

Chapter 27

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Part 1**General Provisions****§27-101. Repealer and Conflict.**

This Chapter, as adopted herein and as may be duly amended by the Borough Council, shall repeal and replace in total the Clarks Green Borough Zoning Ordinance of February 12, 1973, as amended. This Chapter is not intended to and shall not be construed to affect or repeal any other ordinance, code or regulation of the Borough of Clarks Green. If any other ordinance, code or regulation of the Borough of Clarks Green is in conflict or inconsistent with the requirements of this Chapter, the most restrictive standards and provisions shall apply.

(Ord. 4/13/1998, 4/13/1998, §100)

§27-102. Title and Short Title.

An ordinance permitting, prohibiting, regulating, restricting, and determining the uses of land, watercourses, and other bodies of water; the size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures; the areas and dimensions of land and bodies of water to be occupied by uses and structures as well as courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; the density of population and intensity of use; authorizing the appointment of a Zoning Officer; creating a Zoning Hearing Board; and providing for the administration, amendment, and enforcement of the ordinance, including the imposition of penalties. This Chapter shall creating zoning districts and establishing the boundaries thereof, be known and may be cited as the "Clarks Green Borough Zoning Ordinance."

(Ord. 4/13/1998, 4/13/1998, §101)

§27-103. Purpose.

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

A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare; coordinated and practical community development; density of population; civil defense and disaster evacuation, airports, and national defense facilities, the provision of adequate light and air; police protection; vehicle parking and loading space; transportation; natural resources, agricultural land and uses; reliable, safe and adequate water supplies; safe and adequate sewerage disposal, schools, public grounds and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code.

B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

(Ord. 4/13/1998, 4/13/1998, §102)

§27-104. Interpretation.

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

(Ord. 4/13/1998, 4/13/1998, §103)

§27-105. Severability.

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

(Ord. 4/13/1998, 4/13/1998, §104)

§27-106. Effective Date.

This Chapter shall take effect immediately upon its adoption.

(Ord. 4/13/1998, 4/13/1998, §105)

Part 2**Community Development Objectives****§27-201. Statement of Community Development Objectives.**

1. This Chapter has been adopted in part to assist in implementing the Clarks Green Borough Comprehensive Plan. This statement of the Community Development Objectives is included under the authority of §606 of the Pennsylvania Municipalities Planning Code.

A. To achieve the best use of the land within the Borough, insuring that varying land uses will complement one another and thus improve the economic, social, and aesthetic character of the community.

B. To establish realistic population densities in order to insure health standards, privacy and open space and in order to provide utilities, police protection, and community services and facilities in the most convenient and efficient manner.

C. To maintain and improve the road system for better internal circulation and movement of through traffic, which will facilitate the efficient and safe movement of people and goods.

D. To guide the location of future development and establish developmental standards in such away that negative impacts on the natural environment and natural resources are minimized, and to minimize existing and future water, air, land and noise pollution.

E. To provide the opportunity for a wide-range and variety of housing types to meet the needs of all Borough residents; newly-formed households, growing families and senior citizens.

F. To update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and changing conditions.

G. To expand local business and strengthen the economy by encouraging well-planned commercial, industrial, residential, and recreational growth which will provide for local employment, shopping facilities, and recreational opportunities which in turn will strengthen the local tax base.

H. To strive for coordination between policies, plans, and programs in the community through cooperation among governing officials, community interest groups, and the general populace.

The goals and objectives listed below are included in the Borough of Clarks Green "Community Conservation and Development Goals and Objectives and Situation Audit," March 1997 and are hereby adopted to supplement the Borough's Community Development Objectives.

2. *Goal 1: Maintain the Borough's Existing Community Character and Quality Lifestyle.* The Borough's physical environment, regional location and past development practices have shaped its character into a mature bedroom community with limited commercial development and few vacant lots. Clarks Green Borough is perceived as an attractive residential community offering a high quality of life. Future development

must be controlled and managed with an overriding concern to sustain the Borough's community character.

A. *Objectives.*

(1) Develop local land use controls including flexible zoning performance standards to control density and minimize conflicts between existing and future development, and update the controls periodically to address changing conditions.

(2) Carefully control the location and scale of commercial establishments while recognizing the importance of such development to the convenience of local residents and the tax base.

(3) Limit heavy commercial uses and industrial uses by establishing performance standards to control noise; outdoor manufacturing, processing and storage; lighting; and other potential effects.

(4) Assure that adequate community facilities are provided.

(5) Recognize the importance of street trees to the character of the Borough and take steps to assure that the trees are maintained and replaced.

(6) Control common law nuisances and threats to public health and safety due to, among others, noise, lack of property maintenance, poor building practices, junk accumulation, odors and uncontrolled burning.

(7) Preserve significant natural features, sensitive land areas and historic structures.

