

**HARVEYS LAKE
BOROUGH
ZONING ORDINANCE**

**DATE OF ENACTMENT
MAY 20, 2009**

AMENDMENT DATE: 11-16-10

10-18-11 Section 8

05-20-11 Sec C1

6-25-12 Article 12

PREPARED BY:

**JOHN R. VARALY, AICP
MICHAEL J. PASONICK, JR. & ASSOCIATES, INC.
ARCHITECTS, PLANNERS, ENGINEERS & SURVEYORS**

HARVEYS LAKE BOROUGH 2009 ZONING ORDINANCE

TABLE OF CONTENTS

ARTICLE 1 - GENERAL PROVISIONS

<u>SECTION</u>		<u>PAGE</u>
101	TITLE	1-1
102	INTERPRETATION AND CONFLICT	1-1
103	COMPLIANCE WITH ORDINANCE REQUIRED	1-1
104	CONFLICTING REGULATIONS	1-1
105	PURPOSE	1-2
106	COMMUNITY DEVELOPMENT OBJECTIVES	1-2
107	REPEALER	1-3
108	EFFECTIVE DATE	1-3

ARTICLE 2 - DEFINITIONS

<u>SECTION</u>		<u>PAGE</u>
201	APPLICATION AND INTERPRETATION	2-1
202	TERMS OR WORDS NOT DEFINED	2-1
203	DEFINITION OF TERMS	2-1 TO 2-31

ARTICLE 3 - GENERAL REGULATIONS

<u>SECTION</u>		<u>PAGE</u>
301	ATTACHED ACCESSORY STRUCTURES	3-1
302	UNATTACHED ACCESSORY STRUCTURES	3-1
303	CORNER LOT RESTRICTION	3-1
304	TYPES OF RESIDENTIAL ACCESSORY STRUCTURES	3-2
305	NONCOMMERCIAL SATELLITE DISH ANTENNA	3-2
306	RESIDENTIAL ACCESSORY STRUCTURES IN A NONRESIDENTIAL ZONE	3-2
307	PRIVATE NONCOMMERCIAL SWIMMING POOLS	3-2
308	LOTS DIVIDED BY ZONING BOUNDARIES	3-3
309	PROJECTIONS INTO REQUIRED YARDS	3-3
310	EXCEPTIONS TO HEIGHT LIMITATIONS	3-3
311	REQUIRED ACCESS	3-3
312	VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS	3-4

<u>SECTION</u>		<u>PAGE</u>
313	FENCES AND WALLS	3-4
314	PUBLIC UTILITIES	3-5
315	SEWAGE DISPOSAL	3-5
316	SETBACK EXEMPTION FOR STRUCTURAL REPLACEMENTS	3-5
317	MOBILE HOMES	3-6
318	TEMPORARY STRUCTURES/TEMPORARY USES	3-6
319	CONVERSION OF NONRESIDENTIAL STRUCTURES	3-7
320	PROHIBITION OF PUBLIC NUISANCES	3-8
321	PROHIBITION OF AUTOMOTIVE AND BOAT SALES IN PUBLIC RIGHT-OF-WAY	3-8
322	HIGHWAY OCCUPANCY PERMIT	3-8
323	SOIL EROSION AND SEDIMENTATION CONTROL PLAN	3-8
324	USES NOT ADDRESSED WITHIN ORDINANCE	3-9

ARTICLE 4 - ZONING MAP AND ZONING DISTRICTS

<u>SECTION</u>		<u>PAGE</u>
401	OFFICIAL ZONING MAP	4-1
402	CHANGES TO OFFICIAL ZONING MAP	4-1
403	INTERPRETATION OF BOUNDARIES	4-1
404	CLASSES OF ZONING DISTRICTS	4-2

ARTICLE 5 - ZONING DISTRICT REGULATIONS

<u>SECTION</u>		<u>PAGE</u>
501	R-1 SINGLE FAMILY RESIDENTIAL DISTRICT	5-1
502	R-1A SINGLE FAMILY RESIDENTIAL DISTRICT	5-3
503	R-2 TWO FAMILY RESIDENTIAL DISTRICT	5-5
504	R-3 MULTIFAMILY RESIDENTIAL DISTRICT	5-7
505	S-1R SPECIAL RESIDENTIAL DISTRICT	5-9
506	S-1 SHORELINE DISTRICT	5-11
507	C-1 NEIGHBORHOOD COMMERCIAL DISTRICT	5-15
508	C-2 HIGHWAY COMMERCIAL DISTRICT	5-18
509	C-3 RECREATIONAL COMMERCIAL DISTRICT	5-21
510	M-1 MANUFACTURING DISTRICT	5-23

ARTICLE 6 - SPECIAL EXCEPTIONS

<u>SECTION</u>		<u>PAGE</u>
----------------	--	-------------

601	PURPOSE	6-1
602	GENERAL PROVISIONS	6-1
603	SITE PLAN	6-1
604	IMPACT ANALYSIS	6-3

ARTICLE 7 - CONDITIONAL USES

<u>SECTION</u>		<u>PAGE</u>
701	PURPOSE	7-1
702	GENERAL PROVISIONS	7-1
703	PROCEDURE FOR SUBMISSION AND DECISIONS	7-1
704	GENERAL STANDARDS	7-3
705	CLASSIFIED CONDITIONAL USES	7-4
706	ENVIRONMENTAL IMPACT STATEMENT	7-6

SUPPLEMENTAL REGULATIONS FOR CERTAIN CONDITIONAL USES

707	EXCAVATION AND EXTRACTION OF MINERALS	7-10
708	WIND ENERGY FACILITY	7-12
709	SMALL WIND ENERGY CONVERSION SYSTEM	7-17
710	JUNKYARDS/AUTOMOTIVE WRECKING YARDS	7-20
711	SEXUALLY ORIENTED BUSINESS	7-21
712	METHADONE TREATMENT FACILITY	7-22
713	COMMERCIAL COMMUNICATION ANTENNA AND TOWER	7-22

ARTICLE 8 - SUPPLEMENTAL REGULATIONS

<u>SECTION</u>		<u>PAGE</u>
801	PURPOSE AND INTENT	8-1
802	USE REGULATIONS	8-1
802.1	ANCILLARY FACILITIES OF OIL OR GAS DEV	8-1
802.02	ANIMAL HOSPITAL	8-9
802.03	ANIMAL KENNEL	8-9
802.04	AUTOMOTIVE RELATED ACTIVITIES	8-9
802.05	BANKS	8-10
802.06	BED AND BREAKFAST	8-10
802.07	BOARDING/ROOMING HOUSE	8-11
802.08	CEMETERIES	8-11
802.09	CLUB/PRIVATE LODGE	8-11
802.10	COMMERCIAL COMMUNICATION ANTENNAS ATTACHED TO BUILDING OR STRUCTURE	8-11
802.11	COMMERCIAL COMMUNICATION ANTENNAS CO-LOCATION	
802.12	COMMERCIAL COMMUNICATION ANTENNAS AND TOWER	8-12

802.13	CONTRACTORS' STORAGE YARDS	8-15
802.14	DAY CARE FACILITIES	8-15
802.15	DWELLING OVER OR ATTACHED TO A BUSINESS	8-16
802.16	ENTERTAINMENT FACILITIES	8-16
802.17	EXCAVATION AND EXTRACTION OF MINERALS, EXCLUDING OIL AND GAS	8-17
802.18	FORESTRY ACTIVITIES (TIMBER HARVESTING	8-18
802.19	FUNERAL HOME	8-19
802.20	GARDEN APARTMENTS	8-19

<u>SECTION</u>		<u>PAGE</u>
802.21	GROUP RESIDENCE	8-20
802.22	HOME OCCUPATIONS	8-20
802.23	HYDRAULIC FRACTURING WATER TREATMENT FACILITY	8-21
802.24	HYDRAULIC FRACTURING WATER WITHDRAWAL FACILITY	8-27
802.25	INDUSTRIAL ACTIVITIES	8-33
802.26	JUNKYARDS AND/OR AUTOMOTIVE WRECKING YARDS	8-34
802.27	METHADONE TREATMENT FACILITY	8-35
802.28	MOTELS AND HOTELS	8-36
802.29	NO IMPACT HOME-BASED BUSINESS	8-36
802.30	OIL OR GAS PIPELINES	8-37
802.31	OIL OR GAS WELLS	8-42
802.32	OUTDOOR WOOD-FIRED BOILER	8-51
802.33	OUTDOOR STORAGE (COMMERCIAL)	8-52
802.34	PLACE OF WORSHIP	8-52
802.35	PUBLIC RECREATIONAL FACILITIES (OUTDOORS)	8-53
802.36	PUBLIC USES AND QUASI-PUBLIC USES	8-53
802.37	PUBLIC UTILITY BUILDINGS AND STRUCTURES	8-53
802.38	RESTAURANTS AND TAVERNS	8-53
802.39	RESTAURANT, FAST FOOD	8-54
802.40	RIPARIAN BUFFER	8-54
802.41	SEXUALLY ORIENTED BUSINESS	8-54
802.42	SINGLE RESIDENTIAL STRUCTURE CONTAINING MULTIFAMILY DWELLING UNITS	8-55
802.43	SMALL WIND ENERGY CONVERSION SYSTEM (SMALL WECS)	8-55
802.44	TOWNHOUSES	8-57
802.45	WAREHOUSE AND DISTRIBUTION FACILITIES	8-58
802.46	WAREHOUSE (SELF STORAGE)	8-58
802.47	WIND ENERGY FACILITY	8-59

ARTICLE 9 - NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

<u>SECTION</u>		<u>PAGE</u>
901	INTENT	9-1
902	NONCONFORMING LOTS OF RECORD	9-1
903	CONTINUATION OF NONCONFORMITY	9-1
904	REGISTRATION OF NONCONFORMING USES AND STRUCTURES	9-1
905	CHANGES OF NONCONFORMING USES	9-2
906	ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES	9-2
907	RESTORATION OF USE	9-3
908	TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE	9-3
909	CERTIFICATE OF INTENTION FOR A NONCONFORMING USE	9-4

ARTICLE 10 - OFF-STREET PARKING AND LOADING

<u>SECTION</u>		<u>PAGE</u>
1001	PURPOSE	10-1
1002	SIZE OF OFF-STREET PARKING SPACES	10-1
1003	DIMENSIONS AND DESIGN	10-1
1004	SIZE OF OFF-STREET LOADING SPACES	10-1

<u>SECTION</u>		<u>PAGE</u>
1005	ACCESS TO OFF-STREET PARKING OR LOADING AREAS	10-2
1006	LOCATION OF OFF-STREET PARKING AREAS	10-2
1007	DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS	10-2
1008	SCREENING AND LANDSCAPING	10-2
1009	LIGHTING	10-3
1010	DRIVEWAYS	10-3
1011	PARKING IN YARD AREAS	10-3
1012	EXISTING STRUCTURES AND USES	10-4
1013	CHANGE OF STRUCTURES OR USES	10-4
1014	FRACTIONAL SPACE	10-4
1015	MULTIPLE ACTIVITIES OR USES	10-4
1016	OFF-STREET PARKING REQUIREMENTS	10-4
1017	PARKING FOR OTHER COMMERCIAL USES	10-7
1018	OFF-STREET LOADING REQUIREMENTS	10-7
1019	PROVISION OF HANDICAPPED PARKING SPACES	10-7
1020	DESIGN FEATURES FOR HANDICAPPED PARKING SPACES	10-8
1021	SIGNAGE FOR HANDICAPPED PARKING	10-8

1022	MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES	10-8
------	---	------

ARTICLE 11 - SIGN REGULATION

<u>SECTION</u>		<u>PAGE</u>
1101	SIGNS	11-1
1102	CONSTRUCTION TYPE	11-2
1103	PERMITTED SIGNS BY ZONING DISTRICT	11-2
1104	AREA, HEIGHT AND SETBACK REQUIREMENTS	11-2
1105	SIGNS RELATED TO NONCONFORMING USES	11-5
1106	AREA COMPUTATION OF SIGNS	11-5
1107	ILLUMINATED SIGNS	11-6
1108	MISCELLANEOUS SIGN PROVISIONS	11-6
1109	VERTICAL CLEARANCE	11-6
1110	PROHIBITED SIGNS	11-6
1111	PERMITS REQUIRED	11-6

ARTICLE 12 - FLOOD PLAIN MANAGEMENT

<u>SECTION</u>		<u>PAGE</u>
1201	STATUTORY AUTHORIZATION	12-2
1202	INTENT	12-2
1203	APPLICABILITY	12-2
1204	ABROGATION AND GREATER RESTRICTIONS	12-2

<u>SECTION</u>		<u>PAGE</u>
1205	SEVERABILITY	12-2
1206	WARNING AND DISCLAIMER OF LIABILITY	12-2
1207	DEFINITIONS	12-3
1208	DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR	12-8
1209	PERMITS REQUIRED	12-8
1210	DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINSTRATOR	12-8
1211	APPLICATION PROCEDURES AND REQUIREMENTS	12-9
1212	REVIEW BY COUNTY CONSERVATIONS DISTRICT	12-12
1213	REVIEW OF APPLICATION BY OTHERS	12-12
1214	CHANGES	12-12
1215	PLACARDS	12-12
1216	START OF CONSTRUCTION	12-12
1217	ENFORCEMENT	12-13
1218	APPEALS	12-14
1219	IDENTIFICATION OF FLOODPLAIN AREAS	12-14

1220	DESCRIPTION AND SPECIAL REQUIREMENTS OF IDENTIFIED FLOODPLAIN AREAS	12-14
1221	CHANGES IN IDENTIFICATION OF AREA	12-15
1222	BOUNDRY DISPUTES	12-15
1223	TECHNICAL PROVISIONS	12-15
1224	ELEVATION AND FLOODPROOFING REQUIREMENTS	12-16
1225	DESIGN AND CONSTRUCTION STANDARDS	12-18
1226	DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE	12-21
1227	SPECIAL REQUIRMENTS FOR SUBDIVISIONS	12-22
1228	SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES	12-22
1229	SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES	12-23
1230	PROHIBITED USES	12-23
1231	EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS	12-24
1234	VARIANCES	12-24

ARTICLE 13 - ENFORCEMENT AND ADMINISTRATION

<u>SECTION</u>		<u>PAGE</u>
1301	ZONING OFFICER	13-1
1302	ZONING PERMIT	13-2
1303	ENFORCEMENT PROCEDURES	13-4
1304	SCHEDULE OF FEES, CHARGES AND EXPENSES	13-5

ARTICLE 14 - AMENDMENTS

<u>SECTION</u>		<u>PAGE</u>
1401	AMENDMENT PROCEDURE	14-1
1402	APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP	14-2
1403	CURATIVE AMENDMENTS	14-2
1404	ENACTMENT OF AMENDMENTS	14-5
1405	NOTIFICATION TO COUNTY	14-5

ARTICLE 15 - ZONING HEARING BOARD

<u>SECTION</u>		<u>PAGE</u>
1501	MEMBERSHIP OF BOARD	15-1

1502	ALTERNATES TO ZONING HEARING BOARD	15-1
1503	REMOVAL OF MEMBERS	15-1
1504	ORGANIZATION OF BOARD	15-1
1505	EXPENDITURES FOR SERVICES	15-2
1506	HEARINGS	15-2
1507	MEDIATION OPTION	15-3
1508	JURISDICTION OF ZONING HEARING BOARD	15-4
1509	VARIANCES	15-5
1510	SPECIAL EXCEPTIONS	15-6
1511	PARTIES APPELLANT BEFORE THE BOARD	15-7
1512	TIME LIMITATIONS	15-7
1513	STAY OF PROCEEDINGS	15-8

ARTICLE 16 - PLANNED RESIDENTIAL DEVELOPMENTS

<u>SECTION</u>	<u>PAGE</u>
1601 - PURPOSE	16-1
1602 - REGULATORY AUTHORITY	16-1
1603 - DENSITY REGULATIONS	16-1
1604 - DIMENSIONAL REGULATIONS	16-2
1605 - SPECIAL PROVISIONS	16-3
1606 - DEVELOPMENT REGULATIONS	16-4
1607 - PHASING OF DEVELOPMENT	16-5
1608 - ENFORCEMENT AND MODIFICATIONS OF PROVISIONS OF PLAN	16-5
1609 - APPLICATION FOR TENTATIVE APPROVAL	16-6
1610 - PUBLIC HEARINGS	16-10
1611 - FINDINGS	16-10
1612 - STATUS OF PLAN AFTER TENTATIVE APPROVAL	16-11
1613 - APPLICATION FOR FINAL APPROVAL	16-12
1614 - JURISDICTION AND LEGAL REMEDIES	16-14

ARTICLE 17 - APPEALS

<u>SECTION</u>	<u>PAGE</u>
1701 - APPEALS TO COURT	17-1

**ARTICLE 1
GENERAL PROVISIONS**

SECTION 101 TITLE

The official title of this Ordinance is: Harveys Lake Borough Zoning Ordinance.

SECTION 102 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 Harveys Lake Borough. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

A. 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 Harveys Lake 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 Harveys Lake Borough, the provisions of this Ordinance shall apply.

B. 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. Harveys Lake Borough shall not however be held responsible for knowledge and/or enforcement of any private deed restriction, private covenant or other form of private agreement which may be inconsistent with the provisions of this Ordinance and/or beyond the scope of regulations contained within this Ordinance.

SECTION 103 COMPLIANCE WITH ORDINANCE REQUIRED

Except as hereinafter provided, no land, building, structure or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted, altered or moved except in conformity with the regulations herein specified for the zoning district in which it is located.

SECTION 104 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, State or United States Government, the most restrictive shall apply.

SECTION 105 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 106 COMMUNITY DEVELOPMENT OBJECTIVES

The enactment of this Ordinance is intended to assist in achieving and promoting the following goals and objectives:

- A. To maintain existing patterns of moderate density development and rural/suburban character of the Borough while allowing for new growth and development.

- B. To insure the use of land within the Borough is capable of providing for sufficient development of residential, commercial, industrial and public uses to meet the needs of the Borough in proper locations in relationship to available infrastructure.
- C. To prevent the pollution of lakes, air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the prudent use and management of natural resources throughout the Borough in order to preserve the integrity and stability of the community and the natural environmental characteristic of the land.
- D. To examine all proposed developments in relationship to its potential impact upon environmental resources and to avoid all forms of pollution within the Borough and region.
- E. To provide for a variety of housing types to satisfy diverse housing markets, including those for the elderly, single persons, handicapped individuals and couples without children.
- F. To have development proposals reviewed with consideration given to soils, topography, environmental factors, road access and the provision of proper public utilities.
- G. To preserve environmentally sensitive areas and areas of scenic and natural beauty from intensive or inappropriate development.
- H. To identify any recreational needs of the Borough and to locate any needed facilities in coordination with existing or planned regional, County or State Parks to foster a balanced recreational system.
- I. To provide an adequate transportation system for the safe movement of people and goods within all sectors of the Borough and areas beyond.
- J. To provide commercial development in selected areas in accordance to the market needs of the Borough and surrounding areas.
- K. To insure all new development provides adequate measures to control storm drainage and soils erosion and sedimentation.
- L. To periodically review the scope and provision of community and public services and facilities, with the intent to improve and expand such services and facilities as needed within the fiscal means and limitations of the Borough.
- M. To continue to promote recycling measures within the Borough.

- N. 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 plans.
- O. To continue to cooperate with other adjoining municipalities on intergovernmental issues of mutual concern.
- P. To continue to conduct municipal affairs in an efficient, economical and fair manner for the welfare of all citizens and to be committed to professional planning within the administration and governing of the Borough.

SECTION 107 REPEALING PROVISION

All Ordinance, or any parts thereof, which are inconsistent or in conflict with this Ordinance.

SECTION 108 EFFECTIVE DATE

All Ordinances, or any parts thereof, which are inconsistent or in conflict with this Ordinance, including the Harveys Lake Borough Zoning Ordinance of 1992, as amended, excluding the current Zoning Map, are hereby repealed.

**APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF HARVEYS LAKE ON THIS 20TH DAY OF MAY, 2009**

Council President

Mayor

ATTEST:

Borough Secretary

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, individual or single proprietorship.
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 occupied.
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

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 customarily incidental and subordinate to the principal use or principal structure, which does not change the character of the permitted principal use or principal structure and is located on the same lot and within the same zoning district with such permitted principal use or principal structure.

