twenty (20) feet for land with an average natural slope exceeding fifteen (15%) percent.

Topography data shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

13. If applicable, the applicant shall submit a Soil Erosion and Sedimentation Plan and/or NPDES Permit for review and approval by the Luzerne County Conservation District.
  14. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
  15. The applicant shall supply any other information required by the Borough of Edwardsville Council for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Borough Council shall conduct a public hearing pursuant to public notice. The Borough Council shall submit the application for the proposed conditional use to the Borough of Edwardsville Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.
  - C. The public hearing shall be held and conducted in accordance with the same procedural guidelines, which govern the Zoning Hearing Board under Article 14 of this Ordinance. The term "Borough Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
  - D. The Borough Council shall convene a hearing on a conditional use application within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.
  - E. The Borough Council shall render a final decision on a conditional use application, within forty-five (45) days following the conclusion of the last public hearing. If the Borough Council fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time.

If the Borough Council fails to conduct or complete the required hearing as provided for under Section 1406(D) of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Borough Council to meet or render a decision as hereinabove provided, the Borough Council shall give public notice of the decision within ten (10) days from the

last day it could have met to render a decision in the same manner as required by public notice. If the Borough Council fails to provide such notice, the applicant may do so.

- F. The Borough Council may grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

#### SECTION 704      GENERAL STANDARDS

The general standards contained herein, shall be utilized in the review of applications and plans for any use which is classified as a conditional use.

- A. The proposed use shall not jeopardize Community Development Objectives, and is generally consistent with those as set forth in Article 1 of this Ordinance.
- B. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
- D. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
- E. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
- F. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
- G. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
- H. The submission of any reports and/or studies, required by the Borough Council within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will

not have a negative impact upon the particular subject or subjects as defined by the Borough Council, in requiring such reports and/or studies.

- I. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Borough Council may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

## SECTION 705 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any use/development which is classified as a conditional use. The Borough Council, at its sole discretion, may exempt a use from the submission of an Environmental Impact Statement, in whole or in part. Consideration of an exemption must be preceded by a written request submitted by the applicant which addresses the basis for the requested exemption. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout Exeter Borough and its environs. An Environmental Impact Statement shall require a site plan which illustrates the applicable information for following items and/or a written response to the following items for said proposed use/development which is classified as a Conditional Use

### 705.01. SOIL TYPES

- a. U.S.D.A. Soil Types (illustrated upon map).
- b. Permeability of soil on the site.
- c. Rate of percolation of water through the soil for every five acres.

### 705.02 SURFACE WATERS

- a. Distance of site from the nearest surface water and head waters of streams.
- b. Sources of runoff water.
- c. Rate of runoff from the site.
- d. Destination of runoff water and method of controlling downstream effects.
- e. Chemical additives to runoff water on the site.
- f. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.

- g. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

705.03      GROUND COVER INCLUDING TREES

- a. Extent of existing impervious ground cover on the site.
- b. Extent of proposed impervious ground cover on the site.
- c. Extent of existing vegetative cover on the site.
- d. Extent of proposed vegetative cover on the site.

705.04      TOPOGRAPHY

- a. Maximum existing elevation of site.
- b. Minimum existing elevation of site.
- c. Maximum proposed elevation of site.
- d. Minimum proposed elevation of site.
- e. Description of the topography of the site and all proposed changes in topography.

705.05      GROUND WATER

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

705.06      WATER SUPPLY

- a. The source and adequacy of water to be provided to the site.
- b. The projected water requirements (G.P.D.) for the site.
- c. The uses to which the water will be put.

705.07      SEWAGE SYSTEM

- a. Sewage disposal system (description and location on the site of system).



- b. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, and other chemicals).
- c. Projected daily volumes of sewage.
- d. Affected sewage treatment plant's present capacity and design capacity.

705.08      SOLID WASTE

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

705.09      AIR QUALITY

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

705.10      NOISE

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

705.11      IMPACT OF PROPOSED USE/DEVELOPMENT

A description of the impacts on the environment and mitigating factors shall be provided for the following:

- a. Existing plant species, (upland and marine), and effects thereon.
- b. Existing animal species and effects thereon.
- c. Existing wild fowl and other birds and effects thereon.
- d. Effects of drainage and runoff.
- e. Effects on ground water quality.
- f. Effects on surface water quality.

- g. Effects on air quality.
- h. Alternatives to proposed use/development, consistent with the zoning of the site.
- i. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

705.12      IMPACT UPON CRITICAL AREAS

The applicant shall define, describe and identify upon a map, "Critical Areas" as defined in Article 2 of this Ordinance. A statement of any potential impact upon critical areas shall be provided by the applicant, including but not limited to adverse impacts which cannot be avoided and/or mitigated as a resulting effect of the development.

705.13      OTHER GOVERNMENTAL JURISDICTION

A list as applicable of all licenses, permits and other approvals required by County, State or Federal law and the status of each.

705.14      REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A. Upon receipt of an Environmental Impact Statement, the Borough Council shall promptly forward the Environmental Impact Statement to the Borough Planning Commission, the Borough Planning Consultant, the Borough Engineer and any other agency, firm or individual which the Borough Council may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Borough Council with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.
- C. The Borough Council shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement.
- D. In the event that any information, data, and/or "Impact Analysis" indicates a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Borough Council's review of the same shall constitute sufficient basis for the denial of a conditional use permit.

**ARTICLE 8**  
**SUPPLEMENTAL REGULATIONS**

SECTION 801 PURPOSE AND INTENT

Certain uses of land and/or buildings, as specified herein, whether permitted by right or special exception, shall be subject to supplemental regulations in addition to those of the district in which the use is located.

SECTION 802 SUPPELMENTAL USE REGULATIONS

802.01 ANIMAL HOSPITAL

An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than one hundred (100') feet from any property line.

802.02 AUTOMOBILE RELATED ACTIVITIES

- A. Gasoline Service Stations: When a service station abuts on the rear side lot line of a district having residences as a principal use, a solid wall or substantial attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60') feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25') feet in width. Gasoline pumps or other service appliances may be located in the required front yard not to exceed ten (10') feet. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. Outside lighting shall be directed away from adjacent properties.
- B. Automotive Repairs (major): Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicle owner may be stored in the yard area. Where the operation abuts on the side or rear property line of a district having residences as a principal permitted use, a solid wall or substantial attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. Outside lighting shall be directed away from adjacent properties.
- C. Automotive Sales: The outdoor display of new or used automobiles, panel trucks or vans, trailers, recreational vehicles, all-terrain vehicles, motorcycles,

snowmobiles, mobile homes or boats shall meet the appropriate yard requirements for the zoning district in which such use is located. Uses which are normally accessory to such sale establishments (such as engine repairs, body repairs, painting, radiator repair and undercoating) shall be permitted, provided such uses are clearly incidental and subordinate to the principal use and further provided that such uses are conducted within a completely enclosed building designed and constructed to minimize noise, fumes, vibrations and glare. Where an automotive sales use abuts a rear or side lot line of any district having residences as a principal permitted use, a solid wall or substantial, attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. Outside lighting shall be directed away from adjacent properties.

D. Car Wash:

1. The site shall be able accommodate three (3) cars per stall waiting washing during peak periods so that lines along public streets are avoided. Traffic flow and ingress/egress shall not cause traffic hazards on adjacent streets. On-lot traffic circulation channels and parking areas shall be clearly marked.
2. The facility shall be designed with a water reclamation system. The applicant shall provide evidence that adequate measures will be in place to prevent pollutants from being washed into the groundwater or waterways. Any chemicals or polluted runoff that may be hazardous to aquatic life shall be stored within an area that will completely contain any leaks, spills or polluted runoff. Water used in the operation shall not flow into streets, sidewalks, separated storm sewers or waterways.
3. The provision of any outside lighting shall be directed away from adjacent properties and shall be included upon the plan required to be submitted with the application for a Zoning Permit (Section 1202.2).
4. Adequate provisions shall be made for the proper and convenient disposal of refuse. Where car wash abuts any Residential District, the following additional requirements shall apply to the side and rear yard property boundaries:
  - Construction of a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the car wash facility from adjoining properties.
  - Within a required rear yard or side yard setback, there shall be a landscaped planting strip not less than four (4) feet in depth, planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to

form a year-round dense screen at least six (6) feet high within three (3) years. The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

#### 802.03     BED AND BREAKFAST

A Bed and Breakfast shall be within an owner occupied dwelling which are rented on a nightly basis for periods of normally not more than a week. There shall not be separate cooking facilities in any guestrooms. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests. Two off street parking spaces shall be provided for each rental unit.

No signs, show windows or any type of display or advertising shall be visible from outside the premises, except for a single wall or freestanding sign, which shall not be internally illuminated, with a maximum sign area of four square feet on each of two sides, if freestanding, and with a maximum height of eight (8) feet.

In a residential district, the exterior of the building shall not be changed in any way that would decrease its residential appearance and character, except for needed modifications for historic restoration, handicapped access or fire safety.

#### 802.04     BIG BOX RETAIL STORE

##### A. PRE-APPLICATION CONFERENCE

Prior to submitting a complete conditional use application for a large retail establishment, the applicant is encouraged to meet with the Borough Planning Commission and the Borough Council to discuss the conditional use permit process and issues that may affect the proposed conditional use. This meeting is to provide for an exchange of general and preliminary information only and no statement made in such meeting by either the applicant or the members of the Planning Commission or Council shall be regarded as binding or authoritative.

##### B. SITE PLAN

A site plan shall be required which illustrates the specific location of setbacks, easements, all existing and proposed buildings and structures, access points, buffering, vehicular and pedestrian circulation patterns, parking, signage, loading and delivery areas, mechanical equipment, drainage, landscaping, and the specific location of the use or uses of the development, elevation plans and profiles of all proposed structures, and other information necessary to establish that all applicable requirements will be met.

##### C. PARKING LOTS

1. Four (4) spaces for each 1,000 square feet of gross floor area.

2. The number of off-street parking spaces shall not exceed 110% of the required minimum number of off-street parking spaces.
3. Provide for bicycle access, including bike lanes where appropriate.
4. Provide customer trash receptacles throughout the parking lot. The parking lot shall be cleared daily of all trash, debris or other discarded material not placed within trash receptacles.
5. All parking lots will be posted 'No Overnight Camper or Trailers Permitted' with enforcement of the same being the responsibility of the applicant.

#### D. DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Excluding points of ingress or regress, the paved parking area shall be curbed. Approval of a Stormwater Management Plan, in compliance with the Borough of Edwarsville Stormwater Management Ordinance shall be required.

#### E. LANDSCAPING AND SCREENING REQUIREMENTS

1. A planting bed with a minimum width of 10' shall be located between parking lots and the street right of way.
2. Landscaping shall be used along site boundaries as required to screen blank walls, service and loading areas and open parking.
3. An evergreen or mixture of evergreen and deciduous vegetation designed to be maintained at a height of at least 2.5' and not more than 3.5' is required along the street frontage of any open parking lot.
4. Surface parking lots shall provide internal landscaping at the rate of a minimum of 10 square feet of landscaped area per parking stall. This is a minimum requirement and may be increased to meet other criteria contained in this Title. The landscaping shall include at least one shrub for every 20 square feet of landscaped area and one shrub per enclosed bed. One tree shall be required for every 10 open parking spaces. Vegetation ground cover shall be provided for all landscaped areas that will provide 90% coverage within 2 years. Landscaping designs shall include evergreen materials.
5. Drought tolerant materials shall be used for all plantings.
6. Screening must be provided along side and rear exterior lot lines which is adjacent to a residential use and/or district. Unless otherwise required, the following landscaping and screening provisions will apply. A 6 foot wall, fence, berm, evergreen screening plant material, or a combination of wall, fence, berm or evergreen screening plant material with a combined minimum height of 6 feet above grade shall be used for the purposes of screening. If evergreen plant material is used, it must be at least 4 feet in height at the time of planting and capable of forming a continuous opaque

screen at least 6 feet in height, with individual plantings spaced not more than 5 feet apart. Berms shall have a side slope no greater than 3:1.

F. SIGNS.

1. The total square feet of all types of signage located upon the property shall not exceed 2.5 times the amount of frontage of the lot.
2. Blinking, animated, moving or changeable copy signs are prohibited.
3. Signs on the building shall not extend above the parapet or roof line. Parapet walls may not be erected for the sole purpose of extending sign heights and when they are not in character with the rest of the building or complex.
4. Signs shall be designed and located to minimize impacts on residential uses. Signs shall not be located on any wall, canopy or building façade facing abutting Residential zones.
5. A free standing sign shall not exceed two hundred and fifty (250) square feet in area and shall not exceed a height of 25 feet.
6. A freestanding sign shall have a minimum setback of fifteen (15) feet from any property line as measured from the outer most edge of the sign.
7. Only one freestanding sign shall be allowed on each street frontage.
8. No directional sign shall exceed thirty (30) square feet in area and there shall be no limitation on the number of on-site directional signs
9. No more than eight (8) wall signs may be displayed on a building.
10. No Temporary sign shall exceed two hundred (200) square feet,

G. PEDESTRIAN ACCESS AND CIRCULATION

1. Public sidewalks at least 6 feet in width shall be provided along all public streets.
2. Continuous internal pedestrian walkways shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large retail establishments on the site. The walkways shall have a minimum width of 6 feet, exclusive of vehicle overhang area. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than 50% of the length of the walkway.