3. *Goal 2: Encourage Commercial Development Located and Designed to Be Compatible with Existing Land Use.* Healthy economy fosters a healthy community by providing business development and employment opportunities. Given the historical development pattern of the Borough with limited commercial development, residents rely on the greater Scranton area for employment, shopping and personal services. Local government may choose to take a direct role in economic development, and can also institute land use control and development policies that have a positive effect on the local economy and tax base, while addressing community conservation concerns.

A. *Objectives.*

(1) Use this Chapter to direct new commercial development to areas of existing commercial development and where community facilities are adequate.

(2) Limit heavy commercial uses and industrial uses by establishing performance standards to control noise, outdoor manufacturing, processing and storage, lighting, and other potential effects.

(3) Promote local economic viability by allowing home occupations consistent with residential zoning districts and the overall community character.

(4) Recognize the importance of the regional economy and monitor and participate in county and regional business development activities.

(5) Focus attention on the downtown business area and support any actions of the business community to maintain its viability.

(6) Consider joint municipal zoning as a means of recognizing the

regional nature of development patterns and for locating commercial and industrial uses proximate to such existing uses and where community facilities are adequate.

4. *Goal 3: Provide for a Variety of Housing Types and Densities.* Families and individuals of all income levels reside in the Borough and need continued access to decent and affordable housing with proper community facilities. The special needs of young families looking for their first home and senior citizens on fixed incomes must be addressed.

A. *Objectives.*

(1) Allow residential development in certain areas at a density sufficiently high to moderate the increasing cost of housing.

(2) Investigate and encourage participation in all County, State and Federal housing rehabilitation and assistance programs.

(3) Require all residential subdivisions and development to meet adequate design standards and provide proper community facilities via the Borough Subdivision and Land Development Ordinance [Chapter 22].

(4) Consider the adoption of a building code and monitor State actions to adopt a State-wide code.

(5) Consider joint municipal zoning as a means of recognizing the regional nature of development patterns and the need for housing and to provide higher density housing where adequate community facilities exist.

5. *Goal 4: Assure That Community Facilities and Services Which Will Be Adequate to Meet Expected Needs Are Provided.* Borough residents rely on community and public facilities and services to meet their transportation, educational, water supply, sewage disposal, police protection, emergency response, recreation and other daily living needs. The Borough does not, and cannot, provide all the facilities and services demanded by its residents, many such services being provided by other levels of government or volunteer organizations. Nevertheless, without diligent and ongoing attention to the operation and maintenance of existing facilities and services, and planning for new facilities and services, a municipality can fall short in adequately serving its residents.

A. *Objectives.*

(1) Systematically identify local municipal community facilities and services needs, including useful life replacement of existing facilities, and develop a capital budget to meet the needs.

(2) Provide necessary maintenance of existing Borough community facilities to extend the useful life and forestall unnecessary capital expenditures.

(3) Encourage and continue to support volunteer fire, ambulance and other public service organizations.

(4) Assess recreation needs of Borough residents and develop a program to provide recreation opportunities which are not adequately provided by the local school district or other organizations.

(5) Provide affordable police protection using local and cooperative

resources, as well as the Pennsylvania State Police.

(6) Assure that an adequate and safe water supply system, sewage collection and conveyance system, well designed and constructed roads and other facilities are provided by developers as part of any residential development.

(7) Manage all Borough facilities and services efficiently and effectively.

(8) Continue to foster regional, intergovernmental cooperation for community facilities planning and economies of scale for police services, joint purchasing, recreation and other facilities and services.

(9) Evaluate the condition of the sidewalks in the Borough and address maintenance.

(10) Maintain up-to-date standards in Borough ordinances for stormwater control, soil erosion and sedimentation control, sewage disposal, solid waste disposal and other environmental concerns.

6. *Goal 5: Establish and Maintain a Road System Adequate to Safely and Efficiently Move Goods and People Through the Borough.* Safe and well maintained roads are vital to all communities, serving not only as the means of travel within the community, but as the direct link to the region and beyond. The Borough has direct jurisdiction over many of the roads in the community, being responsible for improvements and maintenance, with the more heavily traveled routes generally owned and maintained by the State. The heart of the Borough lies at the junction of Abington Road and East Grove Street. Each of these streets, along with Fairview Road, connects residential areas to the north and east to the employment and retail/service areas to the south. Traffic congestion is now a problem in the Borough and as the residential areas continue to develop, traffic volume will increase.

A. *Objectives.*

(1) Inventory and classify according to function all public roads in the Borough and assess maintenance and improvements needed.

(2) Identify key intersections and other problem areas, and plan for improvements.

(3) Maintain the adequacy of roads by requiring adequate off-street parking and loading, limited curb cuts, well defined access points, and standards for dedication of roads to the Borough.

(4) Limit higher density and higher traffic impact development to areas with adequate highway capacity to accommodate such development.