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.

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 or in the dimensions or configuration the roof and exterior walls.

AMENDMENT:

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

ANIMAL KENNEL:

Any structure or premises in which five (5) or more dogs or cats or any combination thereof, at least six months of age, are boarded, kept or trained for commercial gain.

ANIMAL HOSPITAL:

A structure or building where animals or pets are given medical or surgical

treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

ANTENNA, COMMUNICATION: (See Communications Antenna)

AUTOMOTIVE AND BOAT SALES:

The use of any building, structure or land, other than a street and/or public right-of-way, for the display and sale or rental of motor vehicles and boats, which are in operable condition. The owner/operator of such business must have a valid state license for the sale or rental of such motor vehicles. Any related repairs shall be incidental to the operation and shall be conducted within an enclosed building.

AUTOMOBILE WRECKING YARD: (SEE ALSO JUNKYARDS)

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked 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 from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

BASEMENT:

That portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to the ceiling is five (5) feet or greater.

BED AND BREAKFAST:

A residence occupied by an owner providing short term lodging accommodations for compensation for transient guests. No more than five guest rooms shall be available for said accommodations. Any meals included as part of the services shall be restricted to individuals who have registered for lodging within said residence.

BOARDING HOUSE OR ROOMING HOUSE:

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

Dwelling
Motel and/or Hotel
Group Residence

Dwelling Unit
Bed and Breakfast Facility

BOAT STORAGE, NONCOMERICIAL:

A place, site or structure used to park, house or store on any one lot, three or fewer vessels, excepting canoes, rowboats and kayaks.

BOATHOUSE

A structure, which has direct access to a body of navigable water and is used only for the storage of vessels and associated equipment.

BOROUGH:

Borough of Harveys Lake, Luzerne County, Pennsylvania.

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. For the purpose of this Ordinance the when a buffer area is required it shall be deemed represent a 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 the 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. Unless stated otherwise, a buffer area may be part of the minimum setback distance for the land use requiring said buffer.

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, excluding chimneys. (See illustration in Appendix to Article 2)

CABANA:

A lightweight tent-like structure usually made of canvas or a similar fabric that is open on a least one side, intended to provide protection from the sun. A cabana shall not be connected to any utilities and shall not be designed and/or used as living quarters.

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:

The portion of any building which is located partly underground, but having one-half or more of its height, measured from finished floor grade to finished ceiling, below the average grade of the adjoining land. A cellar shall not be counted as a story for the purposes of administering height regulations of this Ordinance. (See illustration in Appendix to Article 2)

CEMETERY:

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

CHANGE OF USE:

Any use which differs from the previous use of a building, structure or land.

CHURCH: (SEE PLACE OF WORSHIP)

CLEAN WOOD:

Natural wood that has no paint, or other types of coatings, and natural wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the "corner" so as not to interfere with traffic visibility across the corner. (See illustration in Appendix to Article 2)

CLINIC (MEDICAL):

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, in which said medical practitioners work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service. The term "Medical Clinic" shall specifically exclude a "Methadone Treatment Facility" which defined separately within this Article.

CHILD CARE FACILITY: (See DAY CARE FACILITY)

CHIMNEY:

A vertical structure containing one or more flues for drawing off emissions from a stationary source of combustion, including but not limited to those attached to an Outdoor Wood-Fired Boiler.

CLUB/PRIVATE LODGE:

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

COMMERCIAL USE:

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

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, omnidirectional 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 COMMUNICATION ANTENNA; CO-LOCATION

The use of an existing Commercial Communications Tower or an existing public utility transmission tower by two or more Wireless Communications carriers for the placement

of two or more Commercial Communication Antennas.

COMMERCIAL COMMUNICATIONS EQUIPMENT BUILDING:

An unmanned building or cabinet containing communication equipment for the operation of a Commercial Communication Antenna and covering an area on the ground not greater than two hundred fifty (250) square feet.

COMMERCIAL COMMUNICATION TOWER/SUPPORT STRUCTURE

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/SUPPORT STRUCTURE; HEIGHT:

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

COMPREHENSIVE PLAN:

The Harveys Lake Comprehensive Plan, including any amendments, updates, or revisions thereto as adopted by Harveys lake Borough Council.

COMMON FACILITIES:

All the real property and improvements, including without limitation, landscaped areas, buffers, open space not included within title lines of any privately owned lot, street rights-of-way not dedicated to and/or accepted by Harveys Lake Borough, owned in common by residents within the development which is served by the facilities.

COMMUNITY ASSOCIATION:

A non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by member of the association or by the association, to protect and enhance the value of the property owned individually by each of the members. Homeowners' Associations and Condominium Associations are types of Community Associations.

CONDITIONAL USE:

A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Borough Council and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

CONDOMINIUM:

Real estate, portions of which are designated for separate ownership and the remainder of

which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

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.

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

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, mature stands of native vegetation and aquifer recharge and discharge area.

DAY CARE SERVICES:

The provision of out-of-home care for children or adults for part of a twenty-four (24) hour day, excluding care provided by relatives.

DAY CARE FACILITY:

A facility for the provision of out-of-home care for children or adults for part of a twenty-four (24) hour day, excluding care provided by relatives, and licensed as such by the State.

DAY CARE CENTER:

A structure in which day care services are provided, with no portion of the structure being jointly used as a portion of a family residence.

DAY CARE HOME:

Means a residential structure in which day care services are provided for not more than six (6) persons at any one time, where the care areas are also used as a portion of 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.

DENSITY, NET:

The number of dwelling units permitted per net unit of land. The term density when used within this Ordinance, shall always reflect net density. For the administration of this Ordinance, net density shall reflect the total area of land within a parcel, minus the total area of land which encompasses streets, bodies of water, wetlands, required open space, easements and impervious surfaces, divided by the total number of dwelling units existing and/or proposed to be located upon the parcel.

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.

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.

DEVELOPMENT PLAN:

The provisions for development included within an application for a subdivision and/or land development, including all covenants relating to use, location and bulk of buildings

and other structure intensity of use or density of development, streets, ways and parking facilities, common open space, easements and public facilities. The phrase "development plan" shall mean the written and graphic materials referred to in this definition.

DISTRICT: (See Zoning District)

DOCK:

A structure built exclusively over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

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.

DWELLING TYPES:

- 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 constructed to be 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 single structure consisting of not less than three (3) or more than six (6) dwelling units. Each dwelling unit shall have direct ground level access to the outdoors and connected to other dwelling units by one (1) or more party walls with no opening or connecting interior access between units. No dwelling units shall be located over or below another unit. (See illustration in Appendix to Article 2)
- 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 habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one family, with permanent facilities for living, sleeping, cooking, and sanitary 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.

EASEMENT:

A grant of one (1) 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.

EASEMENT, DRAINAGE:

An easement required for the installation of storm water sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

ENTERTAINMENT FACILITIES:

Commercial establishments, excluding any sexually oriented business, engaged in providing entertainment for a fee or an admission charge, such as 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 AND EXTRACTION OF MINERALS:

The removal or recovery by any means whatsoever of minerals, as so defined in this Ordinance from land or water, on or above the surface thereof, or beneath the land surface whether exposed or submerged. It shall include the incidental screening, washing, crushing and grading of materials originating on the site, and mineral processing as an accessory use.

FAMILY:

One or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be

deemed to be a member of the family. A group in excess of four (4) individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family.

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.

FLOOR AREA, GROSS:

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FORESTRY: (ALSO SEE SECTION 802.15TIMBERING HARVESTING)

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 and which does equal or exceed five (5) acres.

FRONTAGE:

The length of the front lot line measured at the street right-of-way line.

GARAGE, PRIVATE:

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

GARAGE, REPAIR: (SEE ALSO SERVICE STATION)

A commercial building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

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.

GASOLINE SERVICE STATION:

A structure, building or area of land or portion thereof that is used for the retail sale of gasoline or any other motor vehicle fuel that may or may not include as an accessory use, the sale and installation of lubricants, tires, batteries, and similar accessories and other minor servicing and engine tune-ups of motor vehicles, excluding the major mechanical overhauling, paint, and body work of any type of vehicle. Gasoline service stations shall not include service and maintenance activities which include or are comparable to those provided for under the definition of a "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 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 Harveys Lake Borough, 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.

GREENHOUSE, COMMERCIAL:

Retail business whose principal activity is the selling of plants grown on the site and having outside storage, growing, and/or display.

GROUP RESIDENCE:

A dwelling unit which is shared under congregate living arrangements by more than four (4) persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons or their licensed or certified agents, a governmental agency or their licensed or certified agents, a responsible corporation or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting.

The following shall not be deemed to constitute a Group Residence:

A boarding home and/or a personal care boarding home.

A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.

A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HAZARDOUS SUBSTANCES:

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

1. cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating irreversible illness.
2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

This definition shall be deemed to include radioactive material, medical waste and any incendiary device and/or explosive device or material

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation, the Luzerne County Road and Bridge Department or Harveys Lake Borough which authorizes access from a parcel of land onto a highway, road or street which is under the respective jurisdiction of the above entities.

HIGH-WATER ELEVATION, NORMAL:

A mark delineating the highest water level of a body of water which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high-water elevation is that point where the natural vegetation and landscape changes from predominantly aquatic to predominately terrestrial.

HEALTH/RECREATION FACILITY:

An indoor facility including uses such as game courts, exercise equipment, locker rooms, and related 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 existing residential character of the neighborhood.

HOMEOWNERS ASSOCIATION:

A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community owned property. This term is synonymous with property owners association.

HOTEL: (ALSO 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.

HUB HEIGHT:

The distance measured from the surface of the tower's 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 Harveys Lake Borough Council prior to approval of a conditional use application and/or a rezoning application or by the Zoning Hearing Board prior to approval of an application for a special exception and/or variance to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, critical areas, the public health, safety and welfare and other factors directly, indirectly or potentially affected. The applicant shall be responsible for all costs related to any and all reports and/or studies required by the Harveys Lake Borough Council or Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS."

IMPERVIOUS SURFACE:

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or compacted parking areas, streets, sidewalks, driveways and similar vehicular and/or pedestrian right-of-ways.

IMPROVEMENTS:

Man-made physical additions, alterations, and/or changes to buildings or other structures 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 predominately 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.

INDUSTRY, LIGHT:

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

INSTITUTIONAL USE:

A structure or facility which provides medical, health, educational, social and/or rehabilitative services to more than eight (8) persons on a continuous and/or regular basis, excluding a college/university and a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

JUNK:

Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof

JUNK VEHICLE:

Any motor vehicle, without limitation to the type, which does not bear current license and inspection stickers or is incapable of being moved under its own power, and 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:

- a. Rusted and/or jagged metal on or protruding from the body of the vehicle;
- b. Broken glass or windows on or in the vehicle;
- c. Leaking of any fluids from the vehicle;

- d. Unsecured and/or unlocked doors, hood or trunk;
- e. Storage or placement of the vehicle in an unbalanced condition, such as on concrete blocks;
- f. Harboring of 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 woody 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.

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, 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, FRONT:

The lot line separating a lot from a street right-of-way.

LOT LINE:

A line dividing one (1) 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 (3) lot 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 both its front and rear yards abutting on a street.

LOT WIDTH:

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

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.

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.

MINERAL PROCESSING:

The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products.

MOBILE HOME (the term Manufactured Home is included with the context of this definition):

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.

MOBILE HOME LOT:

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

MOBILE HOME PARK:

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

MODULAR /INDUSTRIAL HOUSING

A factory-built home, other than a mobile home or a manufactured home, which meets all of the following requirements:

- a. is designed only for erection or installation on a site-built permanent foundation;
- b. is not designed to be moved once so erected or installed on a site-built permanent foundation;

- c. is designed and manufactured to comply with all applicable provisions of the Pennsylvania Uniform Construction Code

MOTEL: (also see Hotel)

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance and primarily offering transient lodging accommodations to the general public. Such building or group of buildings may also provide additional services such as restaurants, meeting rooms, and recreational facilities.

MUNICIPALITY:

The Borough of Harveys Lake, 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. The business or commercial activity must also comply with the applicable supplemental requirements contained in Article 8 of this Ordinance.

NONCONFORMING LOT:

A lot the 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 extent 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 and/or other 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.

NURSING HOME:

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.

OFFICE:

A building or portion thereof containing rooms and/or space for conducting the affairs of a business, profession, service, industry or government.

OPEN SPACE:

An area that is intended to provide light and air, and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OUTDOOR WOOD-FIRED BOILER:

A fuel-burning device designed: (1) to burn clean wood or other approved solid fuels; (2) by the manufacturer specifically for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals (e.g., garages); and (3) to heat building space and/or water via distribution, typically through pipes of a fluid heated in the device, typically water or a water/antifreeze mixture. Outdoor wood-fired boilers are also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, etc. (see Section 802.23)

OUTDOOR STORAGE (COMMERCIAL):

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, junk vehicles, discarded and/or any inoperative durable items,

PARCEL:

A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

PATIO:

An open recreational area or structure, without roof, constructed no higher than six (6) inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

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.

PERMANENT FOUNDATION:

A support for a building or structure, reaching below the frost line, consisting of a full poured concrete or masonry foundation or any other type which is permitted under the design standards of the Pennsylvania Uniform Construction Code, on which the building or structure is anchored and is intended to remain indefinitely.

PERSONAL CARE HOME:

A facility, as defined under current State licensing requirements, and licensed as a such, 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, barber shops, hair stylists, tanning salons, health spas, beauty spas, nutrition and weight management services, manicure and pedicure services, body piercing and body painting services and related activities.

PLACE OF WORSHIP:

A building used for religious services, including churches, synagogues, mosques and similar edifices.

PLANNED RESIDENTIAL DEVELOPMENT:

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Zoning Ordinance.

PLANNING COMMISSION:

The Planning Commission of Harveys Lake Borough.

PRINCIPAL USE:

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

PRIVATE:

Something owned, operated and supported by private individuals or a corporation, rather than by government, and not available for public use.

PUBLIC:

Something owned, operated and supported by the Community, residents or other entity, governmental or private, for the use and benefit of the general public.

PUBLIC HEARING:

A formal meeting held pursuant to public notice by the Harveys Lake Borough Council, 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 MEETING:

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

PUBLIC NOTICE:

Notice published once each week for two (2) 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 USES:

Public owned parks and administrative, cultural and service buildings, including emergency service facilities but excluding public land or buildings primarily devoted to the storage and maintenance of equipment or material.

PUBLIC UTILITY:

A private corporation or municipal authority with an exclusive franchise for providing a public service that operates under regulations of Federal, State and/or local government.

PUBLIC UTILITIES FACILITIES:(ESSENTIAL)

Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves, or 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.

QUASI-PUBLIC USE:

A use conducted by, or a facility or structure owned or operated by, a nonprofit organization that is open and available to the public that provides educational, health, emergency services, cultural, religious, recreational or other similar types of community services.

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 as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

RECYCLING COLLECTION CENTER:

A facility operated by a public or quasi-public entity 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 as a recommendation 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 indispensable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

RESTAURANT, FAST FOOD:

Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

RIGHT-OF-WAY:

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or other special use.

RIPARIAN LAND:

Land that is traversed or bounded by a watercourse.

ROOMING UNIT:

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

SEWAGE DISPOSAL, CENTRALIZED:

A sanitary sewage collection system, approved by the Pennsylvania Department of Environmental Protection, in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal facility.

SEWAGE DISPOSAL, ON-LOT:

Any facility designed to biochemically treat sewage within the boundaries of an individual lot in accordance with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.

SEXUALLY ORIENTED BUSINESS:

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, 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.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Specified Anatomical Areas: Specified anatomical areas, as used above within the definitions of "Adult Bookstore" and "Adult Entertainment" 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: Specified sexual activities as used above within the definitions of “Adult Bookstore” and “Adult Entertainment” 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 an "Adult Use".

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, walls, hedges, berms, or other features.

SEATING CAPACITY:

The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the most recent standards under the BOCA Code or Pennsylvania Uniform Construction Code, based upon the more restrictive standards.

SELF-SERVICE 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 which are leased to individuals for the storage of the individual’s property, possessions or wares.

SETBACK:

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

SHORELINE:

The line at which land adjoins the waters of lakes, ponds, rivers and streams at the normal high water mark.

SHORELINE FRONTAGE:

The shortest horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high-water line, as defined in Article 2 of this Ordinance.

SIGN:

A structure or device designed or intended to convey information to the public in written or pictorial form. (See Article 11 for detailed definitions and regulations)

SITE PLAN:

A plan prepared to scale, showing accurately and with complete dimensions, the following information:

- a. The boundaries of a site, property, lot and/or parcel of land.
- b. The location of all buildings, structures, development, improvements, uses, and man-made and/or natural features, existing and proposed, including setback distances to property lines.
- c. The topography of the site, property, lot and/or parcel of land based upon five (5) foot contour intervals unless specified otherwise.
- d. Areas located within a 100 –Year Flood Plain based upon the most recent FEMA Flood Insurance Maps for Harveys Lake Borough.
- e. Areas located within wetlands.
- f. Any additional information required to determine compliance with applicable provisions of this Ordinance.

A Site Plan shall be dated and affixed with seal of a licensed Professional Land Surveyor or Registered Professional Engineer who prepared said plan.

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.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

A plan that indicates necessary land treatment measures, as approved by the Luzerne Conversation District, designed to effectively minimize soil erosion and sedimentation for a proposed development.

STORAGE SHED:

An enclosed accessory structure used to store materials or equipment which supports the principal use of the site.

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.

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.

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, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

TIMBER HARVESTING: (SEE ARTICLE 8, SECTION 802.15)

The cutting and removal of trees from their growing site, including the attendant operation of cutting and skidding machinery, for commercial purposes with the minimum area of land subject to timber harvesting encompassing not less than five (5) acres.

TOWER: (Also See Commercial Communication Tower/Support Structure)

A structure situated on a nonresidential site or lot which is intended for transmitting or receiving television, radio, or telephone communications.

TOWNHOUSE: (see DWELLING TYPES:

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:

The purpose or activity, for which land, buildings and/or structures are designed, arranged or intended or for which land, buildings and/or structures are occupied and maintained.

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1509 of this Ordinance.

WAREHOUSE:

A building used primarily for storage of goods and material.

WATER SUPPLY SYSTEM, CENTRALIZED:

A public or privately owned system, under the jurisdiction of the Pennsylvania Public Utility Commission, designed to transmit potable water from a common source to users, and in compliance with the governing standards of all applicable State agencies. Any water supply system not deemed as a centralized water supply system shall be deemed to be an on-site water supply system.

WATERCOURSE, NATURAL:

Any stream, creek, river, channel or similar waterway in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks.

WATERCOURSE:

Any natural or man-made stream, river, creek, ditch channel, canal, waterway, gully or ravine in which water flows in a definite direction or course, either continuously or intermittently, and has a defined bed and banks.

WETLANDS:

Areas that are inundated and saturated by surface or groundwater at

a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, 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”)

WECS, COMMERCIAL:

A WECS that is the prime use on a parcel of land and supplies electrical power for off-site use.

WIND ENERGY CONVERSION SYSTEM (SMALL) - (“Small WECS”):

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 ENERGY FACILITY:

A commercial electric generating facility, whose main purpose is to supply electricity to off-site customer(s), consisting of one or more Commercial WECS, and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

YARD: (See illustration in Appendix to Article 2)

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: (See illustration in Appendix to Article 2)

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: (See illustration in Appendix to Article 2)

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: (See illustration in Appendix to Article 2)

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 WASTE:

Leaves, grass clippings, garden residue, tree trimmings, chipped shrubbery, and other vegetative material.

ZONING DISTRICT:

A portion of Harveys Lake Borough 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 Harveys Lake Borough, Luzerne County, Pennsylvania.

ZONING MAP:

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

ZONING OFFICER:

The administrative officer appointed by the Borough Council to administer and enforce the Zoning Ordinance of Harveys Lake Borough, Luzerne County

**ARTICLE 3
GENERAL REGULATIONS**

SECTION 301 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 302 UNATTACHED ACCESSORY STRUCTURES

302.1 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.