3. Sidewalks shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. The sidewalk shall have a minimum width of 6 feet, exclusive of vehicle bumper overhang area. Such sidewalks shall be located at least 6 feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
4. Awnings, canopies, marquees, arcades, building overhangs or similar forms of pedestrian weather protection, at least 4.5 feet wide shall be provided over a pedestrian walkway along at least 80% of any facade with a customer entrance. Such weather protection shall be at least 8 feet above the sidewalk. If placed more than 8 feet above the walkway, the weather protection shall be at least an additional 6" in width for each additional foot of height, or portion thereof.
5. All internal pedestrian walkways shall be distinguished from driving surfaces through a change in material. Durable, low maintenance surface materials such as pavers, bricks or scored concrete shall be used to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.
6. Walkways shall be designed for pedestrian safety and shall avoid or mitigate vehicle and pedestrian route conflicts through lighting, bollards and other features.
7. Cart corrals shall not encroach on walkways.
8. Bike racks shall be located in a well-lighted area close to building entrances.

#### H. OUTDOOR STORAGE, TRASH COLLECTION, AND LOADING AREAS

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.
2. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or internal pedestrian way.
3. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets..
4. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall



conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those

## I. LIGHTING

1. All outdoor lighting shall be sized and directed to avoid adverse impact and spillover onto adjacent properties. Upward directed lighting is prohibited. Outside parking lot lighting shall not be less than one foot candle per IES (Illuminating Engineering Society of North America) minimum lighting standards at the property line, and shall be designed to minimize glare and spillover onto adjacent properties. Building and aesthetic lighting must be shielded to prevent direct glare and/or light trespass in excess of one foot candle at the property line.
2. Night lighting shall be provided for all pedestrian walkways.
3. All exterior lighting shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining uses and streets.
4. The maximum height of light poles in parking lots shall not exceed 20'.

### 802.05 BOARDING/ROOMING HOUSE

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each person residing therein.

### 802.06 BOTTLE CLUB OR BYOB CLUB

A Bottle Club or BYOB Club shall be located not less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

#### 802.07 BULK FUEL STORAGE

Bulk fuel storage shall be located on a tract of land not less than ten (10) acres. Storage tanks shall be located not less than five hundred (500') feet from any property line and shall be not less than one thousand (1000') feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located two hundred fifty (250') feet from all property lines. The tank storage area shall be fenced with an eight (8') feet high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence, the fence shall be screened from view by a dense growth of evergreens at least five (5') feet in height at the time of planting. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

#### 802.08 CEMETERIES

The property shall not be less than ten (10) acres. A structure, grave or place of permanent burial shall be set back not less than ten (10') feet from the property line. The cemetery shall be enclosed by a fence, wall or shrubbery at least three (3') feet in height.

#### 802.09 COMMERCIAL COMMUNICATION ANTENNAS (ATTACHED TO BUILDING OR STRUCTURE)

A Commercial Communication Antenna when attached to an existing building or structure shall require approval as a conditional use and shall be subject to the following requirements:

1. Commercial Communications Antenna shall not be located or permitted on any building or structure located within a Residential Zoning District.
2. A Commercial Communications Antenna mounted on a building or other structure shall not exceed eight (8) feet in height above the existing building or structure and shall not exceed three (3) feet in width.
3. A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antennas.
4. The applicant shall provide a copy of its current Federal Communication Commission license.
5. The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with such mount or location.
6. The applicant shall provide evidence of agreements and/or easements necessary to

provide access to the building or structure on which the Commercial Communications Antenna is to be mounted.

7. The applicant shall provide A Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 million per occurrence.
8. An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Borough of Edwardsville with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

802.10 COMMERCIAL COMMUNICATION ANTENNAS (CO-LOCATION)

The placement of a Commercial Communication Antenna upon an existing Commercial Communication Tower or an existing Public Utility Transmission tower shall be permitted by right in all nonresidential zoning districts. Said antenna shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide the Borough of Edwardsville with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

802.11 COMMERCIAL COMMUNICATIONS FACILITY

Commercial Communication Facilities shall be subject to the following requirements.

A. COMMERCIAL COMMUNICATIONS ANTENNA

1. Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application.
2. The applicant shall provide a copy of its current Federal Communication Commission license.

B. COMMERCIAL COMMUNICATION TOWER

1. A written statement and graphic depiction that describes and depicts the proposed Tower including the type of construction (monopole, lattice tower, guyed tower), tower height and the provision for co-location;

2. The submission of not less than three color photos, no smaller than 8 inches by 10 inches, taken from locations within a three (3) mile radius of the proposed site of a Communications Tower, as selected by the Board and computer enhanced to simulate the as-built appearance of the Tower as it would appear from these locations.
3. Certification and documentation from a Pennsylvania registered professional engineer that the proposed Tower will be designed 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 the Pennsylvania Uniform Construction Code and other applicable regulations.
4. The name, address, and emergency telephone number for operator of the Tower;
5. The applicant shall demonstrate, using technological evidence, that the Tower must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
6. All new Towers shall be engineered and constructed to accommodate at least one (1) other user.
7. Unless required by the FAA, no Tower may use artificial or strobe lighting. The tower shall be a brownish color (whether painted brown or caused by oxidation or otherwise to lessen its visual impact) up to the height of the tallest nearby trees. Above that height, it shall be painted silver or another color that will minimize its visual impact.
8. A Tower shall be setback from all property lines a distance that is not less than one hundred and twenty (120%) percent of the height of the Tower as measured in linear feet.
9. An applicant proposing the construction of a Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure or Communications Tower. A good faith effort shall require that all owners of potentially suitable structures within a one-half ( $\frac{1}{2}$ ) mile radius of the proposed Tower site be contacted. The applicant shall supply supporting documentation for not selecting an alternate location.
10. All guy wires associated with a Guyed Tower shall be clearly marked at ground level so as to be visible at all times and shall be located within a fenced enclosure. The exposed, aboveground portion of guy anchors shall be no less than 10 feet from the nearest property line.
11. No signs shall be mounted on a Tower, except as may be required by

the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction, provided, however, that a sign shall be affixed to the security fence in an accessible and visible location containing the name and address of the owner of the Tower and a 24-hour emergency telephone number.

C. COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

A Commercial Communications Equipment Building shall meet the governing setback distances applicable to the district in which it is located.

D. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A tower shall be removed from the site within six (6) months of its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the tower and restoring the site:

1. The anticipated and/or estimated life of the project;
2. The estimated decommissioning costs in current dollars;
3. The method and schedule for updating the costs of decommissioning and restoration;
4. The method of ensuring that funds will be available for decommissioning and restoration;
5. The anticipated manner in which the project will be decommissioned and the site restored.
6. The applicant shall provide an appropriate and adequate demolition bond for purposes of removing the tower in case the applicant fails to do so as required above. Proof of this bond shall be provided each year and shall be a continuing condition for the life of the project.
7. The sufficiency of the demolition bond shall be confirmed at least every five years by an analysis and report of the cost of removal and property restoration to be performed by a licensed professional engineer, the cost of same to be borne by the applicant. If said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs within 10 days of the applicant's receipt of such report.

E. INSURANCE REQUIREMENTS

The applicant shall provide a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property

damage coverage in the minimum amount of \$1,000,000 million per occurrence covering the Commercial Communications Facility.

#### 802.12 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than one thousand (1,000) square feet shall be located on a tract of land of not less than one (1) acre providing a complete listing of all types of items to be stored therein. No hazardous substances, as so defined in Article 2 of this Ordinance, shall be permitted upon the site. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. Outside lighting shall be directed away from adjoining properties.

#### 802.13 DAY CARE FACILITIES

All day care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All day care facilities shall have an outdoor play area which shall be completely enclosed with a fence six (6') feet in height.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.
- E. One off-street parking space shall be required for each employee.
- F. One off-street parking space shall be required for each vehicle used by the establishment for the purpose of transporting persons attending the facility.

#### 801.14 DETENTION FACILITY

The minimum lot size shall be 20 acres, and each principal building shall be located on a lot not less than ten acres in area. All buildings must be setback not less than 150 feet from a property line and 300 feet from a street line. Where the detention facility abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than ten feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped, and maintained in good condition at all times. No

structures, parking, loading, storage of any kind, or any use shall be allowed within the buffer yard. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.

802.15      DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments shall be designed as living quarters with private access, having adequate natural light and kitchen and bathroom facilities. The required off-street parking shall include residence parking spaces in addition to commercial parking spaces as required by Article 11.

802.16      ENTERTAINMENT FACILITIES

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than fifty (50') feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district, and shall be conducted entirely within an enclosed structure.

802.17      EXCAVATION OF MINERALS (as defined in Article 2)

Excavation and extraction of minerals, as defined in Article 2, shall be considered a temporary use, subject to the following requirements:

- A.      Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.
- B.      Map: Submission of a map or maps at a scale of not greater than one (1") inch equals fifty (50') feet, which outlines the entire property and the proposed area subject to excavation, extraction, and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.
- C.      Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than five hundred (500) feet from any building, property line or street, except that owned by the applicant.

- D. Limitation on Land Area: At any given time, the active excavation/extraction areas shall not exceed ten (10) acres in area on any lot or tract of land. Additional areas may be approved on the completion and cessation of previous approvals.
- E. Compliance With State Requirements: Final and/or unconditional approval for excavation, extraction and/or minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and /or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection.

802.18 FORESTRY ACTIVITIES (TIMBER HARVESTING)

In order to preserve forests and the environmental and economic benefits that they provide, it is the policy of Edwinstown Borough to encourage the owners of forest land to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, historical and amenity values. The timber harvesting regulations set forth in this Section are intended to further this policy by:

- A. promoting good forest stewardship;
- 2. protecting the rights of adjoining property owners;
- 3. minimizing the potential for adverse environmental impacts;
- 4. preserving historical and environmental sensitive areas; and
- 5. avoiding unreasonable and unnecessary restrictions of the right to practice forestry.

“Forestry activities that include timbering operations that equal or exceed five (5) acres shall be conducted in accordance with the following requirements:

- 1. A Zoning Permit Application shall be submitted to the Exeter Borough Zoning Officer prior to harvesting or otherwise removing trees on any tract of land larger than five (5) acres;
- 2. Prior to the start of operations, a Forestry Management Plan shall be prepared and filed with the submission of the Zoning Permit Application. Said plan shall be prepared by a qualified forester or forest technician, with a four year degree from an accredited college;
- 3. The Forestry Management Plan shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Forestry Association;
- 4. Prior to the approval of the Zoning Permit Application, an Erosion and Sediment Control Plan shall be submitted by the Applicant to the Luzerne County Conservation District for its review, recommendation and approval;
- 5. Clear cutting shall be prohibited except on tracts of less than five (5) acres;
- 6. When harvesting or otherwise removing on tracts larger than five (5) acres, at least 30% of the forest cover (canopy) shall be kept and the residual trees shall be well distributed. At least



30% of these residual trees shall be composed of highest value species as determined and documented by the Forestry Management Plan;

7. Clear cutting is prohibited on acres with slopes greater than 15% or within the 100 year floodway.

#### 802.19 GARDEN APARTMENTS

All multi-family residential development of garden apartments shall be subject to the following requirements and all other applicable requirements of this Ordinance:

- A. Minimum lot size shall be 2 acres.
- B. Minimum lot width shall be 200 feet.
- C. Maximum percentage of building coverage on a lot shall be 40 percent.
- D. Minimum front yard setback shall be 50 feet.
- E. Minimum rear yard setback shall be 50 feet.
- F. Minimum side yard setback shall be 50 feet.
- H. Maximum net density shall be 8 units per (1) acre.
- I. Maximum building height shall not exceed 3 stories or 35 feet.
- J. Minimum distance between principal structures shall not be less than 35 feet.
- K. Minimum front yard setback for off-street parking areas shall not be less than 30 feet.
- L. Minimum side yard setbacks for off-street parking areas shall be not less than 15 feet.
- M. Minimum rear yard setbacks for off-street parking areas shall be not less than 15 feet.
- N. Two (2) off-street parking spaces shall be provided for each dwelling unit.

#### 802.20 HOME OCCUPATIONS

A home occupation shall be an incidental use of a dwelling unit or of a building or other accessory structure to a dwelling unit and shall be conducted by a person or persons residing in the dwelling unit with not more than one (1) nonresident employee. Not more than twenty-five (25%) percent of the building floor area (including the floor areas of both the principal and accessory structures) shall be used for the home occupation.