(5) Encourage the use of the public transit system and car-pooling to minimize traffic congestion.

(6) Actively participate in all County and Pennsylvania Department of Transportation (PennDOT) highway planning programs to assure the Borough's needs are addressed, with particular attention to traffic on Abington Road, East Grove Street, Fairview Road, and Venard Road, and the need for improvements to facilitate traffic flow.

(7) Encourage intermunicipal cooperation as a means of addressing regional highway needs including the Abington Road/East Grove Street

intersection.

(8) Organize a regional "Road Task Force" to focus attention on road improvement needs and foster a working relationship with PennDOT and State Representatives.

(Ord. 4/13/1998, 4/13/1998, Article II)

Part 3**Definitions****§27-301. Rules of Construction and Definitions.**

The following rules of construction shall apply to this Chapter:

A. For the purpose of this Chapter, certain terms and words are herein defined. Whenever used in this Chapter, they shall have the meaning indicated in this Part, except where there is indicated in context different meaning.

B. The particular shall control the general.

C. The word "shall" and "must" are mandatory and not discretionary. The word "may" is permissive.

D. Words used in the present sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

E. The phrase "used for" includes "arranged for," "designed for," "intended for," and/or "occupied for."

F. The word "person" includes "individual," "profit or non-profit organization," "partnership," "company," "unincorporated association," "corporation," or other similar entities.

(Ord. 4/13/1998, 4/13/1998, §301)

§27-302. Terms, Phrases and Words Not Defined.

When terms, phrases, or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

(Ord. 4/13/1998, 4/13/1998, §302)

§27-303. Definitions.

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

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

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

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

right as needed.

Adult - one who has attained the legal age of majority which is 18 years of age.

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

Adult bookstore, adult novelty store or adult video store - a commercial establishment which, as one of its principal business purposes or as a substantial part of its business, offers for sale or rental for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."

(2) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

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

Adult business - any of the following:

(1) A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.

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

(3) Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas," or where any "specified

sexual activities" are conducted for economic gain or any other form of consideration.

(4) Any of the following as defined in this Part:

- (a) Adult arcade.
- (b) Adult bookstore, adult novelty store, or adult video store.
- (c) Adult live entertainment use or facility.
- (d) Adult motel.
- (e) Adult motion picture theater.
- (f) Adult theater.
- (g) Escort agency.
- (h) Massage parlor.
- (i) Nude model studio.
- (j) Sexual encounter center.

Adult care facility- see "health facility."

Adult live entertainment use or facility - commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving:

(1) Persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) appearing in a state of nudity.

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities."

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

Adult motel - a hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) Offers sleeping rooms for rent three or more times in one calendar day.

An "adult motel" shall be considered an "adult business" for the purpose of this Chapter.

Adult motion picture theater - a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." An "adult motion picture theater" shall be considered an "adult business"

for the purpose of this Chapter.

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

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

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

Alley - a public or private thoroughfare affording only secondary access to abutting properties.

Alterations - as applied to a building or structure, means any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or moving from one location or position to another.

Amusement arcade - a building or part of a building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained. The use of less than five such devices shall be permitted as an accessory use to any lawful principal commercial use.

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

Antenna height - the vertical distance measured from the base of the antennae support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antennae height.

Antenna and antenna support structure - any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Apartment - see "dwelling."

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

Balcony - an unenclosed platform that projects from the wall of a building and is surrounded by a railing, balustrade, or parapet.

Bank - an establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds. (See "service establishment.")

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

Bed and breakfast - any single-family dwelling in which more than three persons either individually or as families are housed or lodged for hire with meals normally included as a part of the services rendered, and shall be restricted to transient visitors to the area.

Betting, use - a use where lawful gambling activities are conducted, including but not limited to, off-track pari-mutual betting. This term shall not include betting under the State Lottery programs or betting under the "small games of chance" provisions of State law, which shall instead be regulated under the regulations applicable to the principal use of the property (such as a "membership club").

Boarding or lodging house - any dwelling in which more than three persons either individually or as families are housed or lodged for hire with meals normally, but not necessarily included as a part of the services rendered.

Borough - the Borough of Clarks Green, Lackawanna County, Pennsylvania.

Borough Council - the Borough Council of the Borough of Clarks Green.

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

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

Building coverage - the percentage of the area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures.

Building height - the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Building, principal - a building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk fuel storage facility - any facility where fuel including, but not limited to, kerosene, home heating oil, gasoline, and propane, is stored in large volume tanks for distribution to wholesale establishments or individual users.

Bus terminal - an area and/or building where buses are stored or parked on a regular basis with or without bus maintenance and repair facilities.

Campground or recreational vehicle park - the division or re-division of a lot, tract or parcel of land, by any means, into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot line for the purpose, whether

immediate or future, of lease, rent, sale or transfer of ownership, for the purpose of providing a site for travel trailers, truck campers, camper trailers, motor homes and tents, for temporary occupancy. Campgrounds, recreational vehicle parks, primitive camping facilities and other similar facilities shall fall under this definition.