302.2 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) The maximum height shall not exceed fifteen (15) feet. (See Article 2, definition of Building Height)
- (B) An accessory structure shall not be located less than three (3) 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 ten (10) feet shall be required.

302.3 OUTDOOR WOOD-FIRED BOILER

Excluding the S-1 District, an outdoor wood-fired boiler shall be deemed to be an accessory structure permitted in all zoning districts, as a special exception use, thereby requiring approval from the Zoning Hearing Board and subject to the standards as set forth in Section 802.23 and Section 1510 of this Ordinance

SECTION 303 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 304 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, gazebos and noncommercial satellite antenna dishes.

SECTION 305 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.

SECTION 306 RESIDENTIAL ACCESSORY STRUCTURES IN A
NONRESIDENTIAL ZONE

In cases when a residential structure is a nonconforming use, located in a nonresidential zone, 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 contained under Section 304.2 of this Ordinance.

SECTION 307 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 zone subject to the following:

307.1 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 ten (10) feet as measured from the water's edge.

307.2 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.

307.3 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 309.2 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.

Access into a pool which includes a deck 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 required a side yard and/or rear yard setback of not less than ten (10) 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 309.2

SECTION 308 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 309 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 sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two (2) feet into any required setback.
- (C) Porches and Decks: provided such porches or decks are not under roof, are located in the rear yard or sideyard, and that it does not exceed four and one-half (4^{1/2}) feet in depth as extended from the structure.
- (D) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

SECTION 310 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, skylights; or to any accessory mechanical appurtenances usually located above the roof level.

SECTION 311 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 312 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

312.1 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^{1/2}) feet, excluding street signs, utility poles or traffic signs, shall be erected, planted and/or maintained on any corner lot within the triangle formed by the intersecting property lines of the corner lot and a line projected between points of each of those adjacent property lines at a distance of twenty (20) feet from the intersection of said lot lines

312.2. PRIVATE DRIVEWAYS

The clear sight triangle at driveway and street intersections: Where a driveway enters the street right-of-way, a clear sight triangle shall be formed horizontally, by measuring 10 feet into the lot as measured from the sidewalk edge that is closest to the property line (or from the property line if no sidewalk exists), and 20 feet along the sidewalk edge (or property line if no sidewalk exists) parallel to the street, within which all visual obstructions including but not limited to fences, structures and/or vegetation shall be limited to a height of not more than two and one-half (2^{1/2}) feet.

312.3 REQUIRED SETBACK

No driveway or part thereof shall be located closer than ten (10) feet from a side property line.

SECTION 313 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed.

313.1 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

The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.

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.

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.

313.2 NONRESIDENTIAL

Fences to be constructed within any commercial zoning district shall not exceed eight (8) feet in height above the adjacent ground level. Fences to be constructed within any industrial zoning district shall not exceed ten (10) feet in height above the adjacent ground level.

313.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of ten (10) feet in height, designed as an enclosure to a public park, a public playground or similar public outdoor recreational facility.

SECTION 314 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 315 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. Any use or development of property which proposes to utilize on-lot sewage disposal shall secure approval from the Borough's Sewage Enforcement Officer in accordance with the applicable governing standards of the Pennsylvania Department of Environmental Protection prior to the issuance of a zoning permit.

SECTION 316 SETBACK EXEMPTIONS FOR STRUCTURAL REPLACEMENTS

Any exterior structural portion of a building such as a deck, patio, porch or similar feature or a water based structure in the S-1 District such as a dock and/or boathouse that does not meet the applicable required setback requirements of this Ordinance and is need of repair to the point of replacement shall be exempt from complying with such setback requirements when all of the following conditions exist:

- A. The use of the building and/or structure 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 exterior structural replacement for a portion of a building and/or the replacement of a water based structure in the S-1 District may be at the exact same location subject to said location being not less than 50% of the required applicable setback distance for the Zoning District in which it is located. The exterior structural replacement for a portion of a building and/or the replacement of a water based structure shall be the same size, dimensions 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 and applicable fee, along with any other information deemed necessary by the Zoning Officer to process the application. A Site Plan shall be required for properties located in the S-1 District.
- E. The provisions of this Section shall not be applied if the exterior structural portion of a building to be replaced and/or the replacement of a water based structure extend beyond the property line. In such cases, the replacement shall meet the applicable setback requirements in the Zoning District in which it is located, unless a variance for a lesser setback distance is approved by the Zoning Hearing Board.

SECTION 317 MOBILE HOMES - PERMANENT FOUNDATIONS

A mobile home shall be constructed and anchored to a permanent foundation. Under such conditions said mobile home shall be deemed to be a single family residence.

SECTION 318 TEMPORARY STRUCTURE AND/OR TEMPORARY USE

A temporary structure and/or a temporary use may be allowed in all Zoning Districts as a special exception approval by the Zoning Hearing Board subject to the criteria as set forth in Section 1510 of this Ordinance and also subject the following supplemental requirements:

- a. Approval of a temporary structure and/or temporary use shall be valid for a period of 180 days from the date on which the Zoning Hearing Board granted special exception approval to such structure and/or use.
- b. The use of a temporary structure and/or temporary use shall be directly related to the principal use of the property and shall be located upon the same lot.
- c. A temporary structure and/or temporary use shall not be permitted if either the principal structure and/or principal use are nonconforming.
- d. The size of the gross floor area and/or land area of a temporary structure and/or a temporary use shall not exceed that of the principal structure and/or principal use.
- e. A temporary structure and/or temporary use shall meet all applicable setback requirements for the Zoning District in which it is to be located.
- f. Trailers placed upon a property as a field office during the construction activities for a permanent principal structure and/or use shall be exempt from securing special exception approval by the Zoning Hearing Board, but shall be required to submit a Zoning Permit Application and shall be subject the 180 day time limitation.
- g. Required off-street parking and/or loading shall be provided for a temporary structure and/or temporary use in accordance with the applicable provisions contained in Article 10, Off-Street Parking and Loading.
- h. Not more than one (1) temporary structure and/or temporary use shall be permitted upon any property during any period of 180 days.

The time limitation of 180 days for a temporary structure and/or use shall be cumulative in nature. Any intermittent cessation and subsequent resumption of a temporary structure and/or use shall be included within the 180 day time limitation from the date on which approval was originally granted. On or before the expiration of the 180 day time limitation, the owner of the property may seek a time extension which shall require approval of the Zoning Hearing Board in the form of a variance. Failure to cease all operations and activities by the termination of the 180 day time limitation, or any approved time extension, shall constitute a violation of this Ordinance. The Zoning Officer may revoke approval prior to the expiration of the 180 day time limitation, or any approved time extension, if any standards, conditions, and/or terms under which approval was granted are violated.

SECTION 319 CONVERSION OF NONRESIDENTIAL STRUCTURES

The conversion of a building not constructed for residential use which is located in the following R Districts may be converted into a residential use upon approval of such as a special exception use by the Zoning Hearing Board subject to the criteria set forth in Section 1510 of this Ordinance and also subject to the following supplemental requirements:

- A. In an R-1 Zone, a ratio of one (1) dwelling unit for every eight thousand (8,000) square feet of lot area, provided that not more than two (2) dwelling units shall be created in the conversion of any such building.
- B. In an R-1A Zone, a ratio of one (1) dwelling unit for every seven thousand (7,000) square feet of lot area, provided that not more than two (2) dwelling units shall be created in the conversion of any such building.
- C. In an R-2 Zone, a ratio of one (1) dwelling unit for every six thousand (6,000) square feet of lot area, provided that not more than two (2) dwelling units shall be created in the conversion of any such building.
- D. In an R-3 Zone, a ratio of one (1) dwelling unit for every six thousand (6,000) square feet of lot area, provided that not more than three (3) dwelling units shall be created in the conversion of any such building.
- E. All other applicable requirements of this Ordinance are met, including but not limited to, the provision of one (1) off-street parking space for each dwelling unit created.

SECTION 320 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 321 PROHIBITION OF AUTOMOTIVE AND BOAT SALES IN A PUBLIC RIGHT-OF-WAY

It shall be expressly prohibited to use any street, road or public right-of-way to display and/or offer any motor vehicle and/or boat intended for sale.

SECTION 322 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed 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 323 SOIL EROSION AND SEDIMENTATION CONTROL PLAN

Zoning approval for any proposed use and/or development of a property that requires a Soil Erosion and Sedimentation Control Plan shall be conditioned upon the applicant’s the submission, approval and implementation of an approved Soil Erosion and

Sedimentation Control Plan.

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet shall be required to prepare and implement a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent addition of the Department of Environmental Protection Erosion and Sedimentation Control Manual.

For stormwater discharges from construction activities, for any proposed development that will disturb between one (1) and up to five (5) acres of land over the life of the project, and has a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Luzerne County Conservation District. No zoning permit for development shall be issued by the Borough until written notification is received from the Luzerne County Conservation District verifying compliance in securing the NPDES Permit.

Any proposed use or development of a property which includes any form of earth disturbance, including the use of fill that is located within fifty (50) feet of Harveys Lake or within one hundred (100) feet of any other body of water or watercourse shall be subject to the submission of a Soil Erosion and Sedimentation Control Plan to the Luzerne County Conservation District and approval of said Plan by said agency.

SECTION 324 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception 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 special exception as contained in Section 1510.2 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.

ARTICLE 4 ZONING MAP AND ZONING DISTRICTS
--

SECTION 401 OFFICIAL ZONING MAP

Harveys Lake Borough 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 applicable provisions contained within Article 14 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 Harveys Lake Borough Board of Supervisors.

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 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) In accordance with Section 310 of this Ordinance, if a Zoning District boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing eighty-five (85%) 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 fifteen (15%) percent or less of the lot so divided, subject to the lot of record not being greater than two (2) acres. It shall be the property owner's responsibility to provide documentation to the Zoning Officer to

substantiate the location and area of land of the applicable Zoning Districts for the subject property.

- (D) If the guidelines within this Section 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, Harveys Lake Borough is hereby divided into Zoning Districts as designated below:

- R-1 SINGLE FAMILY RESIDENTIAL DISTRICT
(Minimum Lot Size 15,000 Square Feet)
- R-1A SINGLE FAMILY RESIDENTIAL DISTRICT
(Minimum Lot Size 8,000 Square Feet)
- R-2 TWO FAMILY RESIDENTIAL DISTRICT
- R-3 MULTIFAMILY RESIDENTIAL DISTRICT
- S-1R SPECIAL RESIDENTIAL DISTRICT
- C-1 NEIGHBORHOOD COMMERCIAL DISTRICT
- C-2 HIGHWAY COMMERCIAL DISTRICT
- C-3 RECREATIONAL COMMERCIAL DISTRICT
- S-1 SHORELINE DISTRICT
- M-1 MANUFACTURING DISTRICT
- PRD PLANNED RESIDENTIAL DISTRICT

ARTICLE 5
ZONING DISTRICT REGULATIONS

SECTION 501 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

501.1 PERMITTED USES

- Single-family Detached Dwellings
- Forestry

No Impact Home-Based Business
Essential Public Utilities Facilities (excluding storage yards)
Accessory Uses to the Above

501.2 USES PERMITTED BY SPECIAL EXCEPTION

Day Care Homes
Home Occupations
Group Residence
Outdoor Wood-Fire Boilers
Place of Worship
Public Recreational Facilities
Public Uses
Quasi-Public Use
Accessory Uses to the Above

501.3 CONDITIONAL USES (SEE ARTICLE 7)

Small Wind Energy Conversion System

501.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, or use shall be located upon a lot having a minimum lot area of not less than:
1. Fifteen Thousand (15,000) square feet when serviced by central sewers.
 2. One (1) acre per dwelling unit when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.
- B. Minimum Lot Width: One hundred (100) feet
- C. Front Yard: The minimum front yard shall be not less than thirty (30') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than forty (40') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than fifteen (15') feet on each side.
- F. Lot Coverage: Not more than twenty (20%) percent of the lot area shall be covered with buildings or structures.

- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.
- H. Maximum Residential Density: Fifteen thousand (15,000) square feet per dwelling unit.

501.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 502 R-1A SINGLE FAMILY RESIDENTIAL DISTRICT

502.1 PERMITTED USES

Single-family Detached Dwellings
Forestry
No Impact Home-Based Business
Essential Public Utilities Facilities (excluding storage yards)
Accessory Uses to the Above

502.2 USES PERMITTED BY SPECIAL EXCEPTION

Day Care Homes
Home Occupations
Group Residence
Outdoor Wood-Fire Boilers
Place of Worship
Public Recreational Facilities
Public Uses
Quasi-Public Use
Accessory Uses to the Above

502.3 CONDITIONAL USES (SEE ARTICLE 7)

Planned Residential Development
Small Wind Energy Conversion System

502.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use which shall be connected to central sewers shall be located upon a lot having a minimum lot area of not less than:
 - 1. Eight Thousand (8,000) square feet when serviced by central sewers.
 - 2. One (1) acre per dwelling unit when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.
- B. Minimum Lot Width: Eighty (80') feet
- C. Front Yard: The minimum front yard shall be not less than twenty-five (25') feet in depth as measured from the front lot line.

- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than thirty (30') feet, with not less than twelve (12') feet on any given side.
- F. Lot Coverage: Not more than twenty-five (25%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.
- H. Maximum Residential Density: Eight thousand (8,000) square feet per dwelling unit.

502.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 503 R-2 TWO FAMILY RESIDENTIAL DISTRICT

503.1 PERMITTED USES

Single-Family Detached Dwellings
Forestry
Two Family Dwellings
No Impact Home-Based Business
Essential Public Utilities Facilities (excluding storage yards)
Accessory Uses to the Above

503.2 USES PERMITTED BY SPECIAL EXCEPTION

Day Care Homes
Home Occupations
Group Residence
Outdoor Wood-Fire Boilers
Place of Worship
Public Recreational Facilities
Public Uses
Quasi-Public Use
Accessory Uses to the Above

503.3 CONDITIONAL USES (SEE ARTICLE 7)

Small Wind Energy Conversion System

503.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use which shall be connected to central sewers shall be located upon a lot having a minimum lot area of not less than:
 - 1. Six Thousand (6,000) square feet when serviced by central sewers.
 - 2. One (1) acre per dwelling unit when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.
- B. Minimum Lot Width: Sixty (60') feet
- C. Front Yard: The minimum front yard shall be not less than twenty-five (25') feet in depth as measured from the front lot line.

- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than fifteen (15') feet, with not less than seven (7') feet on any given side.
- F. Lot Coverage: Not more than twenty-five (25%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.
- H. Maximum Residential Density: Six thousand (6,000) square feet per dwelling unit.

503.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 504 R-3 MULTIFAMILY RESIDENTIAL DISTRICT

504.1 PERMITTED USES

Single-Family Detached Dwellings
Forestry
Two Family Dwellings
No Impact Home-Based Business
Essential Public Utilities Facilities (excluding storage yards)
Accessory Uses to the Above

504.2 USES PERMITTED BY SPECIAL EXCEPTION

Club/Private Lodge
Day Care Homes
Group Residence
Home Occupations
Multiple Dwellings (Land Development Approval may also be required)
Outdoor Wood-Fire Boilers
Place of Worship
Public Recreational Facilities
Public Uses
Quasi-Public Use
Townhouses (Land Development Approval may also be required)
Accessory Uses to the Above

504.3 CONDITIONAL USES

Small Wind Energy Conversion System

504.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use which shall be connected to central sewers shall be located upon a lot having a minimum lot area of not less than:
1. Four Thousand (4,000) square feet when serviced by central sewers.
 2. One (1) acre per dwelling unit when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.
- B. Minimum Lot Width: Sixty (60') feet

- C. Front Yard: The minimum front yard shall be not less than twenty-five (25') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than fifteen (15') feet, with not less than seven (7') feet on any given side.
- F. Lot Coverage: Not more than thirty (30%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.
- H. Maximum Residential Density: Four thousand (4,000) square feet per dwelling unit.

504.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 505 S-1R SPECIAL RESIDENTIAL DISTRICT

505.1 PERMITTED USES

Single-Family Detached Dwellings
Forestry
No Impact Home-Based Business
Public Recreational Facilities
Essential Public Utilities Facilities (excluding storage yards)
Accessory Uses to the Above

505.2 USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 8)

Cemeteries
Day Care Homes
Home Occupations
Outdoor Wood-Fire Boilers
Place of Worship
Private Recreational Facilities
Public Uses
Quasi-Public Uses
Townhouses (Land Development Approval may be required)
Accessory Uses to the Above

505.3 CONDITIONAL USES

Small Wind Energy Conversion System
Planned Residential Development

505.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to state regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use shall have a lot area of not less than one (1) acre.
- B. Minimum Lot Width: One Hundred and Fifty (150') feet
- C. Front Yard: The minimum front yard shall be not less than thirty-five (35') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than fifty (50') feet in depth as measured from the rear lot line.
- E. Side Yard: The combined side yards shall be not less than thirty (30') feet, with not less than twelve (12') feet on any given side.

- F. Lot Coverage: Not more than twenty-five (25%) percent of the lot area shall be covered with buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.
- H. Maximum Residential Density: One (1) acre per dwelling unit.

505.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 506 S-1 SHORELINE DISTRICT:

The purposes of the Shoreline District regulations shall be to protect the lakefronts and the shorelines of the Borough of Harveys Lake and to maintain safe, healthful conditions and to prevent and control water pollution and to control building sites and the placement of structures and to preserve shore cover and natural beauty. The use of land and water, the size, type and location of structures on lots, the installation of waste disposal facilities, the filling, grading, and dredging of any land and the cutting of shoreline vegetation shall be in full compliance with this section, other provisions of this Ordinance and other applicable ordinances and regulations.

- A. Site plan: The use, development and/or improvements to any property located in the S-1 District shall require the submission of a Site Plan, as defined in this Ordinance. Said Site Plan shall be submitted with and shall be deemed to be part of the required Zoning Permit Application for the proposed use, development and/or improvements of the subject property. The required topography for property in the S-1 District shall be based on two (2) foot contour intervals.
- B. General standards: In addition to the standards set forth throughout this Ordinance, the following standards shall apply to the use, development and/or improvements of properties located within the S-1 District:
- (1) The use, development and/or improvements of any property which extends into the water shall require the submission and approval of the appropriate Water Encroachment Permit under the jurisdiction of the Pennsylvania Department of Environmental Protection. Documentation of said approval shall be submitted with the Zoning Permit Application for the subject property.
 - (2) The use, development and/or improvements of any property shall require the submission and approval of Soils Erosion and Sedimentation Control Plan by the Luzerne County Conservation District. Documentation of said approval shall be submitted with the Zoning Permit Application for the subject property.
 - (3) Water supply and sewage disposal facilities may be provided for any use, development and/or improvements in the S-1 District that does not include a dwelling unit
 - (4) Water supply and sewage disposal facilities shall be required for any use, development and/or improvements that include a dwelling unit.
 - (5) Not more than one (1) dwelling unit shall be permit upon a lot, property and/or parcel of land located within the S-1 District.

(4) All parking, loading or similar areas shall be paved and/or constructed with permeable materials.

(5) Lighting devices shall be oriented so as to minimize disturbances on surrounding properties.

506.1 PERMITTED USES:

Boathouse

Boat Storage, Noncommercial

Dwelling Unit, as defined in Article 2 of this Ordinance

Private and Public Beaches

Private and Public Docks

Off-street accessory parking - Zoning approval shall subject to securing a Highway Occupancy Permit from PennDOT.

506.2 USES PERMITTED BY SPECIAL EXCEPTION:

NONE

506.3 CONDITIONAL USES

NONE

506.4 DIMENSIONAL REGULATIONS:

A. Minimum Lot Area: NONE

B. Minimum Shoreline Frontage: Fifty (50') feet

C. Front Yard: Ten (10') feet from the public right-of-way

D. Rear Yard: Zero (0') feet to the Shoreline

E. Side Yard: (Extending into the Lake) No part of any dock, boathouse, structure and/or other improvement extending beyond the shoreline shall be less than ten (10') feet to the extended side yard property line of the lot or parcel based upon the shoreline frontage of the subject property.