The exterior appearance of the structure or premises shall be maintained in its residential character with the home occupation conducted entirely within an enclosed structure and with no goods publicly displayed on the premises other than a permitted sign as provided for in Article 10. The home occupation shall not involve display windows, the storage or sale of articles not produced on the premises, frequent truck deliveries or the production of offensive noise, smoke, vibration, dust odors, heat or glare. Outdoor storage of materials or products shall also be prohibited. Off-street parking requirements for both dwelling and home occupation uses shall be fulfilled in accordance with Article 11. Home occupations may include an office or studio of a physician, dentist, artist, photographer, architect, engineer, accountant, surveyor, lawyer, realtor, insurance salesperson, or a member of some other similar recognized profession. Home occupations may also include dressmaking and tailoring shops, beauty shops or barber shops, ceramic shops, small appliances and lawnmower repair, tutoring and music instructions for not more than two (2) students at a time, but shall not include animal hospitals, commercial kennels or stables, mortuaries, clothing shops, eating and drinking establishments, dance studios or business schools.

802.21     INDUSTRIAL ACTIVITIES

All activities and uses permitted within the I-1 District shall comply with all applicable regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses which side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (E.P.A.), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and Federal regulations governing the proposed use and written compliance from the governing agencies. All industries are required to supply the Borough Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

802.22     JUNK YARDS AND/OR AUTOMOTIVE WRECKING YARDS

All new junk yards and automotive wrecking yards, or the proposed expansion of an existing junk yard and automotive wrecking yard, shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited.
- C. No oil, grease, tires or gasoline shall be burned at any time.
- D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
- E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom.
- F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises and to facilitate access for fire fighting purposes.
- H. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4') feet.
- I. There shall be a fourteen (14') foot roadway provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for any fire fighting equipment and safety purposes.

- J. Junk shall not be stored within one hundred (100') feet of any adjoining property line or nearer than one hundred (100') feet to any adjoining or abutting street.
- K. All junk yards shall be completely screened from view on all sides by a solid wall or substantial fence not less than eight (8') feet in height and an evergreen hedge with such evergreens being a minimum height of at least five (5') feet at the time of planting. Any fence or wall shall be no closer than five (5') feet to the property lines.
- L. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday, through Saturday from 8:00 A.M. to 8:00 P.M., local time.

802.23      METHADONE TREATMENT OR DRUG TREATMENT FACILITY

- A. No methadone treatment facility or other drug treatment facility shall be operated unless it is licensed by the PA Department of Health.
- B. Such use shall have frontage on a State road, and, it shall be accessible from such a road.
- C. All off-street parking areas shall be adequately lighted, with a lighting plan included within the submission of the required site plan.

802.24      MOBILE HOME/MANUFACTURED HOME PARKS.

The minimum lot size shall be ten (10) acres, which must be under single ownership. The lot shall have a minimum width at the minimum building setback line of 200 feet. The maximum density shall be five (5) homes or dwelling units per acre. Except for required access drives, the entire lot shall be completely enclosed by a buffer yard 75 feet in depth measured at right angles to the tract boundary lines and three feet in height at the time of planting. The buffer yard shall be planted and maintained with attractive evergreens and deciduous trees. Each home or dwelling unit and any attached or unattached accessory structures shall be setback not less than 35 feet from any other home or dwelling unit located within the park. A minimum of 30 percent of the total lot area shall be set aside and devoted as common open space to be developed for recreational purposes limited to use by the residents and their guests. Access drives or driveways to individual homes or dwelling units shall be from interior private streets, which shall include the installation of curbing and sidewalks. All homes or dwelling units shall be connected to a central water and central sewer system.

802.25      MORTUARIES AND CREMATORIES

Mortuaries and crematories shall accommodate all of the parking areas required as provided in Article 11. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street

right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence not less than six (6') feet in height. Outside lighting shall be directed away from adjacent properties.

802.26      MOTELS AND HOTELS

Such uses shall require a lot area, of not less than two (2) acres and a lot width of not less than two hundred (200') feet. The parking area setback from any lot line shall not exceed twenty-five (25') feet in width and in a case of a corner lot access drives unless superseded by a PennDOT Highway Occupancy Permit or Luzerne County Highway Occupancy Permit, shall not be less than sixty (60') feet from the intersection of two (2) streets, as measured from the intersection of their right-of-way lines.

802.27      NO IMPACT HOME-BASED BUSINESS

A No Impact Home-Based Business, as defined in Article 2 of this Ordinance, shall be permitted by right in all Residential Zoning Districts and zoning districts in which residences are permitted as a principal permitted use, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of the land, nor any master deed, bylaw, or other document applicable to common interest ownership community. The following standards and criteria shall apply to a No Impact Home-Based Business:

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

- H. The business shall not involve any illegal activity.

802.28      NONPROFIT PRIVATE CLUB

Buildings and/or structures utilized for such purposes shall be located upon a lot not less than 20,000 square feet. If the lot abuts residences along the side or rear property line, no structure shall be less than twenty (20') feet from the property line, nor shall any designated parking area be within ten (10') feet from a property line. Where such use abuts on the rear or side lot line of any district with residences as the principal permitted use, a solid wall or solid opaque fencing not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.29      NURSING HOME

The minimum lot size shall be one acre. All buildings shall be located not less than 50 feet from any property line or street line. A minimum of 20% of the lot shall be designed, developed, used, and maintained for outdoor recreational activities limited to one or more of the following: garden areas, sitting areas, picnic areas and/or pedestrian walkways.

802.30      OUTDOOR WOOD-FIRED BOILER

An Outdoor Wood-Fired Boiler shall comply with the following standards

- A. The property must have a lot area of not less than three (3) acres.
- B. A safe flue or chimney shall be provided which has a minimum termination height of twenty-five (25) feet above the natural ground level upon which the outdoor wood-fired boiler is located and be provided with a spark arresting device designed and approved for that purpose.
- C. A fan or blower attached to the appliance to increase the efficiency of the Outdoor Wood-Fired Boiler.
- D. An outdoor wood-fired boiler shall be located not less than two hundred (200) feet from any property line and not less than forty (40) feet to any principal structure or building located upon the property.
- E. The outdoor wood-fired boiler shall have an orange hang tag that signifies that it meets the EPA's standards for Phase 1 air emission levels of 0.60 pounds of fine particulates per million BTU heat input and qualifies for the EPS's voluntary program.
- F. All outdoor wood-fired boilers shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated

within this Section shall apply unless the manufacturer's instructions more restrictive, in which case the manufacturer's instructions shall apply.

- G. The owner of the outdoor wood-fired boiler shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- H. All outdoor wood-fired boilers may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of October 1 through May 1; and subject to meeting the requirements of this Section.
- I. No homemade outdoor wood-fired boilers will be allowed.
- J. Only natural clean wood may be burned in outdoor wood-fired boiler. Regardless of the manufacturer's instructions an outdoor wood-fired boiler shall not be used to burn any of the following materials:
  - Any material that does not meet the definition of clean wood.
  - Furniture
  - Garbage
  - Tires
  - Lawn clippings or yard waste
  - Wet or soggy wood
  - Material containing plastic
  - Material containing rubber
  - Waste petroleum products
  - Paints and paint thinners
  - Chemicals
  - Any hazardous waste
  - Coal
  - Glossy colored paper
  - Construction and demolition debris
  - Plywood
  - Particleboard
  - Salt water driftwood
  - Manure
  - Animal carcasses
  - Asphalt products
- K. All storage of materials to be burnt in the outdoor wood-fired boiler shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.
- L. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

802.31 PLACE OF WORSHIP

A minimum lot area of one acre shall be required for the use. Religious instruction and educational rooms may be permitted within the principal building as accessory uses. A minimum lot area of two acres shall be required when the use consists of one or more of the following accessory uses: primary or secondary school; day care center; and a single-family dwelling unit. Where the lot adjoins an existing residential dwelling unit, or is located within a residential zoning district, the parking area shall be screened along the side and rear lot lines with shrubbery or evergreen trees not less than four feet in height at the time of planting. The buffer area shall be kept in good condition and continuously maintained.

802.32 PUBLIC USES, INCLUDING EMERGENCY SERVICES FACILITY

Where the lot abuts residences on the side or rear property lines, a solid wall or substantial, attractive fence not less than six (6') feet in height shall be constructed and maintained along such boundary. Outside lighting shall be directed away from adjacent properties.

802.33 PUBLIC UTILITY FACILITIES

Public utility facilities as defined in Article 2 shall conform to the following regulations for properties containing such uses:

- A. Access and parking shall be provided only for maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate not less than eight (8') feet in height shall surround the building or structures of such facilities.
- C. A buffer area not less than ten (10') feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities.
- D. Outside lighting shall be directed away from adjacent properties.
- E. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.

802.34 RECREATIONAL FACILITIES - (OUTDOORS)

All such facilities, whether public, private or commercial, shall conform to the following regulations:

- A. No outdoor recreation activity shall be conducted closer than one hundred (100') feet to any property line.
- B. A buffer area, at least fifty (50') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.

- C. Unless superseded by a PennDOT Highway Occupancy Permit or Luzerne County Highway Occupancy Permit, access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
- D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

802.35      RESTUARANTS AND TAVERNS

All restaurants and taverns shall meet the parking requirements as set forth in Article 11. Unless superseded by a PennDOT Highway Occupancy Permit or Luzerne County Highway Occupancy Permit, access drives shall not exceed twenty-five (25') feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60') feet, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height. Outside lighting shall be directed way from adjacent properties.

802.36      SATELLITE DISH ANTENNA ( NONCOMMERCIAL)

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located. The following supplemental provisions shall apply.

A. Location on Lot

A satellite dish antenna, excluding those that are roof-mounted, shall be located not less than ten (10) feet from any property line and shall be affixed to a permanent location on a zoning lot in a stationary manner. No satellite dish antenna shall be installed on a portable or moveable device.

B. Number on Lot

Not more than one satellite dish antenna shall be permitted on a zoning lot .

C. Size Limitations

The dimensions of a satellite dish antenna measured from its outermost edges cannot exceed twelve (12) feet in diameter.

D. Roof-Mounted

A roof-mounted satellite dish antenna having a diameter not greater than three



(3) feet and installed in accordance with the manufacturer's specifications be shall be exempted from securing zoning approval.

#### 802.37 SELF-STORAGE FACILITY

A property containing a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of twenty-five (25) feet between buildings for traffic circulation, parking and fire lane purposes. All outside lighting shall be directed away from adjacent properties.

#### 802.38 SEXUALLY ORIENTED BUSINESS

No Sexually Oriented Business, as so defined in Article 2 of this Ordinance, shall be located not less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

#### 802.39 SINGLE STRUCTURE WITH MULTIFAMILY DWELLINGS:

Such structures shall contain a lot area of not less than two thousand five hundred (2,500) square feet for each dwelling. A minimum lot width of not less than one hundred (100) feet shall be required. Each sideyard shall have a setback of not less than fifteen (15) feet. Two off-street parking spaces shall be provided for each unit.

#### 802.40 STANDALONE NONCOMMERCIAL WINDMILL

The following requirements shall apply to a proposed Standalone Noncommercial Windmill.

The applicant for a Standalone Noncommercial Windmill as so defined in Article 2 shall be required to submit the following information:

1. The applicant and landowner's name and contact information. Please note that the Conditional Use Application must be signed by both the applicant and the landowner, regardless of any equitable interest or other documentation held by the applicant. Failure to provide an application bearing both signatures will be deemed to be an incomplete submission and shall represent a basis for denying the application.
2. The tax map numbers, existing use and acreage of the site parcel.
3. A copy of the deed to the property.

A. DESIGN AND INSTALLATION

1. Design Safety Certification

The design of a Standalone Noncommercial Windmill 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 manufacturer's from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

2. All components of a Standalone Noncommercial Windmill shall be designed and constructed to be in compliance with pertinent provisions of the Pennsylvania Uniform Construction Code. The owner of a Standalone Noncommercial Windmill shall have all components the Facility inspected annually, with each inspection not to exceed a twelve (12) month period, for structural and operational integrity by a licensed professional engineer, and shall submit a copy of the inspection report to the Borough.

3. Controls and Brakes

A Standalone Noncommercial Windmill shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

4. Rotor Blades

The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

5. Electrical Components

All electrical components of Standalone Noncommercial Windmill shall conform to the Pennsylvania Uniform Construction Code.

The maximum turbine power output shall be limited to 10 KW.

All on-site electrical wiring associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines.

The applicant shall demonstrate the proposed Standalone Noncommercial Windmill shall not cause disruption or loss of radio, telephone, television or similar signals, and shall be required to mitigate any harm caused by the operation of the system.

At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, or generator where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

Anchor points for any guy wires for a Standalone Noncommercial Windmill shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering eight (8) feet above the ground.