Carport - a roofed building intended for the storage of one or more motor vehicles, but which is not enclosed on all sides by walls or doors. If any portion of a carport is attached to a principal building, it shall be considered to be part of that building.

Car wash - any building or premises or portions thereof used for washing automobiles for commercial purposes.

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

Church - a building used for public worship. (See also "semi-public buildings and uses.")

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

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

Cluster development - a form of development for single-family residential development that permits a conventional subdivision reduction in lot area and certain development standards provided unit densities permitted under a conventional subdivision are maintained and the resultant land area is devoted to common open space.

College or university - an institution of higher learning authorized to grant associate, bachelors, masters and/or doctorate degrees. (For non-degree institutions, see "trade school.")

Commercial communication device - any device which is intended for transmitting or receiving commercial television, radio or telephone communications, excluding the following:

- (1) Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
- (2) Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.
- (3) Amateur (ham) and citizen band transmitting and receiving antennas

and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95, respectively, and which are less than 45 feet in height.

(4) Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or watercraft.

(5) A radio frequency machine which is designated and marketed as a consumer product, such as microwave ovens and radio control toys.

Commercial communication device support structure - any pole, telescoping mast, tower, tripod, or any other structure which supports a commercial communication device.

Commercial communication device support structure height - the vertical distance measured from the base of the support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

Commission - the Planning Commission of the Borough of Clarks Green, Lackawanna County, Pennsylvania.

Comprehensive plan - the Borough of Clarks Green Comprehensive Plan including all maps, charts and textual matter.

Conditional use - a use which is not appropriate to a particular zone district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Chapter are present. Conditional uses are allowed or denied by the Borough Council after recommendations by the Planning Commission.

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

Convenience store - a one-story, retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a "food market"). It may also include the sale of gasoline but shall not include the repair or service of vehicles. [Ord. 2-2000]

Council - the Borough Council of the Borough of Clarks Green.

Country club - a recreational property owned and managed by membership organization and including recreational facilities, restaurant and meeting rooms.

County - the County of Lackawanna, Commonwealth of Pennsylvania.

Crematorium - a furnace or establishment for the incineration of corpses.

Day care center, adult - any establishment enrolling five or more adults where fees or other forms of compensation are charged for the care of the adults, such care limited to only a part of each day and the adults do not reside on the premises and no health services are provided.

Day care, child - a use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school." The following three types of day care are permitted without regulation by ordinance:

- (1) Care of children by their own relatives.
- (2) Care of children within a place of worship during regularly scheduled weekly religious services.
- (3) Care of one to three children within any dwelling unit, in addition to children who are relatives of care giver. (See also the definition of "adult day care center.")

(Child) Day care, as an accessory use - a type of "day care" use that provides care for four to six children at one time who are not relatives of the care giver.

(Child) Day care center, as a principal use - a type of "day care" use that provides care for seven or more children at any one time who are not relatives of the primary operator.

Deck - an attached accessory structure elevated more than 6 inches above grade at any point and constructed of wood with no walls or roof. As an attached accessory structure, it must meet the required setbacks for the principal building.

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

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

Developer - any landowner, agent of such owner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land. (See also the Borough Subdivision and Land Development Regulations [Chapter 22].)

Development plan - a proposed development, prepared in accordance with this Chapter and the Borough Subdivision and Land Development Regulations [Chapter 22], including a plat of the subject parcel and any subdivision, locations of various uses, and all covenants relating to uses, locations and sizes of buildings and other structures, intensity of use or density of development, streets, ways, and parking facilities, common open spaces and public facilities.

District (or zoning district) - a land area within the Borough within which certain uniform regulations and requirements apply under the provisions of this Chapter.

Dormitory - residential facilities that are only inhabited by teaching faculty and/or full-time students of an accredited college, university or medical training facility or State-licensed teaching hospital, or approved "care and treatment center for children" (as an accessory use to such use) or to an accredited public or private primary or secondary school, and which are owned and operated by such principal use to which the dormitory serves. Lawful dwelling units shall not be regulated as "dormitories."

Drive-in facility - any part of a building or structure that, by design of physical

facilities or by services or pods provided, encourages or permits customers to transact business, receive a service or obtain a product in a motor vehicle on the premises.

Driveway - a privately owned, constructed, and maintained vehicular access from a street or access drive to only one dwelling unit, commercial unit, institutional or industrial principal use. (See also "access drive.")

Drug paraphernalia - any objects, devices, instruments, apparatus or contrivances, whose primary and traditional use is involved with the illegal use of any and all controlled substances under Pennsylvania Law.

Dwelling - a structure or portion thereof which is used exclusively for human habitation.