F. Side Yard: (Not extending into the Lake) the side yard shall be not less than ten (10') feet on each side.

B. Maximum Lot Coverage and/or Development/Improvements

The maximum amount of lot coverage and/or development/improvements to a property within the S-1 District shall be based upon the Site Plan based upon the following calculations:

1. Determine area of land in square feet, not extending beyond the shoreline of a property, or beyond its existing front yard and side yard property boundaries.
2. Determine the square feet of surface water extending fifty (50') feet beyond the shoreline frontage of the property with the subject calculations based upon the length of the shoreline frontage multiplied by a distance fifty (50') feet beyond the shoreline.

The sum of the above areas of square feet determined under Item 1 and Item 2 multiplied by .60 shall represent the maximum square feet of lot coverage and/or development/improvements to a property that may be constructed on land and/or extending into and over the water. An illustrated example of the above regulations can be found on Page 5-14.

C. Height Regulations:

- (1) The deck of a dock, boathouse or any other structure shall have an elevation that shall not exceed an elevation which is four (4) feet higher than the elevation of spillway at the outlet dam which is 1253.40 feet. A determination of compliance for the above item shall require the applicant to submit a certified shoreline elevation sealed by a Licensed Professional Land Surveyor.
- (2) The maximum height of a boat house, dwelling unit or any other structure as measured from the highest point of the deck of the dock shall not exceed twelve (12) feet. (Refer to Building Height definition under Section 203 for more information).
- (3) A boathouse shall extend a minimum of ten (10) feet into the water to accommodate watercraft.

506.5 SUPPLEMENTARY REGULATIONS:

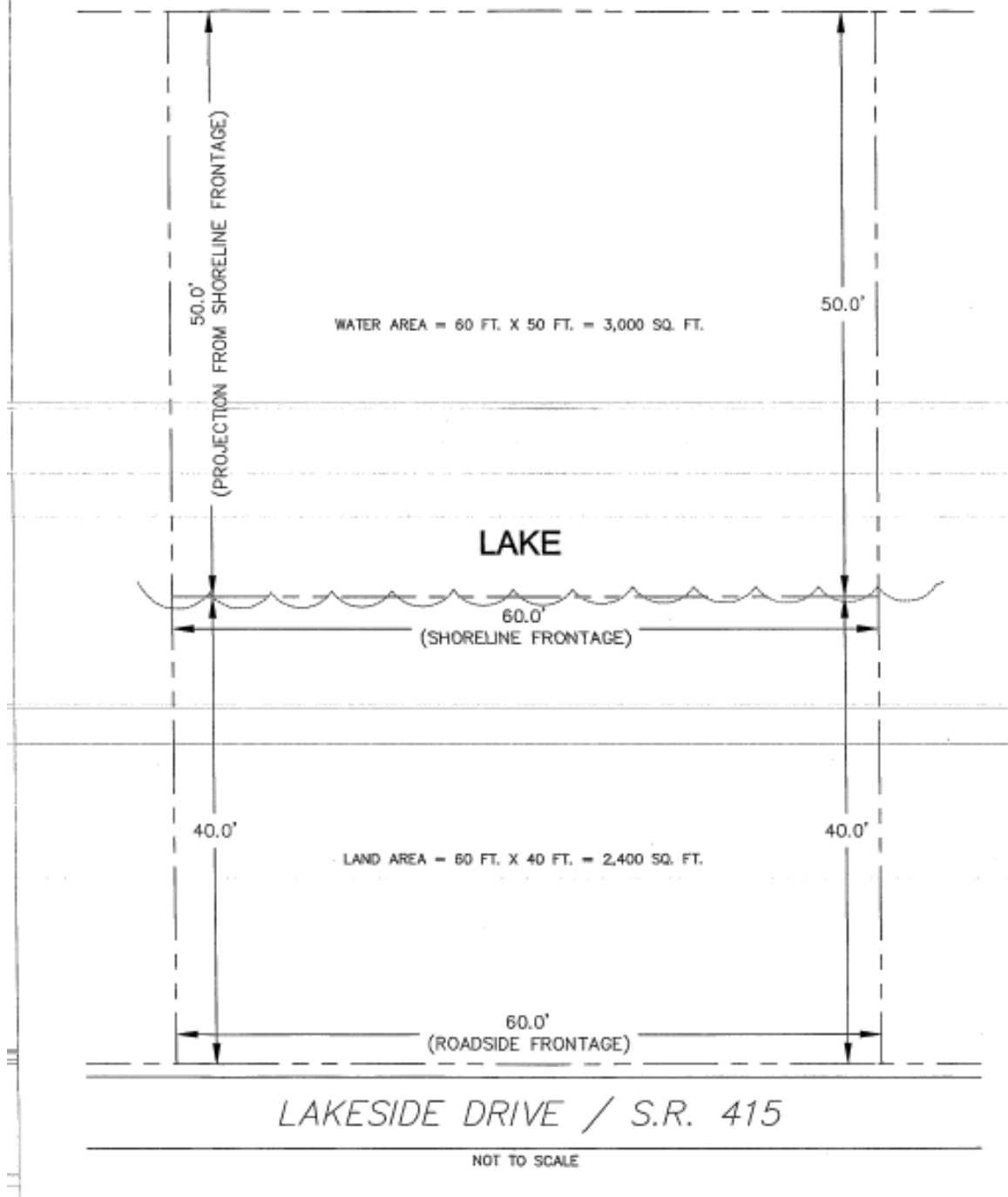
- A. Maximum Dock Width: The width of the property, less the required side yard setback of ten (10') feet on each side from the extended side yard property line of the lot or parcel based upon the shoreline frontage of the subject property.
- B. Maximum Dock Length: Fifty (50') feet, but not to exceed twenty (20%) percent of the distance to the nearest point on the opposite shore. A determination of compliance may, at the discretion of the Zoning Officer,

require the submission certification of the distance of a proposed dock to the nearest point on the opposite shore by a Licensed Professional Land Surveyor

- C. Required Off-Street Parking: The use, development and/or improvements of any property, based upon the definitions of the above terms as set forth in Article 2 of this Ordinance, shall require a minimum of two (2) off-street parking spaces. An approved Highway Occupancy Permit from PennDOT must be submitted with the required Site Plan and Zoning Permit Application.

SAMPLE DRAWING FOR SECTION 506.4(G)

LAND AREA (2,400 SQ. FT.) + WATER AREA (3,000 SQ. FT.) = 5,400 SQ. FT.
5,400 SQ. FT. X 0.60 (MAX. LOT COVERAGE) = 3,240 SQ. FT. OF COMBINED LOT COVERAGE OVER LAND AND/OR WATER



SECTION 507 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

507.1 PERMITTED USES

A. RETAIL BUSINESS, INCLUDING BUT NOT LIMITED TO THE SALE OF:

Artist, Music and Hobby Supplies
Automotive Supplies
Building, Lumber or Plumbing Supplies
Clothing and Clothing Accessories
Commercial Communication Antenna; Co-Location
Convenience Stores
Dry Goods
Food
Forestry
Furniture or Office Supplies and Equipment
Garden Supplies
Hardware, Paint
Household Goods and Appliances
Newspapers, Books and Stationery
Pharmaceutical products
Sporting Goods
Variety Goods

B. SERVICE-ORIENTED BUSINESS INCLUDING BUT NOT LIMITED TO:

Day Care Centers
Essential Public Utilities Facilities (excluding storage yards)
Gasoline Service Stations
Health Clubs
Medical Clinics
Personal Services
Professional Offices
Public Uses
Restaurants/Taverns
Service Offices

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING BUT NOT LIMITED TO:

Club/Private Lodge
Commercial Recreational Facilities
Entertainment Facilities
Private Recreational Facilities
Public Recreational Facilities

D. ACCESSORY USES TO ALL USES PERMITTED BY RIGHT:

507.2 USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 8)

Public Uses

Quasi-Public Uses

Communication antennas mounted on an existing public utility transmission tower, a nonresidential building or other nonresidential structure.

Outdoor Wood-Fire Boilers

507.3 CONDITIONAL USES:

Small Wind Energy Conversion System

Commercial Communications Tower and related Equipment

Any use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:

- A. Any use involving the initial or cumulative earth disturbance of 87,120 or more square feet of surface area.
- B. Any use involving the initial or cumulative construction, installation or placement of 20,000 or more square feet of buildings, structures and/or other impervious surface areas.
- C. Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

507.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: None
- B. Minimum Lot Width: None
- C. Front Yard: The minimum front yard shall be not less than twenty (20') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty (20') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than five (5') feet on each side.
- F. Lot Coverage: Not more than seventy-five (75%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two (2) stories or thirty (30') feet.

507.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 508 C-2 HIGHWAY COMMERCIAL DISTRICT

508.1 PERMITTED USES

A. RETAIL BUSINESS, INCLUDING BUT NOT LIMITED TO THE SALE OF:

Artist, Music and Hobby Supplies
Automotive Supplies
Automotive and Boat Sales
Building, Lumber or Plumbing Supplies
Clothing and Clothing Accessories
Commercial Communication Antenna; Co-Location
Convenience Stores, with Gas Sales
Dry Goods
Food
Forestry
Furniture or Office Supplies and Equipment
Garden Supplies
Hardware, Paint
Household Goods and Appliances
Newspapers, Books and Stationery
Pharmaceutical products
Sporting Goods
Variety Goods
Accessory uses to the above

B. SERVICE-ORIENTED BUSINESS INCLUDING BUT NOT LIMITED TO:

Animal Hospital
Banks, Credit Unions and similar uses
Bed and Breakfast Establishments
Convenience Store
Day Care Centers
Essential Public Utilities Facilities (excluding storage yards)
Funeral Homes
Gasoline Service Stations
Health/Recreation Facility
Medical Clinics (excluding methadone treatment facilities)
Personal Services
Professional Offices
Public Uses
Quasi-Public Uses
Restaurants/Taverns
Restaurants (Fast Food)
Service Offices
Accessory uses to the above

C. RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING BUT NOT LIMITED TO:

Club/Private Lodge
Entertainment Facilities
Outdoor Wood-Fire Boilers
Private Recreational Facilities
Public Recreational Facilities
Accessory uses to the above

D. RESIDENTIAL USES

Dwelling over Business
Group Residence
No Impact Home-Based Business
Accessory uses to the above

508.2 USES PERMITTED BY SPECIAL EXCEPTION

Animal Kennel
Boarding House or Rooming House
Car Wash
Communication antennas mounted on an existing public utility transmission tower, a nonresidential building or other nonresidential structure.
Commercial Recreational Facilities
Personal Care Home
Self-Storage Facilities
Accessory uses to the above

508.3 CONDITIONAL USES:

Small Wind Energy Conversion System
Commercial Communications Tower and related Equipment
Mobile Home Parks

Any use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:

- A. Any use involving the initial or cumulative earth disturbance of 87,120 or more square feet of surface area.
- B. Any use involving the initial or cumulative construction, installation or placement of 20,000 or more square feet of buildings, structures and/or other impervious surface areas.

- C. Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

508.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Twenty thousand (20,000) square feet
- B. Minimum Lot Width: One hundred and fifty (150) feet.
- C. Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than ten - (10') feet on each side.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two (2) stories or thirty (30') feet.

508.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 509 C-3 RECREATIONAL COMMERCIAL DISTRICT

509.1 PERMITTED USES

Commercial Recreational Facilities
Essential Public Utilities Facilities (excluding storage yards)
Forestry
Private Recreational Facilities
Public Recreational Facilities
Public Uses
Accessory Uses to the Above

509.2 USES PERMITTED BY SPECIAL EXCEPTION

Establishments engaged in the sale, rental and/or repair of Marine Equipment
Accessory Uses to the Above

509.3 CONDITIONAL USES

Small Wind Energy Conversion System

Any use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:

- A. Any use involving the initial or cumulative earth disturbance of 87,120 or more square feet of surface area.
- B. Any use involving the initial or cumulative construction, installation or placement of 20,000 or more square feet of buildings, structures and/or other impervious surface areas.
- C. Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

509.4 DIMENSIONAL REGULATIONS

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Twenty thousand (20,000) square feet
- B. Minimum Lot Width: One hundred and fifty (150) feet.
- C. Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than twenty-five (25') feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than ten (10') feet on each side.
- F. Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.
- G. Building Height: The maximum height of any building shall not exceed two (2) stories or thirty (30') feet.

509.5 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

SECTION 5010 M-1 MANUFACTURING DISTRICT

5010.1 PERMITTED USES

Automotive and Boat Sales
Commercial Communication Antenna; Co-Location
Contractors' Offices, Shops and Storage Yards (for commercial uses which sell products such as: lumber, building, heating, plumbing, electrical, masonry, fencing and related material
Equipment Sales and Repairs
Forestry
Gasoline Service Stations
Light Industry (as defined in Article 2)
Print Shops
Public Uses
Public Utility Facilities
Repair Garages
Stone or monument works
Television, Radio and Telephone Towers
Warehouse and Distribution Facilities
Warehouse, including Self-Storage Facilities
Accessory Uses to the Above

5010.2 USES PERMITTED BY SPECIAL EXCEPTION (SEE ARTICLE 8)

Communication antennas mounted on an existing public utility transmission tower, a nonresidential building or other nonresidential structure.
Outdoor Storage (as defined in Article 2)
Outdoor Wood-Fire Boilers
Recycling Collection Center

5010.3 CONDITIONAL USES

Small Wind Energy Conversion System
Wind Energy Facility
Methadone Treatment Facility
Sexually Oriented Uses
Commercial Communications Tower and related Equipment
Automotive Wrecking Yard
Junkyard
Any use which includes the use and/or storage of hazardous material
Excavation and Extraction of Minerals
Heavy Industrial Uses (as defined in Article 2)
Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

A. the initial or cumulative earth disturbance which equals or exceeds 87,120 square feet of surface area.

- B. the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

5010.4 DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A Minimum Lot Area: Each principal building, structure or use shall be located upon a lot having a lot area of not less than Twenty Thousand (20,000) square feet.
- B Minimum Lot Width: Each lot shall have a lot width not less than one hundred (100') feet.
- C Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.
- D Rear Yard: The rear yard shall be not less than fifty (50') feet in depth as measured from the rear lot line.
- E Side Yard: The side yard shall be not less than twenty (20') feet on each side.
- F Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered by buildings or structures.
- G Building Height: The maximum height of any building shall not exceed three (3) stories or fifty (50') feet.

5010.5 SUPPLEMENTARY REGULATIONS (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 15. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in Section 1510.2, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Borough and any applicable State and/or Federal regulations.

SECTION 603 SITE PLAN

Uses classified as a special exception that include new construction 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:

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.
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. 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.
8. 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.
9. 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.
10. 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.
11. In cases when a proposed use includes new construction and/or grading of the site, applicant 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.
12. 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.
13. 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.
14. The applicant shall supply any other information required by the Harveys Lake 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 Harveys Lake Borough Council, with the Harveys Lake 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 PROCEDURE FOR SUBMISSION AND DECISIONS

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. 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.
8. 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.
9. 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.
11. In cases when a proposed use includes new construction and/or grading of the site, contours of the site for each five (5) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted the survey and the date of the survey shall be required. As applicable, the applicant shall be required to submit a Soil Erosion and Sedimentation Control Plan for review and approval by the Luzerne County Conservation District.
12. 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.

13. The applicant shall supply any other information required by the Harveys Lake Borough 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 Harveys Lake 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 Harveys Lake Borough 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 15 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 1506(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 as set forth in 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 **CLASSIFIED CONDITIONAL USES**

The following uses/developments are classified as conditional uses within Article 5 of this Ordinance:

Section 501 - R-1, Single Family Residential District

- Small Wind Energy Conversion System

Section 502 - R-1A, Single Family Residential District

- Small Wind Energy Conversion System
- Planned Residential Development

Section 503 - R-2, Two Family Residential District

- Small Wind Energy Conversion System

Section 504 - R-3, Multifamily Residential District

- Small Wind Energy Conversion System

Section 505 - S-1R, Special Residential District

- Small Wind Energy Conversion System
- Planned Residential Development

Section 506 - S-1, Shoreline District

- NONE

Section 507 - C-1, Neighborhood Commercial District

- Small Wind Energy Conversion System
- Commercial Communications Tower and related Equipment
- Any use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:
 - D. Any use involving the initial or cumulative earth disturbance of 87,120 or more square feet of surface area.

- E. Any use involving the initial or cumulative construction, installation or placement of 20,000 or more square feet of buildings, structures and/or other impervious surface areas.
- F. Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

Section 508 - C-2, Highway Commercial District

- Small Wind Energy Conversion System
- Commercial Communications Tower and related Equipment
- Mobile Home Parks
- Any use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:
 - A. Any use involving the initial or cumulative earth disturbance of 87,120 or more square feet of surface area.
 - B. Any use involving the initial or cumulative construction, installation or placement of 20,000 or more square feet of buildings, structures and/or other impervious surface areas.
 - C. Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

Section 509 - C-3, Recreational Commercial District

- Small Wind Energy Conversion System
- Any use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:
 - A. Any use involving the initial or cumulative earth disturbance of 87,120 or more square feet of surface area.
 - B. Any use involving the initial or cumulative construction, installation or placement of 20,000 or more square feet of buildings, structures and/or other impervious surface areas.
 - C. Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

Section 5010 - M-1, Manufacturing District

- Small Wind Energy Conversion System

- Wind Energy Facility
- Methadone Treatment Facility
- Sexually Oriented Uses
- Commercial Communications Tower and related Equipment
- Automotive Wrecking Yard
- Junkyard
- Any use which includes Hazardous material
- Excavation and Extraction of Minerals
- Heavy Industrial Uses (as defined in Article 2)
- Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - A. the initial or cumulative earth disturbance which equals or exceeds 87,120 square feet of surface area.
 - B. the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

SECTION 706 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 Harveys Lake Borough and its environs. An Environmental Impact Statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Ordinance:

706.01. 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.

706.02 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 down stream 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.

706.03 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.

706.04 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.

706.05 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.

706.06 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.

706.07 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.

706.08 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.

706.09 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.

706.10 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.

706.11 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.

706.12 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.

706.13 OTHER GOVERNMENTAL JURISDICTION

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

706.14 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' review of the same shall constitute sufficient basis for the denial of a conditional use permit.

***SUPPLEMENTARY REGULATIONS FOR CERTAIN CONDITIONAL USES.
THESE REGULATIONS ARE IN ADDITION TO THOSE CONTAINED IN
SECTIONS 704 AND SECTION 706 OF THIS ORDINANCE.***

SECTION 707 EXCAVATION AND EXTRACTION OF MINERALS.

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 that 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. Bond, Backfilling and Fees: The applicant shall provide documentation that all applicable State requirements relative to providing a bond that guarantees the restoration and backfilling of any land proposed to be excavated or otherwise disturbed has been secured.

- D. Insurance: That a Certificate of Insurance evidencing that the quarry operator has general liability insurance with limits of \$500,000 per accident and \$1,000,000 in the aggregate for bodily injury and personal injuries, and \$1,000,000 per accident and in the aggregate for property damage, be filed with the Borough Council; said Certificate shall indicate that Harveys Lake Borough is listed as an additional insured on the aforementioned policy for losses arising out of the named insured's operations at the site subject to the excavation and/or extraction of minerals.
- E. Distance Provisions: The perimeter of any excavation under this Section shall comply with the governing provisions of Chapter 77 of the Pennsylvania Code (Noncoal Mining), as amended.
- F. Timing: If blasting is a necessary part of the excavation/extraction process, and approved by the Borough Council, blasting shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time, excluding Saturdays, Sundays and the following holidays:

January 1st
Memorial Day
July 4th
Labor Day
Thanksgiving
Christmas

All blasting shall be in accordance with regulations promulgated by the Pennsylvania Department of Environmental Protection. The applicant shall provide the Borough with not less than a twenty-four (24) hour advance notice.

- G. Location of Processing Equipment: To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than one hundred (100) feet from both the right-of-way of any public street and the boundary of the subject property with any property located in any zoning district that allows a residence as a principal permitted use; unless a lesser distance is approved for either dimension by the Borough Council as part of a conditional use approval decision.
- H. Drainage: All excavations shall be adequately drained with the intent to avoid the formation of stagnant pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the operation. This is not intended to supersede any reclamation plan approved by the Pennsylvania Department of Environmental Protection.
- I. 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.