B. VISUAL APPEARANCE

1. A visual analysis of a Standalone Noncommercial Windmill as intended to be installed shall be provided with conditional use application. The visual analysis shall include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points selected by the Borough Council
2. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
3. A Standalone Noncommercial Windmill tower and blades shall be painted in a non-reflective, light gray or light blue hue, which blends with sky and clouds.
4. A Standalone Noncommercial Windmill shall be designed and located in such a manner to minimize adverse visual impacts from public viewing

areas (e.g., public parks, roads, trails). To the greatest extent feasible, the system:

- shall not project above the top of ridgelines.
- shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

C. LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS:

1. A Standalone Noncommercial Windmill shall not exceed a maximum height of sixty (60) feet and shall be located on a lot with a minimum size of not less than three (3) acres.
2. A Standalone Noncommercial Windmill shall not be located closer to a property line than two and a half (2.5) times the turbine height as measured from center point of the base of the tower.
3. Only one small Standalone Noncommercial Windmill per legal lot shall be allowed.

D. CLIMB PREVENTION/LOCKS

1. Towers shall be constructed to provide one of the following means of access control or other appropriate method of access:
  - Tower-climbing apparatus located no closer than 15 feet from the ground.
  - A locked anti-climb device installed on the tower.
2. A locked, protective fence at least six feet in height shall enclose the tower and electrical equipment to prevent entry by non-authorized persons.

E. NOISE AND SHADOW FLICKER

1. Audible sound from a Standalone Noncommercial Windmill shall not exceed 50 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. Reasonable efforts shall be made to preclude shadow flicker to any off-site building not owned by the applicant. The applicant shall provide an assessment of potential buildings that that could be affected.

F. ABANDONMENT

1. A Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the

property at the expense of the property owner.

802.41     TOWNHOUSES

Townhouses shall be subject to the following provisions and all applicable provisions of the Borough of Edwardsville Subdivision and Land Development Ordinance.

- A. Maximum net residential density shall not exceed 8 units per (1) acre.
- B. Minimum Lot Width shall be two-hundred (200) feet.
- C. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be forty (40%) percent.
- D. Minimum lot width per dwelling unit shall be not less than twenty (20) feet.
- E. Minimum lot depth per dwelling unit shall be not less than one-hundred (100') feet.
- F. Minimum lot area per dwelling unit shall be not less than 2,000 square feet.
- G. Minimum front yard setback shall be not less than thirty (30) feet.
- H. No side yard setbacks shall be required for attached interior Townhouse units. A minimum sideyard setback of not less than fifteen (15) feet shall be required only at the ends of the rows of Townhouses.
- I. Minimum rear yard setback shall be not less than thirty (30) feet.
- J. Minimum width of each dwelling unit shall be not less than twenty (20) feet.
- K. Maximum building height shall be 2<sup>1</sup>/<sub>2</sub> stories or thirty-five (35) feet.
- L. Minimum distance between principal structures shall be not less than thirty (30) feet.
- M. Minimum front yard setback for off-street parking areas shall be not less than ten (10) feet.
- N. Minimum rear yard setbacks for off-street parking areas shall be not less than fifteen (15) feet.
- P. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- O. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have not less than five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

802.42     WAREHOUSE FACILITIES

All materials shall be stored within a completely enclosed building and yard areas

shall be kept clear of junk, trash or other types of debris. Access drives shall not exceed twenty-five (25') feet in width; parking and loading areas shall conform with the regulations of Article 11. No warehouse activities, including parking areas, shall be allowed within twenty-five (25') feet of any property line abutting a zoning district which allows residences as a principal permitted use.

802.43            WIND ENERGY FACILITIES

A. INFORMATION TO BE SUBMITTED

The applicant for a Wind Energy Facility shall be required to submit the following information:

1. The applicant and landowner's name and contact information.
2. The tax map numbers, existing use and acreage of the site parcels or which it is to be located.
3. A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the generating capacity of the Wind Energy Facility; the number, representative types and height of all Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
4. A site plan sealed by a professional land surveyor at a scale not greater than one (1") inch equals one hundred (100') feet which includes but may not be limited to identification of the properties on which the proposed Wind Energy Facility will be located with the name and mailing address of the owners of record, the properties adjacent to where the Wind Energy Facility will be located with the name and mailing address of the owners of record, the proposed location of each wind turbine within the Wind Energy Facility, property lines, setback lines, access roads, substations, electrical cabling from each wind turbine within the Wind Energy Facility to the substations, ancillary equipment, buildings, and structures, including permanent meteorological towers.
5. A survey drawing at an appropriate and legible scale showing the proposed location of the wind energy facility (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, churches, hospitals, libraries, federal, state, county or local parks, and recognized historic or heritage sites within a distance of 2,000 feet or less from any property boundary.
6. As applicable, copies of all proposed leases required to be secured by the applicant, shall be provided, if the applicant is not the sole owner of the parcel or parcels on which the Wind Energy Facility is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.
7. Standard drawings of proposed wind turbine structures, including the tower, base and footings.
8. Documentation that all proposed wind turbines conform to applicable industry standards, including compliance with the Pennsylvania Uniform Construction Code

(UCC), and the regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute.

9. 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 certified by an engineer registered in the Commonwealth of Pennsylvania.
10. A completed Environmental Impact Statement, otherwise required for a Conditional Use, under Section 706 of this Ordinance shall be provided.
11. The applicant shall provide to the Borough Council three dimensional graphic information that accurately portrays the visual impact of the proposed wind farm and each individual wind turbine within that wind farm from various vantage points selected by the Borough Council, such as, but not limited to residential developments, roads and recreation areas. This graphic information shall be provided in the form of photographs or computer-generated images with the wind turbines superimposed, as may be required by the Borough Council. The Borough Council may also require the applicant to conduct a balloon test to confirm the visual impact.

**B. APPROVAL STANDARDS**

A Wind Energy Facility shall in addition to all other applicable criteria and requirements of this Ordinance comply with the following:

1. The minimum distance between the ground and any part of the rotor blade system shall be one hundred (100) feet.
2. To limit unauthorized access, a fence eight feet high with a locking portal shall be placed around the base of the tower of a wind turbine. Also, all access doors to wind turbines and electrical equipment shall be locked prevent entry by non-authorized persons. A sign shall be posted on the entry area of the fence around each Wind Turbine or group of towers and any building, containing emergency contact information, including a telephone number with 24 hour, 7 days a week coverage.
3. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, color objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground.
4. Wind turbines shall not be climbable up to 15 feet above the average grade of the ground surface. Tower-climbing apparatus shall be located no closer than 15 feet from the ground and a locked anti-climb device shall be installed on the tower.
5. No signs or lights shall be mounted on any wind turbine except as may be required by this Ordinance, the Federal Aviation Administration, or other

governmental agency which has jurisdiction. No wind turbine shall be artificially lighted, except as required by the Federal Aviation Administration or for security purposes approved as part of the zoning permit. No approved security light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source. No direct or sky-reflected glare, whether from overhead lighting or floodlights shall be permitted. 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 Wind Energy Facility and support structures shall comply with all Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation (PA DOT) requirements.

6. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
7. All power transmission lines from a wind turbine to on-site substations shall be underground.
8. The applicant shall submit a certificate of insurance evidencing general liability coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence and property damage coverage in the minimum amount of one million (\$1,000,000.00) dollars per occurrence covering the Wind Energy Facility and all its facilities. The applicant shall provide the Borough with proof of annual renewal prior to expiration.

C. SITING AND INSTALLATION:

A Wind Energy Facility shall:

1. Combine transmission lines and points of connection to local distribution lines.
2. Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.
3. All wiring between wind turbines and the wind energy facility substation shall be underground.
4. The wind power generation facility, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities and shall provide evidence of a signed interconnection agreement, or letter of intent, with the interconnecting utility company.



D. LAND AREA REQUIREMENTS AND SETBACKS:

1. A Wind Energy Facility shall require a minimum lot size of not less than 50 acres, with a minimum lot width of 660 feet and a minimum lot depth of 660 feet.
2. If the parcel on which the Wind Energy Facility is located is a separate and distinct parcel, no wind turbine shall be located closer to any property line than 1,500 feet as measured from the center of the foundation of a Wind Turbine. The setback for equipment containers, other accessory structures, and any guy wire anchors shall be a minimum of 500 feet from any property line.
3. If the land on which a Wind Energy Facility is leased, or is used by license or easement, no wind turbine shall be located closer to any line of lease, license or easement than 1,500 feet as measured from the center of the foundation of a Wind Turbine. The setback distance for equipment containers, other accessory structures, and guy wire anchors shall be a minimum of 500 feet from the line of lease, license or easement. If the land to construct a Wind Energy Facility is to be leased, a subdivision plan must be submitted to and approved by the Borough creating the new parcel to be leased prior to granting approval.
4. No wind turbine within a Wind Energy Facility shall be located less than 1,500 feet to any public road as measured from the center of the foundation of a Wind Turbine to the outer edge the public right-of-way.
5. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, as measured from the center of the foundation of a Wind Turbine to an existing power line or telephone line.

E. NUISANCE ISSUES:

1. All wind turbines shall be located so that the level of noise produced by wind turbine operation shall not exceed 55 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier.
2. The applicant shall document that the radio, television, telephone or reception of similar signals from nearby properties will not be disturbed or diminished by the installation of any wind turbine.
3. No vibration associated with the operation of a wind turbine 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.

4. The applicant shall make reasonable efforts in siting proposed locations of wind turbines to minimize shadow flicker to any off-site Building.
5. The Applicant shall provide a plan for how complaints about noise, communications interference and vibration will be addressed in a timely manner by the operator of a wind turbine

F. ENVIRONMENTAL AND VISUAL:

1. No wind turbine shall be located less than 1,000 feet from any important bird area or migration corridor, National Wetland Inventory Wetland, Historic Site or lake, dam, stream, creek, ponds or public water supply sources or waterways. These areas shall be defined or designated by the Pennsylvania Department of Environmental Protection and/or as depicted on U.S.G.S. mapping.
2. Wind Energy Facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
3. The design of the wind turbines buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
4. Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines.
5. The maximum Turbine Height, as so defined in this Ordinance, shall not exceed 450 feet.
6. Wind Turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas to the greatest extent feasible.
7. Wind Turbines shall be designed to avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, b) horizontal perching opportunities on the towers or related structures or c) soil where weeds can accumulate.
8. A Wind Energy Facility shall provide conclusive documentation that the location and operation of the proposed facility will not adversely affect the wild life habitat, including but not limited to bats and birds of the region and associated migration routes. Comments from any State and/or Federal Agency having a jurisdictional review or stewardship over the protection of wildlife shall be required.

G. TRAFFIC

1. Access to a Wind Energy Facility shall be provided by means of a public street or easement to a public street. All access easements shall be a minimum of 25 feet in

width and shall be improved to a width of not less than 12 feet with an improved, durable, dust-free, all weather surface. No access easement shall exceed a grade of 15% unless it can be proven to the Borough Engineer that an unsafe situation is not being proposed, the road surface can be properly maintained by the applicant and emergency vehicles can negotiate the excessive slopes.

2. The Applicant shall identify all state, county and Borough roads to be used within the Borough of Edwarsville intended for use to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.
3. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility. A bond, letter of credit or other financial guarantee shall be posted by the applicant in an amount, determined by the Borough Engineer to be fair, reasonable and sufficient to compensate the Borough for any damage to Borough roads.
4. The Borough shall hire a licensed professional engineer to document the condition of Borough roads prior to the start of construction. The engineer shall document the road conditions again within thirty (30) days from the completion of construction or as weather permits. Completion of construction shall be deemed to be the date on which final approval land development approval is granted by the Borough Council. The applicant shall be responsible to reimburse the Borough for the subject engineering fees.
5. If the Wind Energy Facility 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 plus overflow spaces equal to 20 percent of the required spaces based on the employees but not less than two.

#### H. DECOMMISSIONING AND RESTORATION REQUIREMENTS

The owner or operator of a Wind Energy Facility or the landowner shall complete decommissioning within twelve (12) months after the end of the useful life of a Wind Energy Facility. Each wind turbine will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses shall be the responsibility of the owner, operator or land owner and shall be so identified in writing as part of the approval process for any a Wind Energy Facility. Decommissioning shall include the removal of each wind turbine, buildings, electrical components, and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds. All access roads to the wind turbine shall be removed, cleared, and graded by the Owner, Operator, or Landowner unless the landowner requests, in writing, a desire to maintain the access road. The Borough will not be assumed to take ownership of any access road unless through official action of the Borough Council. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the

owner, operator or landowner. An independent and certified professional engineer shall be retained by the Borough to estimate the total cost of decommissioning ("Decommissioning Costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommission Costs"). When determining this amount, the Borough may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Borough Zoning Officer after the first year of operation and every fifth year thereafter. The owner or operator shall post and maintain Decommissioning Funds in an amount equal to or greater than Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than one hundred percent (100%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or state chartered lending institution chosen by the owner or operator posting the financial security. The bonding company or lending institution must be authorized to conduct such business and be approved by the Borough Council.