Dwelling, multi-family - a building or buildings designed for occupancy by three or more families living independently of each other in separate dwelling units. The term "multi-family dwelling" shall include condominiums as well as non-condominium housing units, including the following construction types:

(1) *Conversion apartments* - a new dwelling unit created within an existing building.

(2) *Garden apartment* - a multi-family dwelling not exceeding two and one-half stories in height and containing three or more dwelling units which are located one over the other and which, when more than three units are utilized, are attached side-by-side through the use of common party walls, and which shall have side yards adjacent to each first story end unit. Each dwelling unit is accessible by a common stairwell.

(3) *Townhouse* - a multi-family dwelling of three or more dwelling units of no more than two and one-half stories in height in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire resistant walls without openings.

(4) *Apartment building* - a multi-family dwelling containing dwelling units having only one floor and typically with an entrance door to a common hallway shared by other dwelling units.

Dwelling, single-family - a dwelling unit detached from any other dwelling unit accommodating a single-family and having a front, rear and two side yards.

Dwelling, two-family - a dwelling accommodating two families either with units which are attached side by side through the use of a party wall, and having one side yard adjacent to each dwelling unit; or upstairs/downstairs units.

Dwelling unit - a single habitable living unit including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one family at a time.

Earth disturbance activity - any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

Easement - authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

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

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

Essential Services - municipal or utility facilities that do not require enclosure in a building which are necessary for the public health and safety and which are routine, customary and appropriate to the character of the area in which proposed, including such facilities as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, commercial communication towers, utility company offices, storage of trucks or equipment and bulk storage, and any commercial communications devices and/or facilities not specifically regulated by the Pennsylvania Public Utility Commission shall not be considered essential services or essential services requiring enclosure in a building. (See "semi-public building or use.")

Family - one or more persons living in a single dwelling unit functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling unit is rented, in order to qualify as a family, there shall not be more than one lease among all of the occupants. A family shall not include more than four persons who are not "related" to each other (see definition in this Part). (See provisions in §27-605 regarding maximum number of unrelated persons within a "group home." A "treatment center" shall not be considered a "family" or a "group home." (See also the definition of a "dwelling unit."))

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

Flea market - an occasional or periodic sales activity held outside a fully enclosed building where stalls or sales areas are set aside, and rented or otherwise provided and which are intended for use by one or more unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who generally engaged in retail trade. Flea markets shall not include any operation which involves the sale of any obscene or pornographic material or any activity included in the definition of "adult business" contained in this Chapter.

Food market - a retail store that is designed and stocked to sell primarily food, beverages, and other household supplies, but which does not (in contrast to a

“convenience store”) include the sale of gasoline. [*Ord. 2-2000*]

Forestry - the management of forests and timberlands when practiced in accord with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any of the following: a land development, the operation of a sawmill, or the operation of any other wood manufacturing homes. [*Ord. 2-2003*]

Fraternity or sorority - a type of boarding house used and occupied by a formal, legally incorporated cooperative organization (with each full member having a vote in the operations of the organization) of full-time college or university students. Such use may contain residential, social and eating facilities for members and their occasional guests.

Funeral parlor - a building or part thereof used for human funeral services. Such building may contain space and facilities for: (1) embalming and the performance of other services used in preparation of the dead for burial; (2) the performance of autopsies and other surgical procedures; (3) the storage of caskets, funeral urns, and other related funeral supplies; and (4) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral parlor is permitted, a funeral chapel shall also be permitted.

Garage, private parking - a building or portion thereof used only for the storage of automobiles by families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

Garden center, retail - a retail establishment engaged in the sale of ornamental trees, shrubs and plants and supplies for gardening and landscaping.

Gasoline service station - a structure, building, or area of land or any portion thereof that is used for the sale of gasoline and oil or any other motor vehicle fuel and/or other lubricating substance, which may or may not include facilities for lubricating, washing, and sale of accessories, but not including the painting and/or body work thereof and other vehicle and equipment repair operations as defined by this Chapter. Any business or industry dispensing gasoline and servicing vehicles only for its own use will not be deemed to be a gasoline service station.

Golf course - a tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges, include clubhouses and shag ranges, but does not include miniature golf course or golf driving ranges. Courses shall be considered "recreational facilities, private" for the purpose of this Chapter.

Golf course miniature - a novelty version of golf played with a putter and golf ball on a miniature course typically with artificial playing surfaces, and including obstacles such as bridges and tunnels. "Golf course, miniature" shall be considered "recreational facility, private" for the purpose of this Chapter.

Golf driving range - a facility arranged with golf tees and used for longer range play of golf balls where balls are supplied for a fee.

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

Greenhouse, private - an accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, used for private use.

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

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

(1) Involves the care of the maximum number of persons permitted by the "group home" standards of §27-605, and meets all other standards of such section.

(2) Involves persons functioning as a common household.