SECTION 708 WIND ENERGY FACILITY

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. 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.
4. 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 Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
5. A survey map at an appropriate 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. Standard drawings of the wind turbine structure, including the tower, base and footings, drawings of access roads, and including an engineering analysis and certification of the Wind Turbine, showing compliance with the applicable Borough Building Code.
7. The make, model, picture and manufacturer's specifications, including noise decibels. Data pertaining to the Wind Turbine's safety and stability, including safety results from test facilities. The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
8. A completed Environmental Impact Statement in accordance with Section 806 of this Ordinance.

9. A project visibility map, based on a digital elevation model, showing the impact of topography upon visibility of the project from other locations, to a radius of three miles from the center of the project. The scale used shall depict the three-mile radius as no smaller than 6 inches, and the base map used shall be a published topographic map showing man-made features, such as roads and buildings.
10. No fewer than four, and no more than the number of proposed individual wind turbines, plus three color photos, no smaller than 8" by 10", taken from locations within a three-mile radius from the site and to be selected by the Borough Council, and computer-enhanced to simulate the appearance of the as-built site facilities as they would appear from these locations.
11. 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.
12. Copies of all easements, existing and proposed upon the site shall be provided by the by the applicant. Said easements shall be clearly illustrated upon the site plan.
13. Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located, including the name and mailing address of the owners of record.

B. APPROVAL STANDARDS

In addition to all other applicable criteria and requirements for approval of a conditional use as set forth in this Ordinance, the following standards shall apply:

1. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) 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. 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.
3. Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
4. 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.

5. All power transmission lines from a wind turbine to on-site substations shall be underground.
6. Prior to issuance of a building permit, the applicant shall provide the Borough proof of a level of insurance to be determined by the Borough Council in consultation with the Borough's insurer, to cover damage or injury that might result from the failure of a tower or towers of a wind turbine or any other part or parts of the generation and transmission facility. Said insurance must be maintained for the life of the Wind Energy Facility, until such time that all components of the Wind Energy Facility are decommissioned and/or removed.
7. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each Wind Turbine or group of towers and any building, containing emergency contact information, including a local telephone number with 24 hour, 7 days a week coverage.
8. Any Wind Energy Facility found to be unsafe by the local enforcement officer or agent of the Borough shall be repaired by the owner to meet federal, state and local safety standards or removed within six months. If any Wind Energy Facility is not operated for a continuous period of 12 months, the Borough will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the Borough deems the timetable for corrective action as unreasonable, they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of notice from the Borough.
9. The owner of a Wind Energy Facility shall have it inspected at least every two years for structural and operational integrity by a licensed professional engineer, and shall submit a copy of the inspection report to the Borough. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide written to the Borough with a written schedule for the repairs or maintenance.
10. A Wind Energy Facility shall comply with all applicable provision under the Pennsylvania Uniform Construction Code and shall secure a building permit from Harveys Lake Borough.

C. SITING AND INSTALLATION:

A Wind Energy Facility shall:

1. Use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.

2. Combine transmission lines and points of connection to local distribution lines.
3. Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.
4. All wiring between wind turbines and the wind energy facility substation shall be underground.
5. 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. SETBACKS:

1. The minimum setback distance between each wind turbine and overhead utility or transmission lines, other wind turbine, electrical substations, meteorological towers, and public roads shall be equal to no less than 1.1 times the sum of proposed structure height plus the rotor radius.
2. The minimum setback distance for each wind turbine to any property line shall be not less than 1,500 feet.
3. The minimum setback distance for each wind turbine to off-site structures shall be not less than five (5) times the Hub Height, as measured from the center of the Wind Turbine base to the nearest point on the foundation of an off-site structures or 1,500 feet, whichever is greater.
4. All Wind Turbines shall be set back from the nearest public road a distance of not less than 1.1 times the Turbine Height, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine base.
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, determined from the existing power line or telephone line.

E. NUISANCE ISSUES:

1. Individual Wind Turbines shall be located so that the level of noise produced by Wind Turbine operation shall not exceed 50 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. No individual Wind Turbine shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.
3. Reasonable efforts shall be made to preclude shadow flicker to any Building on a Non-participating Landowner's property.

F. ENVIRONMENTAL AND VISUAL:

1. 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.
2. 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.
3. Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines to minimize the visual contrast from any public access.
4. The maximum Turbine Height, as so defined in this Ordinance, shall not exceed 300 feet.
5. Wind Turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas, to the greatest extent feasible.
6. 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.
7. A Wind Turbine shall be set back at least 1,500 feet from any bodies of water including but not limited to lakes, ponds, streams, creeks and rivers. The above setback distance may be altered based upon the findings under Section 706, Environmental Impact Statement of this Ordinance.
8. All reasonable efforts shall be made to avoid development of sites which contain wetlands. Wind turbine shall be set back of not less than 1.1 times the Turbine Height, from identified wetlands and its delineated boundaries. The above setback distance may be altered based upon the findings under Section 806, Environmental Impact Statement of this Ordinance.
9. Wind Energy Facilities 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. DECOMMISSIONING AND RESTORATION REQUIREMENTS

A Wind Energy Facility and all related components necessary for its operation shall be removed from the site upon its cessation of use. The applicant shall include the following information regarding decommissioning and removal of the Wind Energy Facility 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; and
5. The anticipated manner in which the project will be decommissioned and the site restored.
6. The Borough Council shall require the applicant to provide an appropriate and adequate demolition bond for purposes of removing the commercial communications 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.

SECTION 709 SMALL WIND ENERGY CONVERSION SYSTEM ("Small WECS")

A. DESIGN AND INSTALLATION

1. Design Safety Certification

The design of a Small WECS 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 small WECS shall be designed and constructed to be _____ in compliance with pertinent provisions of the Pennsylvania Uniform Construction Code Uniform.

3. Controls and Brakes

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

4. Electrical Components

a. All electrical components of a small WECS shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.

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

c. 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.

d. A Small WECS 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.

e. 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.

f. Anchor points for any guy wires for a small WECS 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 from three to eight feet above the ground.

B. VISUAL APPEARANCE

1. A visual analysis of a small WECS as intended to be installed shall be provided with conditional use. The visual analysis shall include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points.
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 small WECS's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
4. A small WECS 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 small WECS shall be located on a lot with a minimum size of not less than two (2) acres.
2. The maximum turbine height for a small WECS shall be as follows:
 - 65 feet on parcels between two and five acres.
 - 80 feet on parcels of five or more acres.
3. Setback requirements. A small WECS shall not be located closer to a property line than two and a half (2.5) times the turbine height as measure from the center of the base and/or concrete pad to which it is attached.
4. Only one small WECS 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. NUISANCE ISSUES:

1. Audible sound from a Small WECS shall not exceed fifty (50) dBA, as measured at the exterior of any Occupied Building on a Non-participating Landowner's property. Methods for measuring and reporting acoustic emissions from the operations of a Small WECS 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 the Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
2. Reasonable efforts shall be made to preclude shadow flicker to any Occupied Building on a Non-participating Landowner's property.

F. ABANDONMENT

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.

SECTION 710 JUNKYARDS 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, oil, antifreeze, transmission fluid and/or other toxic fluid or

hazardous material shall be drained and/or removed said vehicles and disposed of in a manner consistent with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.

- 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. A storm water drainage plan shall be required.
- H. There shall be no stockpiling of motor vehicles or any junk piled higher than four (4) feet.
- I. Fire lanes of a minimum width of twenty (20) feet in width shall be provided for every forty (40) linear feet of junk, which shall be kept open and unobstructed for proper access for 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 junkyards shall be completely screened from view on all sides by a buffer area as so defined in Article 2 of this Ordinance. The required fence shall be not closer than ten (10) feet to any property line.
- L. Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.
- M. All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin.
- N. 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 4:00 P.M., local time.

SECTION 711 SEXUALLY ORIENTED BUSINESS

No Sexually Oriented Business, as so defined in Article 2 of this Ordinance, shall be located 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 fence, not less than eight (8) feet in height and screened by a variety of evergreen trees which shall be planted not more than six (6) feet apart and being not less than eight (8) feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

SECTION 712 METHADONE TREATMENT FACILITY

- A. A methadone treatment facility shall be located upon a lot having an area of not less than thirty thousand (30,000) square feet, applicable for either new construction or for adaptive reuse of an existing structure.
- B. Any proposed methadone treatment facility shall include with its submission of a zoning permit application, an operational narrative which accurately describes the nature of medical services to be offered and the names of the medical practitioners providing said services. A licensed physician, a MD or a DO, shall be on duty at the facility during the methadone treatment facility's hours of operation
- C. Prior to occupancy, any existing structure proposed for adaptive reuse as a methadone treatment facility shall be brought into compliance with all current building codes and all other applicable Borough, County, State and Federal regulations.
- D. Any methadone treatment facility with direct access and/or frontage along a State Legislative Route shall include with its submission of a zoning permit application, a traffic impact analysis prepared by a professional licensed engineer with expertise in transportation and traffic planning. Such analysis shall address the following:
 1. The number of vehicle trips expected to be generated during an average weekday including both a.m. and p.m. peak hours of adjacent street traffic.
 2. The number and types of vehicles, with an origin or destination at the subject site, the need for which is generated by said use.
 3. The routes, roadways or streets to reach the methadone treatment facility.

4. The impact of the levels-of service at intersections within one half ($1/2$) mile of said methadone treatment facility.
 5. Recommended traffic control devices designed to mitigate any documented adverse impact on adjacent roadways.
- E. Required Off-Street Parking - 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. All off-street parking areas shall be adequately lighted, with a lighting plan included within the submission of the required site plan.

SECTION 713 COMMERCIAL COMMUNICATION ANTENNAS AND TOWER

A. STRUCTURAL INTEGRITY AND SAFETY

1. A commercial antenna and tower for a wireless commercial communication site shall be designed and constructed to meet or exceed all applicable standards of the American National Standards Institute, NSI/EPA-222-E manual, as amended and also to FAA standards for marking and lighting requirements of obstructions to air navigation as set within the most recent edition of Advisory Circular AC 70/7460-1H including any amendments thereto
2. A soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, shall be submitted to document and verify the design specifications of the foundation for the commercial antenna and tower, and anchors for the guy wires, if used.
3. The operational use of a commercial antenna, as so defined within this Ordinance, including those mounted upon a tower or to an existing structure, shall comply with all applicable rules and regulations of the FCC and the FAA. The applicant shall provide written evidence verifying the same.
4. The applicant or owner of a commercial antenna and tower shall provide a design certificate and an operational certificate, prepared by a professional engineer, which certifies compliance with the standards addressed in the above items 1, 2 and 3. The design certificate shall be submitted with the Zoning Application for the proposed commercial antenna and tower. The operational certificate shall include “as-built” drawings and written certification from the applicant’s professional engineer that all applicable regulations have been met.

B. HEIGHT AND SETBACK REQUIREMENTS

1. A commercial antenna and tower shall be setback from any property line to a distance that is not less than one hundred and fifty (150%) percent of the height of the antenna and tower as measured in linear feet.
2. Any building utilized as a component of a commercial enterprise in the collection and/or transmission of telecommunication signals, radio signals, television signals, wireless phone signals or similar signals shall be completely enclosed by a fence, eight (8) feet in height, with such building meeting the setback requirements for the zoning district in which it is located.
3. The applicant shall demonstrate, using technological evidence, that the commercial antenna and tower must be located where it is being proposed and that it represents the minimum height required to function satisfactorily.
4. A commercial antenna and tower shall be designed with excess capacity beyond the initial intended use in order to encourage secondary users to lease the balance of the capacity at reasonable rates. When a new antenna and tower is proposed, the applicant must demonstrate that all alternatives to the construction of a new tower have been exhausted.
5. **All commercial antennas mounted to a tower that equal or exceed one hundred (100) feet in height shall be designed and equipped with FAA approved warning lights.**
6. Up to the height of the tallest nearby trees, the tower shall be a brownish color, whether painted brown or caused by oxidation or otherwise, to lessen its visual impact. Above that height, it shall be designed in both color and structural configuration to be camouflaged with surrounding trees and vegetation in a manner that will minimize its visual impact.
7. A commercial antenna and tower or 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 Harvey Lake Borough with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of the antenna and tower or an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

C. SUPPLEMENTAL STANDARDS AND CRITERIA

1. The applicant shall provide written verification that the proposed commercial antenna and tower complies with all applicable State and Federal standards.
2. The applicant shall demonstrate that the proposed commercial antenna and tower are safe and the surrounding properties will not be negatively affected by tower failure, falling ice or other debris.

3. All towers shall be fitted with anti-climbing devices, as approved by the manufacturers.
4. A commercial antenna and tower shall be designed with excess capacity beyond the initial intended use in order to encourage secondary users to lease the balance of the capacity at reasonable rates. When a new antenna and tower is proposed, the applicant must demonstrate that all alternatives to the construction of a tower have been exhausted.
5. 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.

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 Borough Council shall require the applicant to 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.

ARTICLE 8
SUPPLEMENTAL REGULATIONS

SECTION 801 PURPOSE AND INTENT

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

SECTION 802 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 ANIMAL KENNELS

Animal kennels in which animals are kept, boarded or trained may be either enclosed buildings or a combination of buildings and open runways. If all activities are maintained within a completely enclosed building, no objectionable odors shall be vented outside the building. If open runways are used, the building and runways shall be located not less than one hundred (100) feet from all property lines. Where the property abuts a district having residences as a principal permitted use, the building and runways shall be not less than two hundred (200) feet from such property lines.

802.03 AUTOMOTIVE RELATED ACTIVITIES

- A. Automotive Repairs (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles, motorcycles and boats shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Said buildings shall be equipped with oil containment facilities/equipment which shall prohibit any oil from being discharged upon the ground or into streams, aquifers and/or environment. Refuse and/or waste oil shall be removed from site with disposal required in accordance with governing standards of the Pennsylvania Department of Environmental Protection. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear property line of any district having residences as a principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the automotive repair facility 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 a solid opaque fencing not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

- B. Automotive and Boat Sales: The operation of an automotive sales business shall be solely limited to the property on which zoning approval was granted for said use. It shall be expressly prohibited to display and/or store any vehicles or boats intended for sale within or upon a street, road or public-right-of-way. Where the operation of an automotive sales use abuts on the side or rear property line of any district having residences as a principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the automotive sales facility 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.
- C. Gasoline Service Stations (Also Includes Convenience Stores With Gasoline Sales): When a service station abuts on the rear or side lot line on the side or rear property line of any district with residences as a principal permitted use, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the gasoline service station 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. Unless superseded by a PennDOT Highway Occupancy Permit, 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 and shall not exceed twenty-five (25) feet in width. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty feet from the right-of-way line of the adjoining road. 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. Outside lighting shall be directed away from adjacent properties
- D. Car Wash: Appropriate drainage facilities for washing activities shall be provided. The facility shall be designed with a water reclamation system. The site shall be sufficiently large to accommodate three (3) cars per stall waiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or

solid opaque fencing eight (8) feet in height and well maintained along such boundary. Outdoor trash dumpsters shall be concealed within an area by solid opaque fencing, not less than six (6) feet in height. Outdoor lighting shall be directed away from adjacent properties.

802.04 BANKS

Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Unless superseded by a PennDOT Highway Occupancy Permit, access driveways shall be no more than twenty-five (25) feet in width. Canopies over drive-through areas shall meet all yard setback requirements.

802.05 BED AND BREAKFAST

A Bed and Breakfast shall be within an owner occupied dwelling containing not more than three (3) bed and breakfast units which are rented on a nightly basis for periods of normally not more 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. Two off street parking spaces shall be provided for each rental unit.

802.06 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.

802.07 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 fifty (50) feet from the property line. The cemetery shall be enclosed along all boundaries by a fence, wall or shrubbery, or any combination thereof, at least four (4) feet in height. The interior roads shall have a minimum width of fifteen (15) feet and shall be properly maintained with either gravel or paving.

802.08 CLUB/PRIVATE LODGE

Buildings utilized for such purposes shall not be less than twenty-five (25) feet from any property line. Where such use abuts any R District, the following 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 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 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.

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.

802.9 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 special exception and shall be subject to the following requirements:

- (1) Commercial Communications Antenna shall not be located or permitted on any residential building or structure regardless of the Zoning District in which building or structure is located.
- (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 Harvey Lake Borough 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 Harvey Lake Borough 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 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than 1,000 square feet, shall be located on a tract of land not less than two (2) acres. Supplies stored outdoors shall be neatly arranged and no required yard setback areas shall be used for storage. There shall be a roadway fourteen (14) feet in width provided for every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where such use abuts any R District, the following 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 storage area 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 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.

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.

802.12 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. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time. The minimum area of said play area shall be three-hundred (300) square feet or ten (10) square feet per child, whichever is greater, unless superseded by regulations of any designated State agency of the Commonwealth having jurisdiction over said use by virtue of licensing said facility.

- 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.

802.13 DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments may be permitted provided that such dwelling is occupied by the owner or manager of such business. Said dwelling unit 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 10.

802.14 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. All activities shall be conducted entirely within an enclosed structure. Any structure shall not be less than fifty (50) feet from any boundary of a Residential District. Where such use abuts any R District, the following 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 structures and parking areas 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 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.

802.15 FORESTRY ACTIVITIES (TIMBER HARVESTING)

In order to preserve forests and the environmental and economic benefits that they provide, it is the policy of Harveys Lake 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:

1. 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 Harveys 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.

802.16 FUNERAL HOME

Funeral homes shall accommodate all of the parking areas required as provided in Article 11 of this Ordinance. 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 solid opaque fencing six (6) feet in height. Outside lighting shall be directed away from adjacent properties.

802.17 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 density shall be 15 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.
- P. Unattached accessory structures, such as swimming pools, garages, carports and sheds shall be prohibited in the front yard. Unattached accessory structures located in the side or rear yard shall have five (5) foot side and rear yard setbacks. Attached structures shall have the same setbacks as required for principal structures.

802.18 GROUP RESIDENCE

Any party wishing to establish and/or operate a "Group Residence", in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

- A. The maximum occupancy of a Group Residence shall not exceed eight (8) persons, excluding staff. The occupancy of said Group Residence shall be governed by the standards and requirements as provided for within the most recent housing code standards by the governing code as provided for under the Pennsylvania Uniform Construction Code.
- B. The Group Residence shall be under the jurisdictional and regulatory control of a governmental entity (County, State and/or Federal).
- C. The applicant and/or operator of a Group Residence shall provide written documentation from the applicable governmental entity which certifies said Group Residence complies with the location, supervised services, operation, staffing and management of all applicable standards and regulations of the subject governing program.
- D. The applicable requirements and standards which govern off-street parking for a single family dwelling shall also govern for a Group Residence, however two (2) additional off-street parking spaces shall be provided and if there is any required staffing associated with the management and operation of a Group Residence.

802.19 HOME OCCUPATIONS

A home occupation which is conducted within a dwelling unit or an existing accessory building to the dwelling shall be subject to the following provisions:

- A. The occupation shall be carried on wholly indoors, within the principal building.
- B. There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.
- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. There shall be no repetitive servicing by truck.

- E. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- F. The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than two (2) additional employees.
- G. The floor area devoted to a home occupation, shall be greater than twenty-five (25%) percent of the floor area of the dwelling unit.
- H. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - (2) Three (3) spaces for all other home occupations.

Among the uses that shall not constitute a home occupation are the following; animal hospital; commercial stables kennels; funeral parlors or undertaking establishments; antique shop; restaurants; rooming, boarding, nursing or convalescent homes; health facilities; auto repair shops, and grocery stores.

802.20 INDUSTRIAL ACTIVITIES

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects that are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), 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 agency. All industries are required to supply the Township Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

802.21 MOTELS AND HOTELS

Motel and Hotel uses shall require a minimum lot size of not less than three (3) acres with a lot width of not less than two hundred (200) feet.

- A. The hotel/motel shall be serviced by centralized sewage and centralized water.
- B. There shall be more than ten (10) rooms designed and utilized to accommodate overnight guests.

- C. Fifty (50%) percent or more of the gross floor area shall be devoted to sleeping rooms designed and utilized to accommodate overnight guests.
- D. There may be club rooms, ballrooms, and common dining facilities.
- E. In the case of a corner lot, access drives shall be not less than eighty (80) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

802.22 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 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, banners 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.

802.23 OUTDOOR WOOD-FIRED BOILER:

An Outdoor Wood-Fired Boiler shall require approval as a special exception use as an accessory structure, permitted in all zoning districts, excluding the S-1 District. Outdoor

Wood-Fired Boiler shall only be located within a rear yard of a property. 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.