**ARTICLE 9**  
**NONCONFORMING LOTS, USES STRUCTURES AND BUILDINGS**

SECTION 901    INTENT

Within the zoning districts established by this Ordinance or subsequent amendments thereto, there may exist or will exist certain nonconforming uses of structures and/or land which if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such uses would be prohibited, regulated or restricted under the terms and provisions of this Ordinance or subsequent amendments thereto.

SECTION 902            NONCONFORMITY – TYPES:

For the purposes of this Ordinance, nonconformities shall be defined and classified by types, as follows:

902.1    Nonconforming Use:

"Nonconforming use" means a use, whether of land or a structure, which does not comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or such amendment.

902.2    Nonconforming Structure:

"Nonconforming structure" means a structure or part of a structure manifestly not designed to comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or such amendment. Nonconforming structures shall include, but are not limited to, nonconforming signs.

902.3    Bulk Nonconformity:

"Bulk nonconformity" refers to the bulk of a structure which does not comply with the applicable size, height or other bulk provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed in compliance with such provisions prior to the enactment of this ordinance or such amendment.

902.4    Area Nonconformity:

"Area nonconformity" refers to that aspect of a structure or use on a zoning lot which is not in compliance with the applicable yard, coverage or other area provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure or use lawfully existed in compliance with such requirements prior to the enactment of this Ordinance or such amendment.

902.5 Nonconforming Lot

“Nonconforming Lot” means a lot of record legally existing as of the date on which this Ordinance was adopted or amended, which does not conform to the applicable area, frontage, width, depth or yard setback requirements established by this Ordinance for the Zoning District in which it is located.

SECTION 903 NONCONFORMING LOTS OF RECORD

In any zoning district, structures, both principal and accessory, maybe erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and side yard requirements for the zoning district in which such lot is located. Variances from the aforementioned yard requirements may be obtained only through action of the Zoning Hearing Board.

SECTION 904 CONTINUATION

Nonconforming uses, nonconforming structures, bulk nonconformities and area nonconformities may be continued except as otherwise set forth in this Article, but no nonconforming use or structure shall be enlarged, reconstructed, structurally altered or changed except as permitted by the provisions of this Article.

SECTION 905 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The owner or occupant of the premises occupied by a nonconforming use or structure may apply for a Certificate of Nonconformity from the Zoning Officer. The owner or occupant shall bear the sole responsibility to provide required documentation to substantiate the issuance of a Certificate of Nonconformity. The Zoning Officer may issue a Certificate of Nonconformity where he finds that a use or structure, although not in compliance with the requirements presently applicable thereto, is a nonconforming use or structure.

SECTION 906 CHANGES OF NONCONFORMING USES AND STRUCTURES

Nonconforming uses and structures shall be changed only in accordance with the following subsections:

906.1

A nonconforming use or structure shall not be extended to displace a conforming use or structure.

906.2

Structures, buildings or uses, either main or accessory, shall not be combined for the purpose of extending a nonconforming use or creating a different nonconforming use.

906.3

When authorized by the Zoning Hearing Board as a special exception, a nonconforming use may be changed to another nonconforming use if the Board finds that all of the following-standards are met:

- a. The proposed change shall be less objectionable in external effects than the previous nonconforming use, and will be more consistent physically with its surroundings.
- b. There will be no increase in traffic generation or congestion including both vehicular and pedestrian traffic.
- c. There will be no increase in the danger of fire or explosion.
- d. There will be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration or electrical disturbances.
- e. There will be no increased threat to health by reason of rodent infestation or otherwise.
- f. There will be no reduction in minimum lot area requirements as a result of the proposed change.

SECTION 907

ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE

A nonconforming structure or a nonconforming use shall not be enlarged except as a special exception authorized by the Zoning Hearing Board in accordance with the following:

- a. The enlargement will not replace a conforming use.
- b. Nonconforming Structure or Nonconforming Use: The area subject to a proposed expansion shall after enlargement conform to all area and bulk requirements applicable to conforming buildings in the zone in which it is located and to all applicable off-street parking and loading requirements.
- c. The floor or land area of a nonconforming structure or use shall be enlarged 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.
- d. Not more than one enlargement of a nonconforming use shall be permitted.
- e. A nonconforming structure or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot is prohibited.
- f. A structure containing residential dwelling uses, both conforming and nonconforming, shall not be enlarged to increase the number of dwelling units unless in full compliance with all other applicable provisions of this Ordinance

SECTION 908            REPAIR AND REHABILITATION

Nonconforming structures and structures containing nonconforming uses maybe normally maintained and repaired provided that there is no alteration which extends the area occupied by the nonconforming use. A structure containing nonconforming residential uses may be altered to improve interior livability, subject to no structural alterations which would increase the number of dwelling units or the bulk of the building.

SECTION 909            RESTORATION OF USE AND/OR STRUCTURE

A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or 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 zoning district in which it is located.

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.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

SECTION 910            TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

910.1                    NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

910.2                    CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

910.3                    ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed to be abandoned if it is changed as set forth in Section 909.2 or if it is discontinued for a period of one year or more without substantial evidence of intent to resume the nonconforming use by documented overt actions.



910.4

UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically and structurally unsafe due to the lack of maintenance or repairs and it has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.



**ARTICLE 10**  
**OFF-STREET PARKING AND LOADING**

SECTION 1001      PURPOSE

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As uses herein, the term "parking space" includes covered garage or carport or uncovered parking lot space located off the public right-of-way.

SECTION 1002      SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred and sixty-two (162) square feet, being nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles.

SECTION 1003      SIZE OF OFF-STREET LOADING SPACES

Each off-street loading space shall be not less than fifty (50) feet in depth, twelve (12) feet in width and provide an overhead clearance of not less than fourteen (14) feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

SECTION 1004      EXISTING USES AND STRUCTURES

Buildings, structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the off-street parking or off-street loading requirements, so long as a structure or use is not changes, altered or expanded. Existing off-street parking or off-street loading facilities provided prior to the adoption of this Ordinance shall not be reduced below the minimum requirements applicable to the particular use and/or structure.

SECTION 1005      EXPANSION OF EXISTING USE

When an existing use of a building, structure or land is expanded, off-street parking and/or loading facilities shall be provided in accordance with the applicable provisions of this Ordinance for the net increase of expansion based upon land area and/or gross floor area of the subject use. Any existing use prior to its expansion, which does not conform to the required the number of off-street spaces that would otherwise be required, shall not be required to provide said spaces as a condition for zoning approval.

SECTION 1006      CHANGE OF USE

Whenever the existing use of a building, structure or land is proposed to be changed to a new use, off-street parking and/or off-street loading facilities shall be provided as required for such new use. However, if said building or structure was erected or the use

of the land established prior to the effective date of this Ordinance, additional off-street parking or off-street loading facilities shall be mandatory only in the amount by which the requirements for the new use would exceed those for the existing use.

SECTION 1007      MULTIPLE ACTIVITIES OR USES

In any instance where a structure, building or use of land contains more than one (1) defined use, the total amount of required off-street parking spaces shall equal or exceed the number of spaces required for each specific use.

SECTION 1008      FRACTIONAL PARKING SPACE

When required parking computation results in fractions, any fraction less than one-half (.50) shall be disregarded and any fraction equal to or greater than one-half (.50) shall be construed to require a full space.

SECTION 1009      LOCATION OF OFF-STREET PARKING

Required off-street parking shall be located upon the same lot with the principal use to which it serves. The Zoning Hearing Board may grant a special exception approval to allow the required parking on another lot subject to the following criteria:

- a. The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- b. The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership and/or the applicant shall provide written documentation that the required number of parking spaces shall be retained upon such other lot throughout the life of the principal use which it serves.
- c. The lot to be utilized for the off-street parking shall not be greater than four hundred (400) feet from the lot on which the principal structure is located.

SECTION 1010      SHARED PARKING

The Zoning Hearing Board may grant a special exception approval for the joint use of parking for two or more principal uses subject to the following criteria:

- a. The total number of off-street parking spaces provided are not less than the number of the spaces required for each use individually.
- b. When the sum of off-street parking spaces required for each principal use is greater than the total amount of provided spaces, the hours of operation for the subject uses shall not be conflicting.

SECTION 1011      SETBACK REQUIREMENTS FOR R ZONES:

- a. In any R Zone, there shall be no required front, rear or side yard setback for

accessory residential off-street parking areas for four (4) or less vehicles. Accessory residential off-street parking areas for five or more vehicles shall provide a front, rear and side yard setback of not less than five (5) feet.

- b. The development and/or expansion of any nonresidential off-street parking area in any R zone shall provide a front yard, rear yard and a side yard setback of not less than ten (10) feet which shall also include.
  - An opaque fence not less than six (6) feet in height along each applicable side yard and rear yard. No signs, other than those expressly permitted by this Ordinance, shall be affixed to the fencing.
  - Included within the required rear yard and side setback, there shall be a landscaped planting strip at least four (4) feet wide, planted with shrubs or trees not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years.
  - The landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

**SECTION 1012      SETBACK REQUIREMENTS FOR NONRESIDENTIAL DISTRICTS**

The following setback distances for off-street parking areas shall apply:

<b><u>Zone</u></b>	<b><u>Front</u></b>	<b><u>Rear</u></b>	<b><u>Side Yard</u></b>
C-2	10 feet	5 <sup>1</sup> feet	5 <sup>1</sup> feet
C-3	5 feet	5 <sup>1</sup> feet	5 <sup>1</sup> feet
I-1	5 feet	5 <sup>2</sup> feet	5 <sup>2</sup> feet
C	5 feet	5 <sup>1</sup> feet	5 <sup>1</sup> feet

<sup>1</sup> Ten (10) feet required when abutting an R Zone.  
<sup>2</sup> Fifteen (15) feet required when abutting an R-Zone

**SECTION 1013      REQUIRED SCREENING**

All yards required for off-street parking and loading areas for ten (10) or more vehicles shall be designed and maintained according to the following subsections:

**1013.1      Parking Areas Abutting a Nonresidential Use or District**

The required yard areas shall contain:

- a. A strip at least four (4) feet in depth, planted with shrubs or trees which are at least three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high

within three (3) years.

**OR**

- b. A wall, or fence of six (6) feet high above finished grade. Such wall or fences may be opaque or may be perforated, provided that not more than fifty (50) percent of the area of the face is open. Screening may be interrupted by allowable entrances and exists.

1013.2      Parking Areas Abutting a Residential Use or an R District

Properties which contain off-street parking for (10) ten or more vehicles and/or an off-street loading area along a side yard or rear yard which abuts a residential district or residential use, shall be screened by a fence or a wall not less than six (6) feet in height. Included within the required setback distance as set forth in Section 1012, there shall be a landscaped planting strip at least four (4) feet in depth planted with shrubs or trees which are not less than three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least four (4) feet high within three (3) years.

1013.3      Maintenance

A landscaped planting strip shall be maintained in good condition at all times, including the replacement of any shrubs or trees which are damaged, die or otherwise fail to grow.

1013.4      Signs

No signs, other than those expressly permitted by this Ordinance, shall be located within any area required for screening.

SECTION 1014      GRADING, PAVEMENT AND DRAINAGE

Any off-street parking area for ten (10) or more vehicles shall be graded for proper drainage and shall be surfaced so as to provide a pavement structure of bituminous asphalt, or concrete. Excluding points of ingress or regress, the parking area shall be curbed. Unless a higher standard is required by the Borough of Edwardsville Stormwater Management Ordinance, all stormwater shall be contained within the boundaries of the property. Methods for containment may include:

1. The design and construction of catch basins to collect and discharge stormwater into a public storm sewer.
2. The design and construction of rain gardens or similar systems designed to retain all stormwater within the parking area for infiltration into the ground.
3. A combination of the above.

An off-street parking area for ten (10) or more vehicles shall require a complete design and layout of the proposed parking area, sealed by a licensed professional engineer attesting that the subject design and construction of the parking area shall fully comply with the above provisions.

**SECTION 1015**      **DIMENSIONS AND DESIGN OF STALL WIDTHS**

The dimension and design of off-street parking areas, including garages, shall comply with the following:

- a. Stall width shall be at least nine (9) feet.
- b. Stall depth shall be at least eighteen (18) feet for angle parking and twenty (20) feet for parallel parking.
- c. The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking, shall be:

<b><u>Angle of Parking</u></b>	<b><u>Minimum Aisle Width (One-Way Traffic Lanes)</u></b>
Parallel	12 feet
45 degrees	14 feet
60 degrees	16 feet
90 degrees	20 feet

- d. The minimum width for aisles providing access to stalls with two-way traffic shall be twenty-four (24) feet.