(3) Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other "handicap" as defined by applicable Federal law.

(4) Does not meet the definition of a "treatment center."

(5) Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

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

*NOTE: A use that would otherwise meet the definition of "group home" but which includes more than the permitted number of residents shall be considered a "health facility" which is a distinct use.

Habitable indoor heated floor area - in relation to minimum dwelling size, the sum of the total horizontal areas of the several floors of a dwelling unit measured from the interior face of walls, but not including interior parking spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than 6 feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breezeways or any area which is not fully heated for human habitation.

Health facilities - establishments primarily engaged in providing services for human health maintenance including hospital facilities, nursing home and adult care facilities, personal care facilities and medical clinics and offices whether publicly or privately operated.

Heliport - an area used for the take-off and landing of helicopters, together with any related support facilities such as for maintenance, refueling and storage. This Chapter is not intended to regulate the non-routine emergency landing and

take-off of aircraft to pick-up seriously injured or ill persons.

(1) *Public heliport* - a heliport that does not meet the definition of a "private heliport."

(2) *Private heliport* - a heliport limited to a maximum total of 15 flights or take-offs in any 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public. This is also known as a helistop.

Hide rendering and tanning, plants - any operation where animal hides are processed and treated to produce leather or other products, or any operation which includes any part of such process.

Home occupation - any use customarily conducted entirely within a dwelling and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than a sign as provided herein; and may include professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and similar types of uses, excluding commercial stables, veterinarians, commercial kennels or motor vehicles or small engine repair shops and other uses not meeting the requirements of §27-504.3 of this Chapter.

Home use - used solely for noncommercial purposes and accessory to the residential dwelling. (See the accessory uses home gardens, home greenhouses and home nurseries on the schedule of uses in Part 4.)

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

Hospital - an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities. (See also "health facility").

Hotel - a facility offering temporary (generally for periods of 2 weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, and providing additional services such as restaurants, meeting rooms and recreational facilities.

Impervious surface - area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of runoff of 0.7 or higher. The Borough Engineer shall decide any dispute over whether an area is "impervious." Areas of land paved for the sole purpose of noncommercial tennis courts, trails or basketball courts or closely similar active outdoor recreation may be deleted from impervious surfaces for the purposes of determining permitted impervious coverage, unless those areas would also be used for non-recreational uses (such as parking).

Indoor archery range - any fully enclosed building used for shooting of arrows for recreational or training purposes. Any such commercial operation, any such area operated by any private, nonprofit entity, any community association, any such area operated by any sportsman's recreation or fraternal club or association

with 25 or more members, and any such area which is used or is intended to be used for more than 5 hours in any 1 week shall be considered an indoor archery range for the purposes of this Chapter. "Indoor archery range" shall be considered a "recreational facility, private" for the purpose of this Chapter.

Institutional use - a publicly operated or sponsored facility or privately operated facility used to house and/or rehabilitate individuals detained or sentenced by the criminal justice system including, but not limited to, jails, prisons, penitentiaries, reformatories and similar facilities.

Junk - any scrap, waste, reclaimable material or debris, vehicles or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition, but not including recyclables as defined by this Chapter.

Junkyard - an area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded materials including, but not limited to, waste paper, rags, metal, building materials, house furnishings, machines, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

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

kennel, private - any accessory building or buildings or land designed or arranged for the care of dogs, cats or household pets belonging to the owner of the principal use, kept for purposes of show, hunting or as pets, and not involving the commercial sale or barter of animals.

Land development - any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

(a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.

(b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

(3) The definition of land development shall not include:

(a) The addition of an accessory building on a lot or lots subordinate to an existing principal building.

(b) The conversion of an existing single-family detached dwelling or a two-family dwelling into not more than three residential dwelling units, unless such units are intended to be a condominium.

Landowner - the legal or beneficial owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to

any condition), a lessee if he is authorized under the lease to exercise the rights of a landowner, or other persons having a proprietary interest in land, shall be deemed to be landowners for the purpose of this Chapter.

Livestock operation - the raising or keeping of livestock for home use or any commercial purpose.

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

Lot - land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by this Chapter, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law be adequate as a condition of the issuance of a zoning permit for a building on such land.

Lot, existing of record - any lot or parcel of property which was legally in existence and properly on file with the Lackawanna County Recorder of Deeds prior to the date when zoning was first adopted by the Borough Council.

Lot, flag - an irregularly shaped lot characterized by an elongated extension from a street to the principal part of the lot. The flag shape of the lot is normally intended to provide for access to an otherwise landlocked interior parcel.

Lot, through - a lot that abuts two approximately parallel streets.

Lot area - the total number of square feet in the lot less any area included in any public road rights-of-way affecting the lot.

Lot area, average - the total of the "lot areas" (see above) of all adjacent lots in common ownership within a proposed subdivision or land development divided by the proposed number of dwelling units.