802.24 OUTDOOR STORAGE (COMMERCIAL)

Outdoor storage, as defined in Article 2, shall be enclosed with a chain link fence eight (8) feet in height. A Soil Erosion and Sedimentation Control Plan and Stormwater Drainage Plan shall be required for all areas of impervious surface to be provided for such storage. A complete listing of all types of machinery, material and items to be stored therein shall be attached to the required Zoning Application. No hazardous substance, as so defined in Article 2 of this Ordinance, shall be permitted upon the site. Where such storage areas abuts on the side or rear property line of any R District, a solid wall or solid opaque fencing eight (8) feet in height, designed to conceal and screen the storage area from adjoining properties, shall be constructed and maintained in good condition along such boundary. In front of the fence or wall there shall also be a landscaped planting strip at least four (4) feet wide, 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. Outside lighting shall be directed away from adjacent properties.

802.25 PLACE OF WORSHIP:

A parking area shall accommodate all parking spaces as required in Article 10 of this Ordinance. Unless superseded by a PennDOT Highway Occupancy Permit, access driveways shall be not greater than twenty-five (25) feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60) feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines.

802.26 PUBLIC RECREATIONAL FACILITIES - (OUTDOORS)

All such facilities shall conform to the following regulations:

- A. No outdoor recreation activity, excluding trails and nature paths, shall be conducted closer than thirty-five (35) feet to any property line.
- B. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

802.27 PUBLIC USES AND QUASI-PUBLIC USES:

Where the parking area abuts the side or rear property lines of an adjoining residential use, a fence being not less than six (6) feet in height along with a landscaped planting strip at least four (4) feet wide, 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. Outside lighting shall be directed away from adjacent properties.

802.28 PUBLIC UTILITY BUILDINGS AND STRUCTURES

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 in relationship to the maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate eight (8) feet in height shall surround the building or structures of such facilities.
- C. Outside lighting shall be directed away from adjacent properties.
- D. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.
- E. 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 shall be required.

802.28 RESTAURANTS AND TAVERNS

Unless superseded by the issuance of a PennDOT 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 from an

intersection, 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. The provision of any outside lighting shall be directed away from adjacent properties.

802.29 RESTAURANT, FAST FOOD

Unless superseded by the issuance of a PennDOT 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 from an intersection, 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. The provision of any outside lighting shall be directed away from adjacent properties. All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes. Lanes shall not cross any principal pedestrian access to the building or site. To avoid internal traffic congestion, the site layout shall provide a minimum queuing distance of 150 feet for vehicles between start of lane order to service window and a minimum queuing distance of fifty (50) feet from start of lane to order.

802.30 RIPARIAN BUFFER:

In all Zoning Districts, a minimum setback of one hundred (100) feet from any Natural Watercourse, (as defined in Article 2) shall be required for any form of development and/or improvements

802.31 SINGLE RESIDENTIAL STRUCTURES, CONTAINING
MULTIFAMILY DWELLING UNITS

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.

802.32 TOWNHOUSES

Townhouses which are not being developed as part of a Planned Residential Development shall be subject to the following provisions.

- A. Minimum lot size for the development of Townhouses shall be two (2) acres.
- 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^{1/2} 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.
- O. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- P. 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.

802.33 WAREHOUSE AND DISTRIBUTION 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. Unless superseded by a PennDOT Highway Occupancy Permit, access drives shall not exceed twenty-five (25) feet in width; parking and loading areas shall conform to the regulations of Article 11 of this Ordinance. No warehouse activities, including parking and/or loading areas, shall be allowed within fifty (50) feet of any property line.

802.34 WAREHOUSE (SELF-STORAGE)

These facilities may be 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.

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 NONCONFORMING LOTS OF RECORD

In any zoning district, structures, both principal and accessory, may be 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.

If two (2) or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Ordinance, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.

SECTION 903 CONTINUATION OF NONCONFORMITY

Any lawful nonconforming use and/or nonconforming structure may be continued except as otherwise provided in this Article, but any nonconforming use and/or structure shall not be enlarged, reconstructed, structurally altered or changed except as permitted by provisions of this Article.

SECTION 904 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a Certificate of Nonconformity where he finds the use or structure, although not in compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

SECTION 905 CHANGES OF NONCONFORMING USES

The Zoning Hearing Board may grant a special exception to allow one (1) nonconforming use to be changed to another nonconforming use, if the Board finds that all of the following provisions will be met:

- A. No structural alterations are made.
- B. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
- C. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
- D. There shall be no increase in the danger of fire or explosion.
- E. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
- F. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.

SECTION 906 ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

The Zoning Hearing Board may grant a special exception for the enlargement of a nonconforming use and/or structure, if the Board finds the following standards will be met:

- A. The enlargement will not replace a conforming use.
- B. The nonconforming structure and/or use, after enlargement, shall comply with the yard and lot coverage requirements applicable to the zoning district in which it is located.
- C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.
- D. Not more than one (1) enlargement of a nonconforming use and/or structure shall be permitted.
- E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same

ownership at the effective date of the adoption of this Ordinance.

- F. The enlargement shall not exceed twenty-five (25%) percent of the gross floor area or land area as it existed at the time the structure or use first became nonconforming.

SECTION 907 RESTORATION OF USE

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 908 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1 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.

908.2 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.

908.3 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 abandoned, if it is changed as set forth in Section 908.2 of this

Ordinance or if it is discontinued for a continuous period of one (1) year and the owner of said property fails to obtain a Certificate of Intention in accordance with Section 909 of this Ordinance which indicates his or her intent to resume the nonconforming use.

908.4 NONCONFORMING MOBILE HOMES

The removal of a mobile home as a nonconforming use upon a property with the intent to replace it with another mobile home may be permitted in accordance with the following standards:

1. The property owner shall provide the Zoning Officer with written notice of his intent to replace the structure and the date on which the current mobile home will be removed from the lot.
2. The placement of the new mobile home upon the lot shall be in conformance with all applicable setback requirements and area requirements for zoning district in which it is located.
3. A new mobile home shall be located upon the lot and connected with all utilities, including sewage, and ready for occupancy within one hundred and eighty (180) days from the date on previous mobile home was removed.

The removal of a mobile home as a conforming use upon a property with the intent to replace it with another mobile home shall be in conformance with all applicable setback requirements and area requirements for zoning district in which it is located.

908.5 UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs and 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.

SECTION 909 CERTIFICATE OF INTENTION FOR A NONCONFORMING USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume.

A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property.

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.

SECTION 1003 DIMENSIONS AND DESIGN

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

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

SECTION 1004 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 1005 ACCESS TO OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10) feet in width for residential uses and not less than twenty (20) feet, or greater than thirty (30) feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35) feet from the intersection of streets, as measured along the right-of-way lines, unless a greater distance is required for a specific use as contained within Article 8, Supplemental Regulations.

SECTION 1006 LOCATION OF OFF-STREET PARKING AREAS

The required off-street parking spaces for any type of use shall be located on the same lot as the principal use to which it is accessory. The required off-street parking may be permitted on another lot subject to the following requirements:

- 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.
- C. The lot to be used for off-street parking shall be not less than four hundred (400) feet to any lot line on which the principal structure is located.

SECTION 1007 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Any off-street parking area 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. The design, location and material

for any proposed catch basins may be referred to the Township Engineer for review and approval.

SECTION 1008 SCREENING AND LANDSCAPING

A. SIDEYARDS AND REAR YARDS

The side and rear yards areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than five (5) feet in depth, containing ornamental grass, shrubbery, plants and/or a similar vegetative cover that are a minimum of three (3) feet in height at the time of planting.
2. Such borders shall also be screened by a solid opaque fence, six (6) feet in height, or in lieu of a fence, an evergreen hedge not less than five (5) feet in height at the time of planting with a spacing distance of not greater than four (4) feet between each planting.

B. FRONT YARDS

The front yards areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

1. A planting strip not less than ten (10) feet in depth shall be provided between the parking areas and the abutting street right-of-way except for the location of access drives to the property. Said planting strip shall contain ornamental grass, shrubbery, plants or a similar vegetative cover.
2. Said planting strip shall also contain one (1) shade tree for each forty (40) linear feet of planting strip. Said trees shall be not less than eight (8) feet in height at the time of planting.

C. INTERIOR LANDSCAPING

Off-street parking areas that contain twenty (20) or more parking spaces, in addition to the compliance with regulations contained under items A and B of this Section, shall provide interior landscaping to said parking area. Said landscaping shall be not less than five (5%) percent of the total area that is paved and utilized for parking and or loading. Interior landscaped areas shall contain ornamental grass, shrubbery, plants or a similar vegetative cover and a minimum of one (1) shade tree not less than eight (8') feet in height at the time

of planting.

SECTION 1009 LIGHTING

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

SECTION 1010 DRIVEWAYS

- A. Residential: All driveways shall have a minimum setback distance of ten (10) feet to any sideyard or rear yard property line. Townhouses, with exception of end units, shall be excluded from this provision.
- B. Nonresidential Uses: All driveways shall have a minimum setback distance of fifteen (15) feet to any sideyard or rear yard property line.

SECTION 1011 PARKING IN YARD AREAS

Required parking for residential properties shall be permitted within the required front, rear and/or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than ten (10) feet to the nearest point of a side yard or rear yard property line and not less than fifteen (15) feet from the front yard property line.

Any off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of fifteen (15) feet from the rear yard and any side yard property line.

SECTION 1012 EXISTING STRUCTURES AND USES

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 changed, 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 required in this Ordinance.

SECTION 1013 CHANGES OF STRUCTURES OR USES

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 1014 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half ($\frac{1}{2}$) shall be disregarded and any fraction equal to or greater than one-half ($\frac{1}{2}$) shall be construed to require a full space.

SECTION 1015 MULTIPLE ACTIVITIES OR USES

In any instance where a nonresidential structure, building or use of land contains more than one (1) defined use, the required parking for each specific use shall be provided.

SECTION 1016 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:

1. Residential Structure: Two (2) spaces for each dwelling unit.
2. Boarding House or Rooming House: Two (2) spaces for each guestroom.
3. Personal Care Facility: Two (2) spaces for each person residing therein based upon the maximum number persons permitted under its State license.
4. 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 twelve (12) feet of bench length.
5. 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 floor area when there is no fixed seating.
6. Schools, Elementary and Secondary: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
7. Day Care Facility: One (1) space for each employee, plus one (1) space for every five (5) persons, based upon the maximum number of persons which the facility is licensed to serve.
8. Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner, plus one for each staff member.
9. Methadone Treatment Facility: Twelve (12) spaces for every doctor, licensed medical practitioner, and/or counselor; employed at the facility, plus one (1) additional space for every one hundred (100) square feet of gross floor area.
10. Clubs/Lodges (Private): One (1) space for every one hundred (100) square feet of gross floor area.

11. Public Uses: One (1) space for every two hundred (200) square feet of gross floor area, excluding storage area for vehicles and/or equipment.
12. Public Utility Facilities: Two spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) space for each employee assigned to work at such facility.
13. Outdoor Recreational Facilities: 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 two thousand (2,000) 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.
14. Retail Businesses: One (1) space for every two hundred (200) square feet of gross floor area.
15. Restaurants and Taverns: One (1) space for every two and one half (2^{1/2}) seats, plus two (2) spaces for every three (3) employees based upon the maximum working shift.
16. Fast Food Restaurants: One (1) space for every eighty (80) square of service or dining area. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide stacking spaces for the drive-through window services in conformance with Section 802.29 of this Ordinance.
17. Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area.
18. Animal Hospital: Five (5) spaces for every veterinarian.
19. Animal Kennel: One (1) space for each kennel and three (3) additional spaces for staff.
20. Group Residence: One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
21. Offices: One (1) space for every two hundred (200) square feet of gross floor area.
22. Funeral Homes: Twenty (20) spaces for each viewing parlor.

23. 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.
24. 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.
25. Automotive and Boat Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet of open sales or display area.
26. Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
27. Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
28. Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every two hundred (200) square feet of gross floor area.
29. 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.
30. Hospitals/Nursing Homes: 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.
31. Industrial, Manufacturing, Wholesale and Warehouse Establishments and/or Facilities: One (1) space for every five hundred (500) square feet of gross floor area; plus one (1) space for each employee on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.
32. Sexually Oriented Businesses
 - a. Adult Bookstore: One (1) space for every one hundred (100) square feet of gross floor area, plus two additional (2) spaces for every three (3) employees based upon the maximum working shift.
 - b. Adult 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.

SECTION 1017 PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1016 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 1018 OFF-STREET LOADING REQUIREMENTS

All commercial and industrial establishments shall provide off-street loading, unloading and commercial vehicle storage space adequate for their needs. In no case shall a public right-of-way be used for the loading, unloading or storage of such vehicles.

SECTION 1019 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 commercial facility shall include any business whose operations are open to the general public. 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 or 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, and places of exercise or recreation.

SECTION 1020 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. 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.
2. 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.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9¹/₂) feet.
4. An off-street parking area shall be designed to provide convenient, 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.

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.

SECTION 1021 SIGNAGE FOR HANDICAPPED PARKING

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

SECTION 1022 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 1015 and/or Section 1016 of this Ordinance, 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 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
<u>TOTAL NUMBER OF SPACES</u>	<u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2 PERCENT OF TOTAL

**ARTICLE 11
SIGN REGULATIONS**

SECTION 1101 SIGNS

1101.1 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. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.

- E. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.

- 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. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A sign that displays the name of a subdivision and/or development at an entrance to the site upon which the subdivision or development is located.

- I. 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.
- J. POLITICAL SIGNS: A temporary sign advertising the name of a candidate, a political event and/or a public issue which relates to a political cause and/or policy.

SECTION 1102 CONSTRUCTION TYPES

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 two (2) feet from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than two (2) feet from the building or structure.
- D. ELECTRONIC MESSAGE BOARD SIGN: A sign related to a business or institutional use whose alphabetic, pictographic or symbolic informational content may be changed or altered on a fixed display screen composed of electrically illuminated segments.

SECTION 1103 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-1, C-2, C-3, C-3 and M-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 the C-1, C-2, C-3, C-3 and M-1 Zoning Districts.
- G. BILLBOARD SIGNS: Such signs shall be permitted in an M-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 1104 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 four (4) square feet in area. Such a sign shall be setback not less than ten (10) feet from any property line. The maximum height of an identification sign, if free standing, shall not exceed eight (8) 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: A business sign shall not exceed the square feet of area for the following Zoning Districts:

- C-1 District - Thirty-Two (32) square feet
- C-2 District - Sixty-Four (64)square feet
- C-3 District - Sixty-Four (64)square feet
- M-1 District - One Hundred (100) square feet

In a shopping center or an integrated grouping of commercial or industrial uses which is classified as a "Land Development", in addition to permitting each individual business establishment to display a business sign, one (1) sign shall be permitted on the lot, that indicates the name of the shopping center and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed three hundred (300) square feet in area.

A business sign shall have a minimum front yard setback of not less than twenty-five (25%) percent of the required setback for a principal structure in the zoning district in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.

The maximum height of any business sign shall not exceed twelve (12) feet.

- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) 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 any property line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.

- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A subdivision/development advertising sign shall be considered a temporary real estate sign and shall not exceed thirty-two (32) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be setback not less than thirty-five (35) feet from any property line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed thirty-two (32) square feet in area. The maximum height of such signs shall not exceed twelve (12) feet. An institutional sign shall have a setback of not less than ten (10) feet from any property line.
- F. 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. The maximum height of such signs shall not exceed six (6) feet.
- G. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one (1) double-faced panel shall be permitted on the same structure or standard.
- Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.
 - There shall be a minimum spacing distance of 1,000 feet between all such signs.
 - Such signs shall be setback not less than two-hundred (200) feet from the center line of any public right-of-way for vehicular traffic
 - Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A subdivision/development identification sign shall not exceed ten (10) square feet in area and . Not more than one (1) sign shall be erected at any entrance point to the subdivision/development. Such signs shall be setback not less than ten (10) feet any property line. The maximum height of such signs shall not exceed ten (10) feet.
- I. EVENT SIGN: An event sign shall not exceed six (6) square feet in area. Such

signs shall not be attached to any tree, utility pole or structure or any other location within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled event and shall be removed within fifteen (15) days following the event. An event sign shall have a setback of not less than five (5') feet from any property line. The maximum height of such signs shall not exceed six (6) feet.

- J. **POLITICAL SIGNS.** A political sign shall not exceed six (6) square feet in area, having dimensions of 2 x 3 feet. Such signs shall not be attached to any tree, utility pole or structure and/or any other location within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled election date and shall be removed within fifteen (15) days following the election. A political sign shall have a setback of not less than five (5) feet from any property line. The maximum height of such signs shall not exceed six (6) feet.
- K. **NUMBER OF SIGNS:** Excluding on-site directional and/or informational signs and temporary signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

SECTION 1105 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign that may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Article 5 and for the zoning district in which it is located.

SECTION 1106 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 that 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 or window, the area shall be considered to be that of the smallest rectangle or other shape that 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 ($1/2$) of the circumference by the height of the sign.

SECTION 1107 ILLUMINATED SIGNS

Signs may be illuminated by direct lighting, provided such lighting is shielded so no direct light will shine on abutting properties or the normal line of vision of the public using the streets.

SECTION 1108 MISCELLANEOUS SIGN PROVISIONS

1108.1 CONSTRUCTION SITES

Non-illuminated temporary signs not greater than twenty (20) square feet related to a developer, contractor or subcontractor working at a construction site may be permitted upon the property provided they shall removed within seven (7) days after completion of the construction work and not more than one (1) sign shall be placed on each street frontage of the construction site. Such signs shall not be permitted within any public right-of-way.

1108.2 VEHICLES OR STRUCTURES

Any vehicle or structure to which a sign is affixed 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 shall be considered a Billboard Sign Or Off Premise Advertising Sign.

SECTION 1109 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 1110 PROHIBITED SIGNS

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

- A. Signs that 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.
- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20) feet along the centerline of the right-of-way of such streets from the point of their intersection.
- E. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.
- F. Signs placed, inscribed or supported upon the roof or upon any structure which extends above the eaves of the roof of any building.
- G. Signs on mobile stands which can be moved from place to place.
- H. Signs which emit smoke, visible vapors or particles, sound, or odor.

SECTION 1111 PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign, which equals or exceeds eight (8) square feet in surface area, excluding a temporary sign. Real estate signs and subdivision/land development signs shall be exempt.

**ARTICLE 12
FLOOD PLAIN MANAGEMENT**

SECTION 1201 INTENT

The intent of the regulations set forth in this Article is to:

- A. Promote the general welfare, health, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to the public health by protecting water supplies and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

SECTION 1202 SPECIAL DEFINITIONS

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Article.

1202.01 Accessory Use or Structure

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principle use or structure.

1202.02 Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year and also referred to as the 100 Year Flood.

1202.03 Basement

The lowest level or story of a building which has its floor subgrade (below ground level) on all sides.

1202.04 Completely Dry Space

A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and vapor.

1202.05 Development

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

1202.06 Essentially Dry Space

A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to water.

1202.07 FEMA

The Federal Emergency Management Agency

1202.08 Flood Maps

The most recent map prepared by FEMA, which delineates the special hazard areas and risk premium zones applicable in Harveys Lake Borough.

1202.09 Flood

The temporary inundation of normally dry land.

1202.10 Flood, One Hundred Year

See “Base Flood.”

1202.11 Flood Insurance Study

A study prepared by FEMA, for Harveys Lake Borough which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.

1202.12 Flood Plain, One Hundred Year

The areas specifically identified as being subject to inundation by the Base Flood and/or the One Hundred Year Flood, which can be comprised of a Special Flood Plain Area, a General Flood Plain Area, a Flood Fringe Area and a Floodway as delineated in the Flood Insurance Study and accompanying Flood Insurance Rate Maps.

1202.13 Floodproofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate and/or improved real property, water and sanitary facilities, structures and their contents.

1202.14 Floodway

The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes to this Ordinance, the Floodway shall be capable of accommodating a flood of the One Hundred (100) Year magnitude.

1202.15 Freeboard

A margin of safety, expressed in feet above the flood elevation of a One Hundred-Year Flood.