**SECTION 1016**      **WIDTH OF ACCESS DRIVEWAYS**

Unless superseded by a PennDOT Highway Occupancy Permit, the width of a driveway intended to provide access to or from a property shall comply with the following:

- a. A minimum of nine (9) feet for all single family dwellings.
- b. A minimum of twelve (12) feet for one-way traffic for all uses other than single-family dwellings.
- c. A minimum of twenty (20) feet for two-way traffic for all uses other than single-family dwellings.
- d. A maximum of twenty (20) feet at the street lines in residential districts, and thirty (30) feet in all other districts.

**SECTION 1017**      **NUMBER AND LOCATION OF ACCESS DRIVEWAYS**

For the purpose of providing access to a property, driveways crossing a street line shall be forty (40) feet apart and shall be limited to two (2) along each front, rear or side lot

line. On all corner properties, there shall be a minimum distance of thirty (30) feet from any driveway to the lot line fronting on the intersecting street.

Any street under the jurisdiction of the Pennsylvania Department of Transportation shall be governed by all applicable rules, regulations and standards of PennDOT.

#### SECTION 1018      LIGHTING

Any lighting used to illuminate off-street parking or loading areas shall be designed and arranged to reflect the light away from adjoining properties and the public right-of-way.

#### SECTION 1019      OFF-STREET LOADING AREAS

Each off-street loading space shall be not less than fifty (50) feet in depth, twelve (12) feet in width and provide an overhead clearance of not less than fourteen (14) feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

#### SECTION 1020      STACKING SPACES FOR DRIVE-THROUGH FACILITIES

Uses providing drive-up or drive-through services, shall provide a minimum of five (5) vehicle stacking spaces per drive up or drive-through lane with the exception of fast food restaurants which shall require a minimum of eight (8) vehicle stacking spaces per drive up or drive-through lane. A stacking space shall be in the area measuring 8 feet by 20 feet with direct forward access to a service window of a drive-through facility. A stacking space shall be located to prevent any vehicles from extending onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering or other parking space areas.

#### SECTION 1021      TABLE OF OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

### **RESIDENTIAL USES**

- Single-Family Detached Dwelling: Two (2) spaces for each dwelling unit.
- Two-Family Structure: Two (2) spaces for each dwelling unit.
- Multi-Family Residential (Townhouses and Garden Apartments): Two (2) spaces for each dwelling unit. plus .25 spaces per dwelling unit.
- Boarding House/Rooming House: One and one-half (1.50) spaces for each rooming unit which is rented or leased, plus all other off-street parking spaces required for any other use or uses located within the structure.



- Bed and Breakfast: Three spaces and one and one-half (1.50) spaces for each guest rental room.
- Home Occupation:
  - a. Four (4) spaces for any medical practitioner.
  - b. Two (2) spaces for all other home occupation.
- Residential Conversion: Two (2) spaces for each dwelling unit created through conversion of existing nonresidential space.
- Group Residence: Two (2) spaces for each resident listing the dwelling as their docile and legal address.

## **NONRESIDENTIAL USES**

- After Hours Club: Twenty-five (25) spaces plus the greater of one (1) space for each person based upon the maximum number of persons who can be legally allowed entry bases upon the Pennsylvania Uniform Construction Code (UCC) or one (1) space for each 30 square feet of gross floor area.
- Animal Hospital: Five (5) spaces for every veterinarian.
- Auditorium of Similar Place of Assembly: One (1) space for every four (4) seats or one (1) space for every thirty (30) square feet of gross floor area if fixed seating is not provided.
- Automobile Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each five thousand (5,000) square feet of open sales or display area.
- Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
- Big Box Retail Stores:
  - a. Four (4) spaces for each 1,000 square feet of gross floor area.
  - b. The number of off-street parking spaces shall not exceed 110% of the required minimum number of off-street parking spaces. The above requirement may be increased to 125% when porous pavement is used in areas of the parking lot that do not receive heavy traffic, such as parking stalls, cart areas and cross walks.
- Bottle Club: One (1) space for every one hundred (100) square feet of gross floor area, plus:

- a. one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
  - b. two (2) additional spaces for every three (3) employees based upon the maximum working shift.
- Car Wash and Auto Detailing: One (1) space for each employee on the maximum working shift.
  - Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each (12) feet of bench length, if fixed seating is not provided, one (1) space for every 30 square feet of gross floor area.
  - Commercial, Business or Vocational Trade Schools: One (1) space for each staff and/or faculty member, plus one (1) space for every five (5) classroom seats, based upon the maximum capacity.
  - Day Care Facility: One (1) space for each employee, plus one (1) space for every five (5) individuals served by the facility, based upon the maximum number of individuals which the facility is licensed to serve.
  - Entertainment Facilities: One (1) space for every one hundred (100) square feet of gross floor area.
  - Equipment Sales and Repairs: One (1) space for every two hundred (200) square feet of gross floor space.
  - Fast Food Restaurants: One (1) space for every eighty (80) square feet of service or dining area, with a minimum of five (5) spaces. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide eight (8) stacking spaces for the drive-in window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.
  - Funeral Homes and Crematories: Twenty (20) spaces for each viewing parlor.
  - Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
  - Health Clubs: Shall provide one (1) space for every two hundred (200) square feet of gross floor area; any such club which also serves food and/or beverages shall also comply with the parking requirements of any eating or drinking establishment.

- Manufacturing / Industrial Uses: One space for every 1,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift.
- Medical or Dental Office or Clinic: Five (5) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
- Methadone Treatment Facility: Twelve (12) spaces for every doctor, licensed medical practitioner, and/or counselor; employed at the facility and one (1) additional space for every one hundred (100) square feet of gross floor area.
- Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
- Nonprofit Social Hall and Clubs: One (1) space for every two hundred (200) square feet of gross floor area.
- Nursing Home/Continuing Care Facility: One (1) space for every three (3) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space each employee on the maximum working shift.
- Pawn Shop: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.
- Personal Care Home: Four (4) spaces, plus one space for each person residing or eligible to reside in the facility based upon State licensing, who are not related operator of the facility.
- Personal Services: One (1) space for every three hundred (300) square feet of gross floor area.
- Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of gross floor area when there is no fixed seating.
- Professional or Service Offices: One (1) space for every three hundred (300) square feet of gross floor area.
- Public Uses: One (1) space for every one hundred (100) square feet of gross floor space.
- Public Utility Facilities: Two (2) spaces per facility; if the facility includes maintenance and/or storage yards, then the required number of spaces shall be one (1) for each employee assigned to work at such facility.

- Recreational Facilities ( Indoor): One space for every 100 square feet of gross floor area
- Recreational Facilities (Outdoor): In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats, facilities which do not provide any spectator seating shall provide one (1) space for every three thousand (3,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
- Restaurants and Taverns: One (1) space for every three (3) seats, plus two spaces for every three employees on the maximum working shift.
- Retail Businesses: One (1) space for every three hundred (300) square feet of gross floor area.
- Schools, Elementary and Secondary: One (1) space for each staff member, plus one space for every twenty (20) classroom seats, based upon the maximum capacity.
- Self-Service Coin-Operated Laundries and Dry Cleaners: Shall provide one (1) space for every two (2) washing or drying machines.
- Self-Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.
- Sexually Oriented Businesses:
  - a. Sexually Oriented Bookstore: One (1) space for every one hundred (100) square feet of gross floor area, plus two additional (2) spaces or every three (3) employees based upon the maximum working shift.
  - b. Sexually Oriented Entertainment: One (1) space for every one hundred (100) square feet of gross floor area, plus:
    - one (1) additional space for every two (2) seats and/or, one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
    - two (2) additional spaces for every three (3) employees based upon the maximum working shift.
  - c. Massage Parlor: One (1) space for every one hundred (100) square feet of gross floor area, plus two (2) additional spaces for every three (3) employees based upon the maximum working shift.

- Shopping Center: Five (5) spaces for each one thousand (1,000) square feet of gross floor area.
- Warehousing: One space for every 2,000 square feet of gross floor area; plus one space for every two employees on the maximum working shift.

SECTION 1022      PARKING FOR OTHER USES

Any commercial or nonresidential use of a structure, building or land, not specifically listed within Section 1020 of this Ordinance shall provide one (1) off-street parking space for every two hundred (200) square feet of gross floor area or lot area.

SECTION 1023      OFF-STREET LOADING REQUIREMENTS

The following standards shall apply for the provision of off-street loading areas.

<u>Uses</u>	<u>Sq. Feet of Floor Area</u>	<u>Required Off-Street Loading Berths</u>
1. Schools	15,000 or more	1
2. Hospitals (in addition to space for ambulances)	10,000 - 30,000 For each additional 30,000 or fraction thereof	1  1 additional
3. Hotels & Offices	10,000 or more	1
4. Commercial, Wholesale, Manufacturing or Storage	10,000 - 25,000 25,000 - 40,000 40,000 - 60,000 60,000 - 100,000 For each additional 50,000 or fraction thereof	1 2 3 4  1 additional

SECTION 1024      PROVISION OF HANDICAPPED PARKING SPACES

Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this section. A facility which provides public accommodations shall include, but may not be limited to the following:

- Places of lodging
- Establishments serving food or drink
- Places of exhibition or entertainment
- Places of public gathering
- Sales of rental establishments
- Service establishments

Stations used for specified public transportation  
Places of public display or collection  
Places of recreation  
Places of education  
Social service center establishments  
Places of exercise of recreation

A commercial facility shall include any business whose operations are open to the general public.

1024.1     Design Features:

In addition to complying with Section 1016 of this Ordinance, the following provisions shall apply:

- a. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
- b. An area not less than eight (8) feet in width shall be provided between each van-accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
- c. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one-half (9.5) feet.
- d. An off-street parking area shall be designed to provide accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.

1024.2     Location

Handicapped-accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

1024.3     Signage

Handicapped-accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designated for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be located in a manner so they cannot be obscured by a vehicle.

1024.4     Minimum Number of Handicapped-Accessible Spaces

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1022, the following table shall be used to determine the required number of handicapped-accessible spaces.

<u>Total Number of Spaces</u>	<u>Required Number of Accessible Spaces</u>
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2 percent of total





**ARTICLE 11  
SIGN REGULATIONS**

**SECTION 1101      PERMITS REQUIRED**

A zoning permit shall be required for the erection, alteration or relocation of any sign which exceeds six (6) square feet in surface area. Temporary real estate signs and construction signs shall be exempt from securing a zoning permit. A zoning permit shall be required for the establishment, erection or reconstruction of any sign, with the following exceptions:

1. Real Estate Sign (temporary) not greater than twenty (20) square feet.
2. Construction Sign (temporary) not greater than twenty (20) square feet.
3. Identification Sign not greater than three (3) square feet.
4. Institutional Sign, not greater than eight (8) square feet.
5. Directional Sign, not greater than six (6) square feet.

**SECTION 1102      SIGNS**

**1102.1              TYPE AND USE OF SIGNS**

All signs shall be classified according to type and use as provided herein:

- A. **IDENTIFICATION SIGN**: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. **BUSINESS SIGN**: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. **BILLBOARD OR OFF PREMISE ADVERTISING SIGN**: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. **CONSTRUCTION SIGN**: A temporary sign erected on the premises on which construction is taking place, indicating the names of the firm or firms performing the construction activities, including names of any architectural firms and engineering firm associated with the project.
- E. **REAL ESTATE SIGN**: A temporary, which advertises the sale or rental of property.
- F. **INSTITUTIONAL SIGN**: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.
- H. EVENT SIGNS: A temporary sign advertising private not-for-profit events and fund-raisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

SECTION 1103      DESIGN AND CONSTRUCTION FEATURES OF SIGNS

All signs shall be classified according to construction types as provided herein:

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than eighteen (18) inches from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than eighteen (18) inches from the building or structure.
- D. ILLUMINATED SIGN: Any sign directly lighted by any electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than the sign itself.
- E. ELECTRONIC MESSAGE BOARD SIGN: A sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change are electronically programmed and can be modified by electronic processes.
- F. FLASHING SIGN: A sign, excluding an Electronic Message Board Sign which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.
- G. WINDOW SIGN: A sign painted, stenciled, or affixed on a window
- H. AWNING SIGN: A sign that is attached to, affixed to, or painted on an awning or canopy of a building.
- I. ROOF SIGN: A sign erected upon, against, or directly above a roof or roof eaves, or on top or above the parapet, or on a functional architectural appendage above the roof or roof eaves.