Lot coverage - that portion or percentage of the lot area which is covered by buildings, roads, driveways, wallways, parking areas, or other impervious surfaces.

Lot depth - the average horizontal distance between the front lot line and the rear lot line measured through the approximate center of the lot.

Lot line, front - the line separating the lot from a street.

Lot line, rear - the lot line opposite and most distant from the front lot line.

Lot line, side - any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

Lot width - the average of the width of a lot at the building setback line required by this Chapter and the rear lot line.

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

Manufacturing and industry, heavy - establishments engaged in the basic

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

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

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

Massage parlor - an establishment that meets all of the following criteria:

- (1) "Massages" are conducted (see definition).
- (2) The person conducting the massage is not licensed as a health care professional or a licensed massage therapist by the State.
- (3) The massages are not conducted within a licensed hospital, nursing home, personal care center or office of a medical doctor or chiropractor.
- (4) The massages are conducted within private or semi-private rooms.
- (5) The use is not clearly a customary and incidental accessory use to a permitted exercise club or to a high school or college athletic program.

A "massage parlor" shall be considered an "adult business" for the purpose of this Chapter.

Medical clinic - an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not lodged overnight. (A "medical clinic" shall be considered an "health facility" for the purpose of this Chapter).

Mobile home - a transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile home lot - and occupied or to be occupied by a mobile home in a mobile home park, improved with the necessary utility connections and other appurtenances; and, said lot being specifically designated by division from other lots in the

mobile home park.

Mobile home park - a parcel or contiguous parcels of land under single ownership which has been planned and improved for the placement of two or more mobile homes for non-transient use.

Model home - a residential structure associated with a principal permitted commercial use and not intended for permanent occupancy; and used solely for demonstration purposes to inform potential purchasers of the types of homes available from the seller.

Motel - a facility offering temporary (generally for periods of 2 weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, with at least 25% of the rooms having direct access to the outside.

Multi-family project - any development of a single parcel of property that includes one or more buildings containing three or more dwelling units. Any residential development which proposes the construction of two or more two-family dwellings on one parcel of property shall also be considered a multi-family project.

Multiple occupant commercial building - a building containing two or more independent, non-residential uses; such uses also being permitted in the district where the multiple occupant building is proposed.

Natural resource use - the mining, removal or recovery by any means whatsoever (including, but not limited to open excavations and quarries, and subsurface mining) of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water, land, on or beneath the surface thereof, said substances including but not limited to coal, limestone, shale, dolomite, sandstone, sand, clay, gravel, rock, stone, earth, ore, peat, soil, or other mineral.

Natural resources processing - the refinement of minerals to specifications for sale including, but not limited to, the crushing, screening, washing or grading of minerals; and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants; asphalt plants and manufacture of concrete and clay products.

Nonconforming lot - any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Lackawanna County Recorder of Deeds prior to the effective date of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced. (See also §27-902.)

Nonconforming structure - a structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure lawfully existed prior to the enactment of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced; and including, but not limited to, non-conforming signs. (See also §27-902.)

Nonconforming use - a use, whether of land or of a structure, which does not comply with the applicable use provisions in this Chapter or amendments hereto, where such use was lawfully in existence prior to the enactment of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced. (See also §27-902.)

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

Nudity or a state of nudity - the appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

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

Nursing home - a facility licensed by the State for the housing and intermediate or fully-skilled nursing care of three or more persons needing such care because of old age or a physical illness or disability or a developmental disability, but not including a "treatment center." (See also "health facility.")

Obscene materials - any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any "specified anatomical areas" and/or "specified sexual activities."

Office building - a building used for conducting the affairs of a business, profession, service, or industry, or like activity involving administrative, professional, or clerical operations. Retail or wholesale sale of goods stored on the premises, warehousing or storage of supplies or products, production or manufacturing processes, or other activities not normally conducted in an office building shall not be considered an office building.

Open space - all areas of a multi-family development or cluster development not conveyed to individual owners and not occupied by buildings and required or proposed improvements shall be dedicated as permanent open space for the benefit and enjoyment of the residents of the particular units being proposed. Such open space shall be part of the same parcel and contiguous.

Outdoor archery range - any area not within a fully enclosed building used commercially for the shooting of arrows for recreational or training purposes, including but not limited to, target shooting ranges, and target shooting courses.

Parking area, private - an open area for the same uses as a private garage.

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

Patio - an open recreational area or structure, constructed no higher than 6 inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

Permanent foundation - a cement, concrete, treated wood or cinder block walled foundation erected on a poured concrete footer. A solid concrete slab will also be considered a permanent foundation.

Permit - a document issued by the proper Borough authority authorizing the

applicant to undertake certain activities.