1202.16 Historic Structure

Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior.

OR

- b. directly by the Secretary of the Interior in states without approved programs.

1202.17 Lowest Floor

The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for the parking of vehicles, building access or incidental storage in an area other than a basement area is not considered the lowest floor of a building, provided, that such space is not designed and built so the structure is in violation of the applicable non-elevation design requirements contained within this Article.

1202.18 Manufactured Home

A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except of minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

1202.19 Manufactured Home Park

A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

1202.20 New Construction

Structure for which the start of construction commenced on or after December 2, 1980, and includes any subsequent improvements thereto.

1202.21 Obstruction

Any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

1202.22 Recreational Vehicle

A vehicle which exhibits the following:

- (a) is built upon a single chassis;
- (b) is 400 square feet or less when measured at the largest horizontal projections;
- (c) is designed to be self-propelled or permanently towable by a light duty truck;
- (d) is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

1202.23 Substantial Damage

Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty (50) percent or more of the fair market value of the structure before the damaged occurred.

1202.24 Substantial Improvement

Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” or the improvement. This term includes structures, which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

SECTION 1203

ABROGATION AND GREATER RESTRICTIONS

The provisions of this Article supersede any other conflicting provisions, which may be in effect in identified Floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict among any of the provisions of this Article and Ordinance, or any other Ordinance of Harveys Lake Borough, the more restrictive shall apply.

SECTION 1204 SEVERABILITY

Should any section or provision contained within this Article be declared invalid by a court of competent jurisdiction, such decisions shall not affect validity of this Ordinance as a whole, or any other part thereof.

SECTION 1205 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the various One Hundred (100) Year Flood District(s), or that land uses permitted within such district(s) will be free from flooding or flood damages. The provisions and regulations contained within this Article shall not create liability on the part of Harveys Lake Borough or any officer or employee thereof for any flood damages that result from reliance on this Article or of any decision lawfully made thereunder.

SECTION 1206 OVERLAY OF FLOOD PLAIN DISTRICTS

The various One Hundred (100) Year Flood Plain Districts within a One Hundred (100) Year Flood Plain shall include all areas which are subject to inundation by waters of a One Hundred (100) Year Flood. The source of delineating the boundaries of the various One Hundred (100) Year Flood Plain Districts shall be based upon the most recent Flood Insurance Study and Flood Maps as prepared by FEMA. The various One Hundred (100) Year Flood Plain Districts shall be deemed an overlay on any existing or hereafter established zones or districts upon Harveys Lake Borough's Official Zoning Map.

SECTION 1207 IDENTIFICATION OF ONE HUNDRED (100) YEAR FLOOD PLAIN DISTRICTS

1207.1 FLOODWAY AREA

The area identified as the "Floodway" in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include the floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

1207.2 FLOOD FRINGE AREA

The remaining portions of the One Hundred (100) Year Flood Plain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

1207.3 SPECIAL FLOOD PLAIN AREA

The areas identified as an AE Zone in the Flood Insurance Study, where one hundred (100) year elevation, as well as the floodway area, if possible. When no other information is available, one hundred (100) year flood elevation shall be determined by using a point on the boundary of the identified floodplain areas which is nearest the construction site in question.

In lieu of the above, the Borough may require the applicant to determine the elevation with hydrologic any hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be only undertaken by professional engineers or others of demonstrated qualifications, who shall certify the technical methods used correctly reflect currently acceptable technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a through technical review by the Borough.

A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood districts which constitutes a “development” in accordance with the definition of said term as provided under section 1202.04 of this Ordinance.

SECTION 1208 CHANGES TO DELINEATED BOUNDARIES

The delineation of a One Hundred (100) Flood Plain as provided for under Section 1207, may be modified by the Harveys Lake Borough Council, subject to approval by FEMA, where studies and/or information documents the need for such revision. Any change shall be subject to compliance with the following:

- A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations.
- B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study of Harveys Lake Borough. Said confirmation from FEMA shall be secured in writing.
- C. All information and documentation provided for under this Article for any proposed modification of the boundaries of a One Hundred (100) Year Flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community and Economic Development.

- D. Prior to the Harveys Lake Borough Council's approval of any proposed modifications of the boundaries of a One Hundred (100) Year Flood Plain, written approval and concurrence of the subject modification from FEMA shall be secured.
- E. Any proposed modification of a boundary of One Hundred (100) Year Flood Plain, shall be governed by the applicable provisions contained in Article 14 of this Ordinance.

SECTION 1209 INITIAL DETERMINATION OF BOUNDARIES

The Zoning Officer, in the course of reviewing proposed developments, shall be responsible for determining the applicable boundaries of One Hundred (100) Year Flood Plain. Any party who wishes to dispute or challenge the determination of the Zoning Officer may appeal such decision to the Harveys Lake Borough Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1210 ALTERATION TO WATERCOURSES

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by Harveys Lake Borough of the party proposing such, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection and FEMA. In addition, Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse. Any party proposing an alteration to a watercourse must provide all necessary documentation to certify that the flood carrying capacity within the watercourse shall be maintained upon the completion of the proposed alteration.

SECTION 1211 FLOODWAY RESTRICTIONS

Within an identified Floodway no encroachment shall be permitted, including fill, new construction, substantial improvements, and other type of development, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of a One Hundred (100) Year Flood. Such analysis shall be performed by a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations. The applicant's engineer shall be required to:

- A. Contact the FEMA Regional Office in Philadelphia to confirm that the proposed methodology and data are consistent with those used in the preparation of the applicable Flood Insurance Study for Harveys Lake Borough. Said confirmation from FEMA shall be secured in writing.
- B. Include with said analysis all necessary information including but not necessarily limited to valley cross sections, plan views, all assumptions and computations, and bridge, culvert, drainage basins and dam data, if applicable.

- C. Provide written certification that the proposed encroachment will not result in any increased flood heights during the occurrence of a One Hundred (100) Year Flood.
- D. In the event that a proposed development or encroachment includes modifications or alterations to the channel of the watercourse, as a means to offset any anticipated rise in the elevation of a base flood, Section 1210, in addition to the provisions of this Section, shall apply.

The above information shall be submitted to the Zoning Officer, the Borough Engineer, FEMA and DEP for review and comment. In addition to receiving a positive review and approval from FEMA the applicant shall be required to secure a Water Obstruction Permit from DEP under Title 25, Chapter 105 of the Pennsylvania Code. No zoning permit shall be issued until the Zoning Officer finds that all applicable requirements have been met.

SECTION 1212 SPECIAL REQUIREMENTS FOR THE SPECIAL FLOOD PLAIN AREA

Within any special floodplain area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point.

Within any Special Floodplain Area or General Floodplain Area, the following provisions shall apply:

- 1. No new construction or development shall be located within the area measured fifty (50) feet landward from the top of bank of any watercourse.
- 2. Any new construction or development, which would cause an increase in 100 year flood heights shall be prohibited within any floodway area.

SECTION 1213 STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS

All buildings and structures which represent new construction and/or substantial improvement shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement. The Zoning Officer shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard prior to the issuance of a zoning permit.

SECTION 1214 ISSUANCE OF BUILDING PERMIT

Prior to the issuance of any building permit, the Code Enforcement Officer or the person so authorized by Harveys Lake Borough to issue building permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage

Facilities Act (1966-537, as amended), the Pennsylvania Dam Safety Act (1937-364, as amended), the United States Clean Water Act, Section 4.33 U.S.C. 1344. No building permit shall be issued until such a determination has been made.

SECTION 1215 FLOODPROOFING

Zoning approval of any proposed use, development and/or substantial improvement, which is located within a One Hundred (100) Year Flood Plain, shall be conditioned upon strict compliance with all applicable floodproofing provisions as contained within the Article, and other applicable codes and ordinances of Harveys Lake Borough including, but not limited to the following standards:

1215.1 RESIDENTIAL

Any new construction or substantial improvement to residential structures located completely or partially within a One Hundred (100) Year Flood Plain shall be designed and constructed to have the lowest floor, including basement, elevated not less than one and one half (1 ½) feet above the corresponding base flood elevation.

1215.2 NONRESIDENTIAL

Any new construction or substantial improvement to nonresidential structures located completely or partially within an identified One Hundred (100) Year Flood Plain shall be designed and constructed to provide:

- A. The lowest floor, including basement, shall be elevated not less than one and one half (1½) feet above the corresponding base flood elevation.

OR

- B. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half (1½) feet above One Hundred Year (100) flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the standards contained in the publication titled "Floodproofing Regulations" published by the U.S. Army Corps of Engineers, dated March 31, 1992, or the most recent revision to said publication. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect, which states that the proposed design and methods of construction are in conformance with the aforementioned standards.

1215.3 ACCESSORY STRUCTURES

Accessory structures to a principal building or use need not be elevated or floodproofed to remain dry, but shall comply, at minimum with the following requirements:

- A. The structure shall not be designed or used for human habitation, but shall be limited to the parking and storage of vehicles, or for the storage of tools, material and equipment related to the principal use or activity.

- B. The gross floor area shall not exceed 750 square feet.
- C. The structure shall have a low damage potential.
- D. The structure shall be located upon the site so as to cause the least obstruction to the flow of floodwaters.
- E. Power lines, wiring and outlets shall be not less than one and one half (1½) feet above the 100 year flood elevation.
- F. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- G. Sanitary facilities are prohibited.
- H. The structure shall be adequately anchored to prevent flotation and movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Design for meeting this requirement must be certified by either a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 - 3. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

1215.4 MANUFACTURED HOMES

Where permitted in accordance with the underlying zoning districts, all manufactured homes and improvements thereto which are located completely or partially within an identified One Hundred (100) Year Flood Plain shall be governed by the following provisions:

- A. Placed upon a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is one and one half (1½) feet or more above the elevation of the One Hundred Year Flood.
- C. Anchored to resist flotation, collapse or lateral movement.

Within any identified floodway, manufactured homes are prohibited.

1215.5 USE OF FILL

If fill is to be used to raise the lowest floor of the structure, including basement, to an elevation of one and one half (1½) feet above the base flood elevation the fill shall:

- A. Extend laterally at least fifteen (15) feet beyond the building line from all points.
- B. Consist only of soil or small rock materials.
- C. Be compacted to provide necessary permeability and resistance to erosion, scouring or settling.
- D. Be no steeper than one (1) vertical foot to two (2) horizontal feet unless substantial data justifying steeper slopes are submitted to, and approved by the Code Enforcement Officer or the person so authorized by Harveys Lake Borough to issue building permits.
- E. Be utilized in a manner and extent to which it does not adversely affect adjacent properties.

1215.6 DRAINAGE FACILITIES

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

SECTION 1216 UTILITIES

1216.1

New and replacement public and private utilities and facilities, such as sanitary sewers, gas lines, electric systems, telephone systems and water systems shall be designed and constructed to minimize or eliminate flood damages.

1216.2

Within any structure the following items shall be either floodproofed or elevated to be not less than one and one half (1 ½) feet above the base flood elevation.

- A. Water heaters of any type.
- B. Furnaces
- C. Air Conditioning and ventilation systems.
- D. Electrical distribution panels.
- E. Similar mechanical equipment or apparatus.

Water supply systems and sanitary sewage systems of structures shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters.

All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

SECTION 1217 CERTIFICATION OF FLOODPROOFING

When floodproofing methods are utilized in accordance with Section 1215 of this Ordinance, a registered professional engineer or architect shall certify in writing that the floodproofing methods utilized are adequate to withstand flood depth, pressures, velocities, impact and uplift forces and other factors associated with a One Hundred (100) Year Flood. The certification shall also indicate the specific elevation in relation to mean sea level to which such structures are floodproofed. In addition to certification of as-built drawings, a certification by an architect or professional engineer shall be required immediately following the completion of construction or substantial improvements, including completion and filing of an Elevation Certificate and/or Floodproofing Certificate as provided by FEMA. This certification must indicate the mean seal level of the lowest floor and/or, as applicable, the mean sea level to which floodproofing measures have been taken. Such certification is required prior to the issuance of an Occupancy Permit by the Zoning Officer, Code Enforcement Officer or the person so authorized by Harveys Lake Borough to issue an Occupancy Permit.

SECTION 1218 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR

Within an identified One Hundred (100) Year Flood Plain, any fully enclosed areas of a structure below the lowest floor shall be limited to unfinished space limited to the parking of vehicles, building access or storage. Such enclosed areas, including new construction and substantial improvements may be located below the base flood elevation subject to the following:

- A. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters.
- B. Provide a minimum of two (2) openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding.
- C. The bottom of the aforementioned openings addressed in item B shall be no higher than one (1) foot above grade with the option of being equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. Provide written certification from a registered professional engineer or architect that the criteria of the above items, (A), (B) and (C) have been met.

In addition to the above, the owner of the property shall record upon the deed of said property, a restriction which limits the use of the fully enclosed areas of a structure below the lowest floor to the parking of vehicles, building access or storage. A copy of said restriction shall be provided to the Zoning Officer.

SECTION 1219 PROHIBITED USES

The development of the following uses, including their construction, expansion, enlargement, and/or substantial improvement, is hereby prohibited in any area of a designated One Hundred (100) Year Flood Plain:

- (1) Manufactured home park;
- (2) Nursing Homes (Public or Private);
- (3) Hospitals and Clinics (public or Private);
- (4) Jails, Prisons, or any similar detention facility.
- (5) On-lot sewage disposal systems, including the encroachment of such a system within fifty (50) feet of any wetlands.

SECTION 1220 REGULATIONS FOR HAZARDOUS MATERIALS

1221.1 Classification

For the purpose of administration, the following materials and substances are hereby deemed and classified as potential hazards when located in a One Hundred (100) Year Flood Plain:

Acetone
Ammonia
Benzene
Calcium carbide
Celluloid
Carbon disulfide
Chlorine
Hydrocyanic acid
Hydrochloric acid
Magnesium
Nitric acid and oxides of nitrogen
Petroleum products (gasoline, fuel, oil, etc.) Phosphorus
Potassium
Sodium
Sulfur and sulfur products
Pesticides (including insecticides, fungicides and rodenticides)
Radioactive substances
Polychlorinated Biphenyl (PCB)
Dioxin

1220.2 Prohibited Uses

The use of any property for the production of or requiring the storage or maintenance of any quantities of radioactive substances, Polychlorinated Biphenyl (PCB) or Dioxin shall be expressly prohibited anywhere within a One Hundred (100) Year Flood Plain.

1220.3 Restrictions in Flood Fringe Area, Special Flood Plain Area and General Flood Plain Area

With the exclusion of Radioactive Substances, Polychlorinated Biphenyl and Dioxin, the use of any property which includes the storage, production or maintenance of a supply of more than 550 gallons or comparable volume of those materials and substances listed in Section 1220.1 of this Article, may be located within a Flood Fringe area, a Special Flood Plain area and General Flood Plain area subject to the use of being permitted in the underlying zoning district and further subject to being elevated or floodproofed to remain completely dry at an elevation of not less than one and one half (1 ½) feet above the base flood elevation.

1220.4 Restrictions for Floodway

The use of any property which includes the storage, production or maintenance of material and substances listed in Section 1220.1 of this Ordinance shall be prohibited in a designated Floodway.

SECTION 1221 IMPROVEMENTS

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Flood Plain Area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction or improvement of any kind to any existing structure which equals or exceeds fifty (50%) percent of its market value, shall constitute a substantial improvement and shall be permitted subject and conditioned upon full compliance will all applicable floodproofing provisions of this Ordinance.

SECTION 1222 VARIANCES

In addition to the criteria contained in Section 1509 of this Ordinance, the following additional standards and criteria shall apply for a request for a variance:

- 1. No variance shall be issued for any proposed development, use and/or activity within any designated floodway which would result in any increase in flood levels during a One Hundred (100) Year Flood.
- 2. No variance shall be issued which would allow for the development, use and/or activity of those specifically prohibited in section 1219, PROHIBITED USES and

Section 1220, REGULATIONS FOR HAZARDOUS MATERIALS of this Ordinance.

3. No variance shall be granted for any construction, development, use or activity within a Special Flood Plain Area that would, together with all other existing and anticipated development, increase the one hundred (100) flood elevation more than one (1) foot at any point.
4. A variance shall authorize the least reduction and/or modification necessary to provide relief in consideration of the flood hazard.
5. A variance shall only be issued upon:
 - A. A showing of good and sufficient cause.
 - B. A determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - C. A determination that granting the variance will not result in a prohibited increase in flood heights, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimize the public or conflict with any local laws or ordinances.

SECTION 1223 MODIFICATION OF FREEBOARD REQUIREMENT
ADMINISTRATIVE PROCEDURES

The Borough shall notify the applicant in writing over the signature of the Chairman or Secretary of the Zoning Hearing Board that:

- A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance that may be up to amounts of twenty-five (\$25.00) dollars or more for each one hundred (\$100.00) dollars of flood insurance coverage.
- B. Such construction below the base flood elevation increases risk to life and property.
- C. The issuance of a variance from the required one and one half (1 ½) feet of freeboard per Section 1215 of this Ordinance, but above the base flood elevation may result in increased premium rates for flood insurance and increased risks to the structure, its contents and occupants.

Such notification shall be maintained with a record of all variances approved and/or considered by the Zoning Hearing Board, including justification for their issuance or denial. Such information shall be placed on file with the Secretary to the Zoning Hearing Board and shall be submitted annually to the Pennsylvania Department of Community and Economic Development and the Harveys Lake Borough Council

ARTICLE 13
ENFORCEMENT AND ADMINISTRATION

SECTION 1301 ZONING OFFICER

1301.1 APPOINTMENT

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

1301.2 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) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- (G) Notify the Zoning Hearing Board and/or the Borough Council of a 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.

- (H) 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.
- (I) 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.

SECTION 1302 ZONING PERMIT

1302.1 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.

1302.2 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.

1302.3 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.

1302.4 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.

1302.5 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.

1302.6 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 1303 ENFORCEMENT PROCEDURES

1303.1 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 Harveys Lake 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 1506 (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.

1303.2 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 Harveys Lake Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or 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 Harveys Lake Borough 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.

1303.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1303.4 of this Ordinance.

1303.4 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 Harveys Lake Borough 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 Harveys Lake Borough 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, Harveys Lake Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the 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 Harveys Lake Borough.

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 Harveys Lake Borough the right to commence any action for enforcement pursuant to this Section.

SECTION 1304 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 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 14
AMENDMENTS**

SECTION 1401 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 1402 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 1401 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 1403 CURATIVE AMENDMENTS

1403.1 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 1506 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

1403.2 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 1404 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 1401 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 1405 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.

ARTICLE 15
ZONING HEARING BOARD

SECTION 1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of three (3) residents of Harveys Lake Borough appointed by the Harveys Lake 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 1502 ALTERNATES TO ZONING HEARING BOARD

The Borough Council may appoint by resolution one resident of Harveys Lake Borough to serve as an alternate member of the Board. When seated pursuant to the provisions of Section 1504 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 1504 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be one (1) year.

SECTION 1503 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 1504 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 1506. 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 Harveys Lake Borough 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 1505 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 1506 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 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 one hundred (100) 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 sideyard 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 Harveys Lake Borough Zoning Hearing Board to provide written notice to property owners which have a common side yard, rear yard or opposite frontage to 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 1304 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 1506(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 1506(A) and written notice of the decision shall be mailed to those parties identified under Section 1506(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 1304.1 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 1507 MEDIATION OPTION

1507.1

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.

1507.2

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 1508 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 1403.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within thirty (30) days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permitted/or building permit or the registration or refusal to register any nonconforming use, structure or lot.
- D. 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.
- E. Applications for variances, pursuant to Section 1509 of this Ordinance.
- F. Applications for special exceptions pursuant to Section 1510 of this 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 storm water management not related to

development which is classified as a subdivision, land development, or a planned residential development.

- H. Applications seeking approval of a use on a temporary basis pursuant to the criteria set forth in Section 318 of this Ordinance.

SECTION 1509 VARIANCES

1509.1 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 1302 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.

1509.2 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 impair 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.

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 1510 SPECIAL EXCEPTIONS

1510.1 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 1302 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.

1510.2 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 Harveys Lake Borough 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 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 1511 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1509 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 1512 TIME LIMITATIONS

1512.1

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.