- J. **PORTABLE SIGN:** Any sign not permanently affixed in the ground or to a building whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer or other non-motorized mobile structure with or without wheels. A portable sign shall be governed by the same regulations applicable to a Free Standing Sign

Subject to other requirements of this Ordinance, the establishment, erection or reconstruction of a sign shall be in accordance with the following table:

**DESIGN AND CONSTRUCTION FEATURES OF SIGNS  
PERMITTED BY ZONING DISTRICT**

<b>TYPE OF SIGN</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>C-2</b>	<b>C-3</b>	<b>I-1</b>	<b>C</b>
Free Standing Sign	X	X	X	X	X	X	X
Wall Sign				X	X	X	
Projecting Sign:	X	X	X	X	X	X	
Illuminated Sign:				X	X	X	
Electronic Message Board Sign				X	X		
Flashing Sign					X		
Window Sign					X	X	
Awning Sign:				X	X	X	
Roof Sign <sup>1</sup>						X	
Portable Sign				X	X	X	

**X-Indicates Permitted in District**

<sup>1</sup> Fifteen (15) Feet Maximum Height Extension above Roof Line

**SECTION 1104      PERMITTED SIGNS BY ZONING DISTRICT**

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

- A. **IDENTIFICATION SIGN:** Such signs shall be permitted in all zoning districts.
- B. **BUSINESS SIGNS:** Such signs shall be permitted in the C-2, C-3, C, and an I-1 Zoning Districts.
- C. **REAL ESTATE SIGNS:** Such signs shall be permitted in all zoning districts.
- D. **SUBDIVISION/DEVELOPMENT ADVERTISING SIGNS:** Such signs shall be permitted in all zoning districts.
- E. **INSTITUTIONAL SIGNS:** Such signs shall be permitted in all zoning districts.
- F. **ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN:** Such signs shall be permitted in all zoning districts.

- G. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: Such signs shall be permitted in an I-1 zoning district.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGNS: Such signs shall be permitted in all zoning districts.
- I. POLITICAL SIGNS: Such signs shall be permitted in all zoning districts.
- J EVENT SIGNS: Such signs shall be permitted in all zoning districts.

SECTION 1105      AREA, HEIGHT AND SETBACK REQUIREMENTS

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

- A. IDENTIFICATION SIGN: An identification sign shall not exceed three (3) square feet in area. Such a sign shall be setback not less than ten (10') feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.
- B. BUSINESS SIGN: The maximum size of a business sign shall be governed by the following standards:
  - The maximum size of a single business sign located in a C-2 District shall not exceed thirty-two (32) square feet, nor shall the total area of all signage upon the property exceed thirty-two (32) square feet.
  - The maximum area of a single business sign located in either a C-3 or I-I District shall be not exceed (2) square feet of signage for each linear foot of frontage, nor shall the total area of all signage exceed 2 square feet of signage for each linear foot of frontage. In the case of corner properties, the frontage along both sides shall be included in calculating the maximum square feet of permitted signage.
- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed twenty (20) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10') feet from the front lot line or if attached to a building shall not be higher than the first story of the building to which it is attached. Said sign shall be removed from the premises within thirty (30) days after the sale or rental of the property.
- D. CONSTRUCTION SIGN: A construction sign shall not exceed twenty (20) square feet in area and shall be located upon the same property on which the construction activity is being conducted. An individual sign for each firm performing work upon the property shall be permitted. No sign shall be located within a public right-of-way or less than ten (10) feet from any public right-of-way. All construction signs shall

be temporary in nature and removed within thirty (30) days following the completion of construction activity.

- F. INSTITUTIONAL SIGN: An institutional sign for public and quasi-public facilities, such as schools, churches, hospitals, libraries, or other institutions of a similar nature shall not exceed (1) square foot of sign area for each linear foot of frontage of the zoning lot on which the use occupies. In the case of corner properties, the frontage along both sides shall be included in calculating the maximum square feet of permitted signage.

An institutional sign which is constructed as a free-standing sign that is located in any R District shall not exceed ten (10') feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached. Institutional wall signs shall be exempt from said limitation subject to not extending above the uppermost edge of the wall to which the sign is attached. Religious symbols such as those mounted on a church steeple and/or belfry will be exempt from any height restrictions.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5') feet shall be required for such signs when constructed as a free standing sign. The maximum height of such signs when constructed as a free standing sign shall not exceed six (6') feet. Directional and/or informational signs will not be permitted over a vehicular and/or pedestrian right of way, excluding those located upon immediate entrance to a parking garage as a height warning device and directional signs within a parking garage. An informational/directional sign may be illuminated, but shall not include any attributes of a flashing light or similar motion.

- H. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: A Billboard Sign or Off Premise Advertising Sign shall only be permitted in an I-1 District subject to the following regulations:

1. Area of Sign:  
No advertising sign shall exceed three hundred (300) square feet in surface area.
2. Number of Signs:  
Not more than one (1) advertising sign shall be permitted on a lot having a frontage of one hundred (100) feet or less. One (1) additional sign is permitted for each additional one hundred (100) feet except that no lot or contiguous group of lots shall contain more than three (3) advertising signs.
3. Advertising Signs on Limited Access Highways:  
No advertising signs shall be permitted within the area extending six hundred sixty (660) feet on either side of the right-of-way line of any limited access highway.
4. Advertising Signs Adjacent to Certain Uses:

No advertising sign shall be permitted within two hundred (200) feet of any residential district, nor within three hundred (300) feet of any public park, nor shall any advertising sign face any public or parochial school, library, church, hospital, or similar institutional use, located on an abutting lot.

5. Signs Parallel to Right-of-Way:

No advertising sign shall be constructed parallel to, or at any angle of less than forty-five (45) degrees with, the right-of-way upon which it faces, except when such a sign is located at the intersection of two (2) streets.

SECTION 1106 HEIGHT RESTRICTIONS FOR FREESTANDING SIGNS

<b>MAXIMUM HEIGHT OF FREE STANDING SIGNS BY ZONING DISTRICT</b>							
ZONING DISTRICT	R-1	R-2	R-3	C-2	C-3	I-1	C
MAXIMUM HEIGHT	10	10	10	12	18	18	15

SECTION 1108 SETBACK FOR FREESTANDING SIGNS

The minimum front yard, side yard setback and/or rear yard setback for any freestanding sign in all Zoning Districts shall be not less than ten (10) feet. In the case of free-standing signs, the required setback distance, shall be measured from the outer most edge of the sign and not front the supporting structure. If an existing building has a front yard setback which is less than ten (10) feet, any proposed new sign shall be attached flat against the building as a wall sign.

SECTION 1109 SIGNS RELATED TO NONCONFORMING USES

Identification, institutional and business signs related to nonconforming uses may be continued in use, including repair and/or replacement of the same, but shall not be enlarged. Where the nonconforming use is lawfully changes to another nonconforming use there shall be permitted a new sign, not greater than one (1) square foot of signage per linear distance of frontage. If the property is located upon a corner lot, the front linear feet of both sides fronting upon a street shall be included in calculating the maximum permitted area of the new sign. The sign may be erected at a different location provided it meets all applicable regulations for the zoning district in which it is located.

SECTION 1110 AREA COMPUTATION OF SIGNS

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.

- B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall, awning or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.

SECTION 1111      VERTICAL CLEARANCE

A freestanding sign and a projecting sign shall have a vertical distance of not less than nine (9) feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.

SECTION 1112      ILLUMINATED SIGNS

Signs illuminated by reflected light shall have the lighting source shielded in a manner that no direct light shines onto abutting properties or in the normal line of vision of the public using nearby streets or sidewalks:

SECTION 1113      PROHIBITED SIGNS

The following types of signs shall not be permitted in any zoning district:

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C.\* Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.

**\* Zoning approval for signage is limited to the lot on which the sign is proposed to be erected. Any signage which extends beyond the lot and into a public right-of way shall require the approval of the Borough Council.**

- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets shall be governed by the visibility requirements as set forth in Section 322.1 of this Ordinance.
- E. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.





**ARTICLE 12**  
**ENFORCEMENT AND ADMINISTRATION**

SECTION 1201      ZONING OFFICER

1201.1      APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Borough of Edwardsville, shall be appointed by the Borough Council. The Zoning Officer shall meet qualifications established by the Borough Council, which shall at minimum include a working knowledge of municipal zoning.

1201.2      DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but are not limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant or by securing a search warrant issued by a Court of proper jurisdiction.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Borough Council, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (F) Issue Certificates of Zoning Compliance indicating that the proposed activity/use and or development as listed upon an approved Zoning Permit Application has been completed in conformity and compliance with said approved Zoning Permit Application.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.

- (H) Notify the Zoning Hearing Board and/or the Borough Council of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Zoning Hearing Board or the Borough Council is either required or requested shall be a prerequisite for any application being forwarded to either the Zoning Hearing Board or the Borough Council for consideration.
- (J) Participate in proceedings before the Zoning Hearing Board, Planning Commission or Borough Council and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.
- (K) In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to cease and desist the illegal use and/or activity of land, buildings, signs, or structures; or to remove illegal buildings, structures, additions, signs, and/or structural alterations.
- (L) Render a Preliminary Opinion on a proposed development in accordance with Section 1207 of this Ordinance.

## SECTION 1202      ZONING PERMIT

### 1202.1      ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board, Planning Commission or Borough Council is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written approval from the Zoning Hearing Board in the form of a Special Exception, Variance or an Administrative Appeal, upon written approval from the Borough Council in the form of a Conditional Use Permit or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit; however a building permit shall be required. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure; however a building permit shall be required.

### 1202.2      FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property

shall be accompanied by two (2) sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.
- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.
- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site, including the name of the public street and/or road.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

### 1202.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one (1) copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One (1) copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

### 1202.4 TIME PERIOD FOR PROCESSING APPLICATION

A properly completed zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

### 1202.5 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one (1) year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one (1) year period, the permit shall expire two (2) years from the date of

issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

#### 1202.6 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

#### SECTION 1203 POSTING OF APPROVED PERMITS

Prior to the commencement of work at a property for which a zoning permit has been issued, the owner of the property shall have the zoning permit posted in an area publicly visible upon said property, signed by the Zoning Officer, stating the type of construction or activity which the permit was obtained.

#### SECTION 1204 COMPLETION OF AN ACTIVITY/USE AND/OR DEVELOPMENT

Upon the completion of an activity/use and/or development authorized by a zoning approval obtained in compliance with this Ordinance, and prior to the use or occupancy, the property owner shall notify the Zoning Officer of such completion. Use and occupancy shall not be authorized until the Zoning Officer, has certified that the activity/use and/or development has been inspected and approved solely related to its conformity with the applicable zoning approval and is issued a Certificate of Zoning Compliance.

#### SECTION 1205 CERTIFICATE OF ZONING COMPLIANCE

- A. Requirements: It shall be unlawful to use and/or occupy any structure, building, sign and/or land or portion thereof, for which a zoning permit is required until a Certificate of Zoning Compliance for such structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer.
- B. Time of Application: When the use of a property involves a new building or structure or additions to an existing building or structure, the application for Zoning Compliance, shall be made at the same time application is made for a Zoning Permit. When no construction or alteration is involved, application to occupy and use property and/or land may be made at any time.
- C. Form of Application: The application for a Certificate of Zoning Compliance shall be in such form as the zoning officer may prescribe. The application shall contain the intended use and/or occupancy of any structure, building, sign and/or portion thereof.
- D. Issuance Of Certificate Of Zoning Compliance: The Zoning Officer, shall inspect any structure, building, sign and/or use of land within 10 days upon notification that the proposed activity/use and/or development listed under the approved Zoning Permit Application has been completed. If a determination is rendered by the Zoning Officer

**The ARTICLE 14  
ZONING HEARING BOARD**

**SECTION 1401 MEMBERSHIP OF BOARD**

The membership of the Zoning Hearing Board shall consist of three (3) residents of the Borough of Edwarsville appointed by the Borough Council by resolution. The terms of office for Board members shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. 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 the term. Members of the Board shall hold no other office in the Borough, including membership upon the Planning Commission.

**SECTION 1402 ALTERNATES TO ZONING HEARING BOARD**

The Borough Council may appoint by resolution up one resident of the Borough of Edwarsville to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1404 of this Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board Members, including specifically the right to cast a vote as a voting member during proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Borough, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1404 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be for two (2) years.

**SECTION 1403 REMOVAL OF MEMBERS**

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Borough Council. Prior to any vote by the Borough Council, the member shall receive notice fifteen (15) days in advance of the date at which it intends to take such a vote. A hearing before the Borough Council shall be held in connection with the vote, if the member requests a hearing in writing.

**SECTION 1404 ORGANIZATION OF BOARD**

The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, 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 in Section 1406. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which

the alternate was initially appointed until the Board has made a final determination of the matter or case.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough of Edwardsville and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit an annual report of its activities to the Borough Council.

#### SECTION 1405 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

#### SECTION 1406 HEARINGS

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive 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 matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property not less than one week prior to the hearing.

Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Zoning Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

- 1. The Zoning Officer.
- 2. The applicant.
- 3. The owner of record of the subject property before the Board, if different than that of the applicant.
- 4. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property subject property before the Board and to the owner of record of any property within two hundred (200) linear feet of the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or side yard areas including those properties that are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way. In

cases of a corner property subject to a hearing before the Board, in addition to the owners of record with an adjoining or contiguous property boundary, notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.

5. Any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Borough of Edwardsville Zoning Hearing Board to provide written notice to property owners within two hundred (200) linear feet of the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

- C. The Borough Council may prescribe reasonable fees with respect to hearings before the Board in accordance with a Fee Schedule as set forth in Section 1208 of this Ordinance. Fees for said hearings may include compensation for the secretary, and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- E. Hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the

decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

- F. The parties to the hearing shall be the Borough Council, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- H. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- K. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- L. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, provide written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to



the parties of record within forty-five (45) days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the required hearing as provided for under Section 1406 (D), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1406 (A) and written notice of the decision shall be mailed to those parties identified under Section 1406(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- M. In any appeal of an enforcement notice under Section 1206.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing and/or public meeting. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

## SECTION 1407 MEDIATION OPTION

### 1407.1

Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

### 1407.2

Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board,

the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

#### SECTION 1408 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Borough Council under Section 1303.1 of this Ordinance.
- B. 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, the revocation of a zoning permitted/or building permit or the registration or refusal to register any nonconforming use, structure or lot.

- C. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- D. Applications for variances, pursuant to Section 1409 of this Ordinance.
- E. Applications for special exceptions pursuant to Section 1410 of this Ordinance.
- F. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and/or stormwater management not related to development which is classified as a subdivision, land development, or a planned residential development.
- H. Appeals from the Zoning Officer's determination in rendering a Preliminary Opinion under Section 1207 of this Ordinance.

## SECTION 1409 VARIANCES

### 1409.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1202 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

### 1409.2 CRITERIA FOR GRANTING A VARIANCE

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. 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 the zoning ordinance in the neighborhood or district in which the property is located.

2. 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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. 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 impairs the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. 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.

Unless approved as part of the variance request, an applicant for a proposed use or development shall comply with any applicable standards and/or criteria as set forth in Article 9, Supplemental Regulations. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### SECTION 1410 SPECIAL EXCEPTIONS

##### 1410.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1202 of this Ordinance.
2. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

##### 1410.2 CRITERIA FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. The proposed use shall not jeopardize Community Development Objectives as set forth in this Ordinance and the Borough of Edwardsville Comprehensive Plan, including any updates, revisions and/or amendments thereto.

2. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
3. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
4. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
5. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
6. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
7. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
8. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, in requiring such reports and/or studies.
9. The proposed use and/or development shall comply with any applicable standards and/or criteria as set forth in Article 8, Supplemental Regulations.
10. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### SECTION 1411 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1408 of this Ordinance may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's

signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

## SECTION 1412 TIME LIMITATIONS

### 1412.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

### 1412.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

## SECTION 1413 STAY OF PROCEEDINGS

### 1413.1

Upon filing of any proceeding referred to in Section 1408 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

### 1413.2

After the petition is presented, the court shall hold a hearing to determine if the filing of the

appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

#### 1413.3

The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory.

#### 1413.4

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

that the completed activity/use and/or development is in conformity and compliance with the approved Zoning Permit, he shall issue a Certificate of Zoning Compliance.

- E. Exceptions: Residential accessory structures uses shall be exempt from securing a Certificate of Zoning Compliance.

## SECTION 1206      ENFORCEMENT PROCEDURES

### 1206.1 NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- A. The name of the owner of record and any other person against whom Edwardsville Borough intends to take action.
- B. The location and/or address of the property in violation.
- C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- E. That the recipient of the violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1406 (M) shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

### 1206.2 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 this Ordinance, Borough Council or, with the approval of the Borough Council, an officer or agent of the Borough of Edwardsville, 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 proceedings 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 of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough of Edwarsville not less than thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council. No action may be taken until such notice has been given.

### 1206.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1206.4 of this Ordinance.

### 1206.4 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by the Borough of Edwarsville or the Zoning Officer, shall pay a judgment of not more than five-hundred (\$500.00) dollars, plus all court costs, including reasonable attorney fees incurred by the Borough of Edwarsville as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough of Edwarsville may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough of Edwarsville.

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.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the Borough of Edwarsville the right to commence any action for enforcement pursuant to this Section.

### SECTION 1207 PROCEDURE TO OBTAIN PRELIMINARY OPINION

In accordance with Section 916.2 of the Pennsylvania Municipalities Planning Code, the Zoning Officer, shall be authorized to render a preliminary opinion for pending applications of development. In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may

advance the date from which time for any challenge to the ordinance or map will run under Section 1413 of this Ordinance by the following procedure:

- A. The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- B. If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 1207 and the time therein specified for commencing a proceeding with the Zoning hearing Board shall run from the time when the second notice thereof has been published. A favorable preliminary opinion shall in no way preclude landowner's responsibility to formally submit all required applications and gain approval of the same prior to the start of any activity related to the subject development.

SECTION 1208      SCHEDULE OF FEES, CHARGES AND EXPENSES

The Borough Council shall establish by resolution a schedule of fees, charges and expenses and collection procedures for Zoning Permits, Certificates of Zoning Compliance, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map. Issuance of a Preliminary Opinion and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Borough Council. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees and applicable supporting documentation.

**ARTICLE 13  
AMENDMENTS**

SECTION 1301      AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Borough Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before the Borough Council to provide the Borough Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Borough Planning Commission shall be submitted to the Borough Council in writing.
- (D) Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Borough Council shall submit any required fees charged by the Luzerne County Planning Commission for their review.
- (E) Proposed action shall not be taken until the Borough Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Borough Council. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
  - 1. Notice of the public hearing shall be conspicuously posted by Borough Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.

2. Notice of the public hearing shall be mailed by the Borough, at least thirty (30) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent to property owners whose properties:
  - are located within the property or area proposed to be rezoned.
  - have a common property boundary with the property or area proposed to be rezoned.
  - are located within a distance of two hundred (200) feet of any property boundary line of the property or area proposed to be rezoned.

The above information shall be based upon current tax records within the Luzerne County Tax Assessment Office. The party requesting the zoning boundary amendment shall be responsible for securing such information and providing the same to the Borough. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of the Borough Council to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that amends in the Zoning Map.

3. The above requirement shall not apply when the rezoning constitutes a comprehensive rezoning.

#### SECTION 1302      APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1301 of this Ordinance. An application shall contain the following information as applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- (C) A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- (D) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of the true and correct owners of record within the area proposed to be rezoned and physically bordering the area to be rezoned as evidenced by tax records within the Luzerne County Tax Assessor's Office.
- (E) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.

- (F) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1303      CURATIVE AMENDMENTS

1303.1    INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning 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 to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Borough Council shall commence a public hearing pursuant to public notice within sixty (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene a public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Luzerne County Planning Commission for its review and comment not less than thirty (30) days prior to the public hearing.

The public hearing before the Borough Council shall be conducted in accordance with the applicable procedures contained in Section 1406 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider in addition to the landowner's proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.

- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) Failure to commence the public hearing within sixty (60) days of the landowner's request.
- (B) When the Borough Council notifies the landowner that it will not adopt the curative amendment.
- (C) When the Borough Council adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Borough Council fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Council

#### 1303.2 INITIATED BY THE BOROUGH

If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within one hundred eighty (180) days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1508 (A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council resolution.

The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1304      ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1301 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten days prior to enactment, readvertise in one newspaper of general circulation in Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1305      NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.





**The ARTICLE 14  
ZONING HEARING BOARD**

**SECTION 1401 MEMBERSHIP OF BOARD**

The membership of the Zoning Hearing Board shall consist of three (3) residents of the Borough of Edwarsville appointed by the Borough Council by resolution. The terms of office for Board members shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. 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 the term. Members of the Board shall hold no other office in the Borough, including membership upon the Planning Commission.

**SECTION 1402 ALTERNATES TO ZONING HEARING BOARD**

The Borough Council may appoint by resolution up one resident of the Borough of Edwarsville to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1404 of this Ordinance, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board Members, including specifically the right to cast a vote as a voting member during proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Borough, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1404 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be for two (2) years.

**SECTION 1403 REMOVAL OF MEMBERS**

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Borough Council. Prior to any vote by the Borough Council, the member shall receive notice fifteen (15) days in advance of the date at which it intends to take such a vote. A hearing before the Borough Council shall be held in connection with the vote, if the member requests a hearing in writing.

**SECTION 1404 ORGANIZATION OF BOARD**

The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, 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 in Section 1406. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate the alternate member of the Board to be seated to establish a quorum. The alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which

the alternate was initially appointed until the Board has made a final determination of the matter or case.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough of Edwarsville and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit an annual report of its activities to the Borough Council.

#### SECTION 1405 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

#### SECTION 1406 HEARINGS

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive 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 matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property not less than one week prior to the hearing.

Written notice of all hearings before the Board shall be conspicuously posted on the affected property by the owner at least one week prior to the hearing. The owner shall provide the Zoning Hearing Board with a notarized affidavit of posting.

Written notice shall be given to the following parties:

- 1. The Zoning Officer.
- 2. The applicant.
- 3. The owner of record of the subject property before the Board, if different than that of the applicant.
- 4. The owner of record of any property which has an adjoining or contiguous property boundary with the subject property subject property before the Board and to the owner of record of any property within two hundred (200) linear feet of the subject property before the Board. An adjoining or contiguous property boundary shall be deemed to also include such properties which have any amount of opposite front, rear or side yard areas including those properties that are separated from the subject property before the Board by a public or private street, road, alley and/or similar right-of-way. In

cases of a corner property subject to a hearing before the Board, in addition to the owners of record with an adjoining or contiguous property boundary, notice shall also be given to any owner of record of any property which has frontage along the intersection of the public or private streets or roads in question.

5. Any party or person who has submitted a written request to receive notification on the subject property.

The applicant shall be responsible for providing the Zoning Hearing Board with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of the Borough of Edwardsville Zoning Hearing Board to provide written notice to property owners within two hundred (200) linear feet of the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

- C. The Borough Council may prescribe reasonable fees with respect to hearings before the Board in accordance with a Fee Schedule as set forth in Section 1208 of this Ordinance. Fees for said hearings may include compensation for the secretary, and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- E. Hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the

decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.

- F. The parties to the hearing shall be the Borough Council, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to the hearing enter appearances in writing on forms provided by the Board for such purpose.
- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.
- H. The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.
- I. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- K. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from its solicitor, unless all parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- L. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, provide written findings on the application within forty-five (45) days after the last hearing before the Board or hearing officer. If the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to

the parties of record within forty-five (45) days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the required hearing as provided for under Section 1406 (D), the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1406 (A) and written notice of the decision shall be mailed to those parties identified under Section 1406(B). If the Board fails to provide such notice, the applicant may do so. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- M. In any appeal of an enforcement notice under Section 1206.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a public hearing and/or public meeting. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

## SECTION 1407 MEDIATION OPTION

### 1407.1

Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

### 1407.2

Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board,

the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

#### SECTION 1408 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except for those brought before the Borough Council under Section 1303.1 of this Ordinance.
- B. 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, the revocation of a zoning permitted/or building permit or the registration or refusal to register any nonconforming use, structure or lot.

- C. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- D. Applications for variances, pursuant to Section 1409 of this Ordinance.
- E. Applications for special exceptions pursuant to Section 1410 of this Ordinance.
- F. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and/or stormwater management not related to development which is classified as a subdivision, land development, or a planned residential development.
- H. Appeals from the Zoning Officer's determination in rendering a Preliminary Opinion under Section 1207 of this Ordinance.

## SECTION 1409 VARIANCES

### 1409.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1202 of this Ordinance.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

### 1409.2 CRITERIA FOR GRANTING A VARIANCE

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. 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 the zoning ordinance in the neighborhood or district in which the property is located.

2. 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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. 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 impairs the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. 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.

Unless approved as part of the variance request, an applicant for a proposed use or development shall comply with any applicable standards and/or criteria as set forth in Article 9, Supplemental Regulations. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### SECTION 1410 SPECIAL EXCEPTIONS

##### 1410.1 INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1202 of this Ordinance.
2. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

##### 1410.2 CRITERIA FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. The proposed use shall not jeopardize Community Development Objectives as set forth in this Ordinance and the Borough of Edwardsville Comprehensive Plan, including any updates, revisions and/or amendments thereto.



2. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
3. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
4. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
5. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
6. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
7. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
8. The submission of any reports and/or studies, required by the Zoning Hearing Board within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, in requiring such reports and/or studies.
9. The proposed use and/or development shall comply with any applicable standards and/or criteria as set forth in Article 8, Supplemental Regulations.
10. The proposed use and/or development shall not be injurious to the public interest.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### **SECTION 1411 PARTIES APPELLANT BEFORE THE BOARD**

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1408 of this Ordinance may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's

signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

## SECTION 1412 TIME LIMITATIONS

### 1412.1

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

### 1412.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

## SECTION 1413 STAY OF PROCEEDINGS

### 1413.1

Upon filing of any proceeding referred to in Section 1408 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

### 1413.2

After the petition is presented, the court shall hold a hearing to determine if the filing of the

appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

#### 1413.3

The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory.

#### 1413.4

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.