1512.2

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 1513 STAY OF PROCEEDINGS

1513.1

Upon filing of any proceeding referred to in Section 1508 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.

1513.2

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.

1513.3

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.

1513.4

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.

**ARTICLE 16
PLANNED RESIDENTIAL DEVELOPMENTS**

SECTION 1601 PURPOSE

The provisions of this Article are intended to permit and encourage innovations in residential development through permitting a greater variety, type, design, and layout of dwellings; and by allowing the development of well-planned, higher density, residential neighborhoods or groups of residences on sites larger than normal building lots. To give the site planner maximum freedom, more intensive use of land may be permitted, and the coverage, height, setback and other requirements may be varied under circumstances which will ensure more imaginative use of a building site than can be achieved under the standard regulations of this Ordinance. This provision is intended to encourage a more efficient use of open space, and public services. This development may contain individual single-family to multi-family dwellings, and common property which is planned and developed as a unit.

SECTION 1602 REGULATORY AUTHORITY

Pursuant to Section 702 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, the authority to approve or disapprove applications and plans for a planned residential development is vested with the governing body. The Harveys Lake Borough Council hereby retains such authority. The Borough Council grants Harveys Lake Borough Planning Commission to act in an advisory capacity to review and to provide comment to the Borough Council when considering a Planned Residential Development. Review and comment shall also be required by the Luzerne County Planning Commission under the same procedures applicable to a subdivision and/or land development.

SECTION 1603 USE REGULATIONS

The principal permitted uses shall include:

- A. Single-family Detached Dwellings
- B. Two-family Dwellings
- C. Townhouses
- E. Accessory Uses: Customary accessory uses and buildings to the above shall be permitted in accordance with the applicable provisions of this Ordinance.

SECTION 1603 DENSITY REGULATIONS

The following methodology shall be applicable to determine area requirements within this Article:

A. Gross Area:

All land within a parcel, based upon the existing deed, proposed to be developed as a PRD.

B. Net Area Available for Development:

The Gross Area minus the sum of all environmentally constrained land or other areas as listed below:

flood plains
wetlands that cannot be reasonably incorporated into usable common open space.
natural bodies of water including ponds, creeks, streams or, lakes,
existing public or private street
utility right-of ways, both subsurface and overhead, that cannot be reasonably incorporated into usable common open space.
rock outcrops
slopes which equal or exceed twenty-five (25%) percent,
any other area which contain sensitive environmental features that may not be suitable for development.

C. Net Residential Area:

The “Net Area Available for Development” minus required open space.

D. Common Open Space:

Not less than twenty (20%) percent of “Net Area Available for Development” shall be designated, designed and devoted to common open space for the use and enjoyment of the residents therein.

E. Residential Density:

The permitted maximum residential density for the Net Residential Area of a PRD shall be as follows:

Zoning District	Minimum Lot Area of District	Maximum Density for PRD ¹
R-1A	8,000 square feet	one unit per each 8,000 sq. ft
S-1R	1 acre	one unit per each 20,000 sq. ft

¹ **Maximum density based upon central sewage and a potable water supply provided by a centralized water system; otherwise the maximum density shall be increased to one unit per acre**

SECTION 1604 DIMENSIONAL REGULATIONS

All planned residential developments shall be subject to the following:

- A. Minimum Tract Area: A planned residential development shall have a gross land area of not less than ten (10) acres.
- B. Distance Between Buildings: No buildings or structure, including porches, decks or balconies shall be less than thirty (30') feet to any other building or structure.
- C. Setback Requirements: The minimum front, side and rear setbacks for a Planned Residential Development shall each be not less than fifty (50) feet to the property lines of adjoining properties. A planting strip of not less than twenty (20) feet in width shall be along all property lines at the periphery of the development where necessary to preserve the privacy of neighboring residents.

Land adjacent to a lake, pond, stream, wetlands, or watercourse shall remain as permanent open space for a distance of not less than one hundred (100') feet from the water's edge, unless superseded by more restrictive standards.

- D. Maximum Building Height: No structures within a PRD shall exceed 3 stories, with a maximum height not to exceed forty-five (45) feet.

SECTION 1605 SPECIAL PROVISIONS

OWNERSHIP OF PROPERTY

The tract of land for a PRD may be owned, leased or controlled either by a single person, or corporation or a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in the project. In the case of multiple ownership, the approved plan shall be binding on all owners.

When common property exists, the ownership of such common property may be

either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities including private streets, drives, service and parking areas and recreational and open space areas.

MAINTENANCE OF COMMON PROPERTY

In the event that the organization established to own and maintain the common property, or any successor organization, fails to maintain such property in reasonable order, the Borough Council may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice.

At such hearing, the Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within 30 days or any extension thereof, the Borough, in order to preserve the taxable values of the properties within the development and to prevent the common property from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice to such organization, or to the residents and owners of the development to be held by the Borough, at which hearing such organization or the residents and owners of the development shall show cause why such maintenance by the Town shall not, at the election of the Borough, continue for a succeeding year.

If the Borough shall determine that such organization is ready and able to maintain said common property in a reasonable condition, it shall cease to maintain said common property at the end of said year. If the Borough shall determine such organization is not ready and able to maintain said common property in a reasonable condition, the Borough may at its discretion, continue to maintain said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

The cost of such maintenance by the Borough shall be assessed ratably against the properties within the planned residential development that have a right of enjoyment of the common open space, and shall become a lien on said properties. The municipality at the time of entering upon said common open space for the purpose of maintenance shall file a notice of lien in the office of the prothonotary of the County, upon the properties affected by the lien within the planned residential

development.

The decision of the Borough Council shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals as provided for under the Pennsylvania Municipalities Planning Code, Act 247, as amended

SECTION 1606 DEVELOPMENT REGULATIONS

A Planned Residential Development shall be subject to the following standards and regulations:

- A. Requirements For Improvements and Design: All improvements, including but not limited to, streets, curbing, sidewalks, stormwater detention facilities, drainage facilities, water supply facilities, sewage disposal, street lighting, tree lawns, etc., unless otherwise exempted, shall be designed and constructed in conformance with the standards and requirements of the Harveys Lake Borough Subdivision and Land Development Ordinance.

- B. Sewage Disposal: Disposal of sanitary sewage shall be by means of centralized sewers and shall conform to the design standards of the Harveys Lake Borough Subdivision and Land Development Ordinance. The proposed sewage collection system and treatment facility shall require DEP approval as a prerequisite and/or condition to tentative approval of a development plan.

- C. Water Supply: The water supply shall be off-site system supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the planned residential development in question shall be required. Whichever form is appropriate, shall be considered as acceptable evidence.

SECTION 1607 PHASING OF DEVELOPMENT

A planned residential development may be constructed in phases subject to the following:

- A. The application for tentative approval shall cover the entire area to be developed with a schedule delineating all proposed phases, as well as the dates by which applications for final approval of each phase shall be filed. Such schedule shall be updated annually by the applicant on or before the anniversary date of the approval of the development plan, until all phases are completed and granted final approval by the Borough Council. Any modification in the aforesaid schedule shall be subject to approval of the Borough Council in its discretion.

- B. Not less than fifteen (15%) percent of the total number of dwelling units to be constructed shall be included in the first phase.
- C. The second and any subsequent phases shall be completed in accordance with the tentatively approved plan, with each phase containing not less than fifteen (15%) of the total number of dwelling units.
- D. The Borough Council may impose further conditions upon the filing of any phase of a development plan, as it may deem necessary to assure the orderly development of the plan and/or to protect the public health, safety and welfare.

SECTION 1608 ENFORCEMENT AND MODIFICATION OF PROVISIONS OF PLAN

To further the mutual interest of the residents of the planned residential development and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modifications of the provisions of the development as finally approved, whether those are recorded by plat, covenant, easement or otherwise, shall be subject to the following:

- A. Provisions of the development plan relating to the use, bulk and location of buildings and structures; the quantity and location of common open space, except as otherwise provided herein; and the intensity of use or the density of residential units shall run in favor of the Borough and shall be enforceable in law or in equity by the Borough, without limitation on any powers of regulation otherwise granted the Borough by law.
- B. All provisions of the development plan shall run in favor of the residents of the planned residential development, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan which have been finally approved and have been recorded.
- C. All those provisions of the development plan authorized to be enforced by the Borough under this Section may be modified, removed or released by the Borough, except grants of easements relating to the service or equipment of a public utility, subject to the following conditions:

- (1) No such modification, removal or release of the provisions of the development plan by the Borough shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or in equity, as provided in this Section.
- (2) No modification, removal or release of the provisions of the development plan by the Borough shall be permitted except upon a finding by the Borough Council, following a public hearing pursuant to public notice, called and held in accordance with the provisions of this Section, that the same is consistent with the efficient development and preservation of the entire planned residential development, does not adversely affect either the enjoyment of land abutting upon or across the street from the planned residential development or public interest, and is not granted solely to confer a special benefit upon any person.

D. Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the Borough to enforce the provisions of the development plan in accordance with the provisions of this Section.

SECTION 1609 APPLICATION FOR TENTATIVE APPROVAL

The application for approval, tentative and final, of a planned residential development as provided for by this Ordinance, shall be in lieu of all other procedures or approvals otherwise required by the Zoning Ordinance and Subdivision and Land Development Ordinance of the Borough, except where specifically indicated. The procedures herein described for approval or disapproval of a development plan for a planned residential development and the continuing administration thereof are established in the public interests in order to provide an expeditious method for processing a development plan for a planned residential development and to avoid the delay and uncertainty which would arise if it were necessary to secure approval, by a multiplicity of local procedures, of a plat of subdivision as well as approval of a change in the zoning regulations otherwise applicable to the property. An application for tentative approval shall be consistent with the following:

A. Informal Consultation:

The landowner and Borough Council may consult informally at a public meeting or work session concerning the proposed planned residential development prior to the filing of an application for tentative approval, provided that no statement or representation by a member of the Borough Council shall be binding upon the Borough Council as a whole.

The informal consultation is intended to allow the landowner and Borough officials to exchange comments and discuss issues which may be of particular significance to the site.

B. Application and Fee:

An application for tentative approval shall be filed by or on behalf of the landowner with the Zoning Officer. An application fee of five hundred (\$500.00) dollars, plus seventy-five (\$75.00) dollars per housing unit, based upon total number of proposed housing units, shall be paid upon filing the required application.

C. Relationship to Planning, Zoning and Subdivision:

All planning, zoning and subdivision matters relating to the platting, use and development of the planned residential development and subsequent modifications of the regulations relating thereto, to the extent such modification is vested in the Borough, shall be determined and established by the Borough Council.

D. Required Documentation:

The application for tentative approval shall include documentation illustrating compliance with all of the standards for a planned residential development and, where necessary, the Borough shall order such documentation to aid them in their review.

An original and ten (10) copies of the application shall be submitted along with ten (10) copies of each of the following:

1. An Environmental Impact Statement per Section 706 of this Ordinance
2. Any required study and/or report, prepared as an Impact Analysis, i which may be required at the discretion of the Borough Council. A determination of the need for any such study and/or report may be made at the time of the informal consultation or during the public hearing for consideration of tentative approval of the development plan.
3. A comprehensive traffic study, which provides the projected amount and type of traffic to be generated on streets within the development and the same for all public roads and highways which adjoin and/or provide access to the site, including but not limited to capacity of such roads and highways in relationship to traffic projections.

4. The development plan for the entire site, in addition to all other requirements shall include information and documentation noted herein:
- (a) The location, size and topography of the site and the legal nature of the landowner's interest in the land proposed to be developed.
 - (b) The density of land use to be allocated to parts and/or phases of the site to be developed.
 - (c) The location and size of common open space and the form of organization proposed to own and maintain the common open space.
 - (d) The use and height, bulk and location of buildings and other structures.
 - (e) The means and feasibility of proposals for the disposition of sanitary waste and storm water.
 - (f) The substance of covenants, grants or easement or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.
 - (g) Provisions for parking of vehicles and the location and width of proposed streets and any other form of public right-of-ways, excluding common open space.
 - (h) The required modifications in the Borough land use regulations as contained within the Borough's Zoning Ordinance and Subdivision and Land Development Ordinance, otherwise applicable to the subject property.
 - (i) The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources.
 - (j) In the case of development plans, which call for development over a period of years, a schedule showing the proposed timetable within which applications for final approval of all phases of the planned residential development are intended to be filed. This schedule must be updated annually, on

the anniversary of its approval, until the development is completed and accepted.

- (k) A plan map at a scale of not greater than one (1") inch equals fifty (50') feet, with contours for each two (2') feet change in elevation. A location map shall also be provided 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. The drafting standards applicable for a major subdivision and/or land development, as provided for within the Harveys Lake Borough Subdivision and Land Development Ordinance, shall apply.

E. Statement of Landowner:

The application shall also include a written statement by the landowner setting forth the reasons why, in his opinion, the planned residential development would be in the public interest and consistent with the Comprehensive Plan of the Harveys Lake Borough, including any subject amendments to said Plan.

F. Application and Approval Procedures in Lieu of Others:

The application for tentative and final approval of a development plan for a planned residential development prescribed herein shall be in lieu of all other procedures and approvals required by the Zoning Ordinance and Subdivision and Land Development Ordinance of the Borough, unless otherwise expressly stated.

G. Referrals and Review of Plan:

The application for tentative approval shall be filed with the Zoning Officer, who shall be authorized to accept such applications under the Zoning Ordinance. Copies of the application and tentative plan shall be referred to the agencies and officials as required by the Borough's Subdivision and Land Development Ordinance for their review and comment. Said reports shall be available prior the public hearing.

SECTION 1610 PUBLIC HEARINGS

Within sixty (60) days after the filing of an application for tentative approval of a planned residential development pursuant to this Article, a public hearing pursuant to public notice on said application shall be held by the Borough Council in the manner prescribed in the Ordinance for the enactment of an amendment to the Zoning Ordinance.

The chairman or in his absence, the acting chairman, of the Borough Council, may administer oaths and compel the attendants of witnesses. All testimony by witnesses shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.

A verbatim record of the hearing shall be provided by the Borough Council whenever such records are requested by any party to the proceedings, with the cost of making and transcribing such a record shall be paid by those parties wishing to obtain such copies. All exhibits accepted as evidence shall be properly identified and the reason for any exclusion shall be clearly noted in the record.

The Borough Council may continue the public hearing as required provided that in any event, the public hearing or hearings shall be concluded within sixty (60) days following the date of the first public hearing.

SECTION 1611 FINDINGS

The Borough Council, within sixty (60) days following the conclusion of the public hearing, or within one hundred eighty (180) days after the date of filing the application, whichever occurs first, shall by official written communication to the landowner, either:

- A. Grant tentative approval to the development plan as submitted.
- B. Grant tentative approval subject to specified conditions not included in the development plan as submitted.
- C. Deny the tentative approval to the development plan.

Failure to act within the prescribed time period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Borough Council, notify said Council of his refusal to accept all said conditions, in which case the Borough Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not notify the Borough Council of his refusal to accept all said conditions within thirty (30) days after receiving a copy of the official written communication of the Borough Council, tentative approval of the development plan, with all said conditions, shall stand as granted.

The grant or denial of tentative approval by official written communication shall include not only conclusions, but also findings of fact related to the specific proposal and shall set forth the reasons for the denial, and said communication shall set forth particulars in what respect the development plan would or would not be in the public interest including but not limited to findings of facts and conclusions based upon the following:

- A. Those respects in which the development plan is or is not consistent with the Comprehensive Plan, including any amendments thereto, for the development of the Borough.
- B. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use and the reasons why such departures are or are not deemed to be in the public interest.
- C. The purpose, locations and amount of common open space in the planned residential development, the reliability of the proposals for maintenance and conservation of the common open space and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development.
- D. The physical design of the development plan and the manner in which said design does or does not make adequate provisions for public services, (including but not limited to sewage, water and stormwater runoff) provide adequate control for vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.
- E. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood or area of the Borough in which it is proposed to be established.
- F. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents of the planned residential development in the integrity of the development plan.

In the event a development plan is granted tentative approval, with or without conditions, the Borough Council may set forth in the official written communication, the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part or phase thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than ninety (90) days. In the case of development plans which extend over a period of years, the time between applications for final approval of each part of the plan shall not be less than one (1) year.

SECTION 1612 STATUS OF PLAN AFTER TENTATIVE APPROVAL

The official written communication provided for in this Article shall be certified by the Borough Secretary and filed in his/her office; a certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed as an

amendment to the Zoning Map, effective and so noted upon the Zoning Map upon final approval.

Tentative approval of a development plan shall not qualify a plan of the planned residential development for recording nor authorize development or the issuance of any zoning permit. A development plan, which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Borough pending the application or applications for final approval, without the consent of the landowner, provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the official written communication granting tentative approval.

In the event that a development plan is given tentative approval and thereafter, but prior to the final approval, the landowner shall elect to abandon said development plan and shall so notify the Borough Council in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development for which final approval has not been given shall be subject to those Borough land use ordinances otherwise applicable thereto. The same shall be noted on the Zoning Map and in the records of the Borough Secretary.

SECTION 1613 APPLICATION FOR FINAL APPROVAL

An application for final approval may be for all of the land included in a development plan or, to the extent set forth in the tentative approval, a section thereof. Said application shall be made through the Zoning Officer for review by the Borough Council and subject to approval by the Borough Council within the time or times specified by the official written communication granting tentative approval. If the application for final approval is in compliance with the tentatively approved development plan, a public hearing shall not be required.

The application shall include all drawings, specifications for required improvements, covenants, easements, a financial guarantee and all other such requirements as specified within the Harveys Lake Borough Subdivision and Land Development Ordinance, as well as any conditions set forth in the official written communication granting tentative approval.

In the event that the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the Ordinance and the official written communication of tentative approval, the Borough Council shall, within forty-five (45) days of such filing, grant such development plan final approval.

In the event the development plan as submitted contains variations from the development plan given tentative approval, the Borough Council may refuse to grant final approval and shall, within forty-five (45) days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one (1) or more said variations are objectionable and not in the public interest.

In the event of such refusal the landowner may either:

- A. Refile his application for final approval without the variations to which the Borough Council deemed objectionable and not in the public interest.
- B. File a written request with the Borough Council that it hold a public hearing on his/her application for final approval.

If the landowner wishes to take either of such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he/she shall be deemed to have abandoned the development plan.

Any such public hearing shall be held pursuant to public notice within thirty (30) days after the request for the hearing is made in writing by the landowner. The hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the public hearing, the Borough Council shall, by official written communication, either grant final approval to the development plan or deny final approval.

The grant or denial of final approval of the development plan shall, in cases arising under this Section, be in the form and contain findings required for an application for tentative approval as set forth in this Article.

A development plan, or any part thereof, which has been given final approval, shall be so signed and certified without delay by the Borough Council. Said development plan shall be filed of record forthwith in the Office of the Recorder of Deeds of Luzerne County before any development shall take place in accordance therewith. Upon filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion in accordance with the time provisions as provided for within the Harveys Lake Borough Subdivision and Land Development Ordinance, said planned residential development or part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat the developer shall record the plat within ninety (90) days from the date of approval and post a financial security in accordance with the Harveys Lake Borough Subdivision and Land Development Ordinance.

In the event that a development plan, or section thereof, is given final approval and thereafter the landowner shall abandon such plan or section thereof that has been finally approved, and shall so notify the Borough Council in writing; or in the event the landowner shall fail to commence and carry out the planned residential development in accordance with the time provisions as provided within the Harveys Lake Borough Subdivision and Land Development Ordinance, after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is resubdivided and is reclassified by enactment of an amendment to the Borough Zoning Ordinance in the manner prescribed for such amendments by this Ordinance.

SECTION 1614 JURISDICTION AND LEGAL REMEDIES

A. JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under B., LEGAL REMEDIES

B. LEGAL REMEDIES

- . Any person, partnership or corporation who or which has violated the planned residential development provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Harveys Lake Borough 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 Harveys Lake Borough 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, Harveys Lake Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the 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 Harveys Lake Borough.
- . 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 Harveys Lake Borough the right to commence any action for enforcement pursuant to this Section.

ARTICLE 17
APPEALS

SECTION 1701 APPEALS TO COURT

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing judicial review of any decision rendered or deemed to have been made under this Ordinance.