(1) *Zoning permit* - a permit that may be issued indicating that a proposed use, building or structure is, to the best knowledge of the Borough staff, in accordance with this Chapter and which authorizes an applicant to proceed with said use, building or structure, within all other applicable laws and regulations. For the purposes of this Chapter, a zoning permit or "a permit under this Chapter" shall mean the applicable portions of a construction permit, unless a specific system of zoning permits has been established.

(2) *Construction permit* - a permit indicating that a proposed construction, alteration, or reconstruction of a structure, is to the best knowledge of the Borough staff, in accordance with the provisions of the Building Code(s) adopted by the Borough.

(3) *Occupancy permit* - a permit that may be required by the Borough that is issued upon completion of the construction of a structure, or change in use of a structure or parcel of land, or re-occupancy of a structure or land indicating that the premises, to the best knowledge of the Building and Zoning Officers, comply with the provisions of Borough ordinances. Thus shall have the same meaning as a "certificate of use and occupancy."

Personal care home or center - a residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or the developmentally disabled and that is licensed as a personal care center by the Commonwealth of Pennsylvania and that does not meet the definition of a "treatment center."

Place of worship - building, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated for nonprofit and noncommercial purposes. A place of worship may include two dwelling units as an accessory use to house full-time religious leaders and their families. If a religious use is primarily residential in nature, it shall be regulated under the appropriate "dwelling type."

Planning Commission - the Planning Commission of the Borough of Clarks Green.

Pool house - an accessory structure associated with a private swimming pool which may include one or more rooms and sanitary facilities but which does not include sleeping quarters and is not used for overnight accommodation of any residents or guests. [Ord. 2-2003]

Porch - an attached roofed patio or deck. With the exception of the wall adjoining the principal structure, considered an attached accessory structure and must meet those setback requirements for principal structures, all walls must be open or screened with a wall no higher than 4 feet above the floor level. A porch is physically attached to a principal building shall be considered part of that principal building.

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

Private ambulance service - private ambulance service shall be considered a "service establishment" for the purpose of this Chapter.

Principal building - the building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building.

Professional office - the office of a member of a recognized profession maintained for the conduct of that profession, including the following professions: accountant, architect, author, dentist, engineer, insurance agent landscape architect, lawyer, optometrist, planner, physician, realtor, and other such occupations as may be designated by the Borough as part of the conditional use process by virtue of the need for specialized training and experience as a condition of the practice or the profession and that such profession will in no way adversely affect the safety, or character of surrounding properties to a greater extent than the specific professions listed herein. The issuance of a Federal, State or local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

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

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

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

Recreational facilities, private - outdoor or indoor areas or structures, operated by private non-profit or private commercial entities, open to the public, which may contain entertainment and amusement devices or attractions, including but not limited to picnic groves, animal farms, zoological parks, tennis and racquetball courts, ski areas, miniature golf courses, golf driving ranges and the like, but excluding golf courses, theaters, public parks and playgrounds, or any other use specifically listed on the schedule of uses.

Recreational facilities, public - parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Borough, Borough authorized entity, County, school district, State, or Federal government.

Recreational vehicle park - see "campground" and "RV parks."

Recyclables - materials intended for reuse, remanufacture or reconstitution and including for the purposes of this Chapter only the following materials: aluminum beverage containers; glass beverage and pod containers; plastic beverage, food and household product containers but not including plastic film or bags; bi-metal food containers; newsprint; magazines; and office paper; and corrugated paper. Recyclables shall not include, except as specifically authorized by the Borough in accord with §27-836 of this Chapter, tires, large appliances such

as stoves, refrigerators, washers and dryers, other scrap metal, used motor oil or any other material defined as "junk" or "solid waste" by this Chapter.

Recycling facility - a center for the collection and/or processing of recyclable materials. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Any facility accepting or processing waste or other discarded materials solid waste facility as regulated by this Chapter.

(1) *Recyclable collection facility* - a center for the acceptance by donation, redemption, or purchase of which are not recyclables as defined or authorized under this Chapter shall be considered a junkyard or recyclable materials from the public.

(2) *Recyclable collection/facility, small* - a recyclable collection facility which occupies an area of not more than 500 square feet including areas used for containers or other recyclable storage but not parking and loading areas) and may include mobile recycling units, kiosk type units which may include permanent structures and/or unattended containers placed for the deposit of recyclables.

(3) *Recyclable collection facility, large* - a recyclable collection facility which occupies an area of more than 500 square feet including areas used for containers or other recyclable storage which may include permanent structures, and limited recyclable processing for shipment or but not parking, and loading areas) but not more than 20,000 square feet including areas used for container or other recyclable storage, structure and parking and loading areas) and preparation to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning or but not including the remanufacturing or conversion of recyclables to new products or raw materials used for new products.

(4) *Recycling unit, mobile* - an automobile, truck, trailer or van, licensed by the Department of Transportation which is used for the collection of recyclable materials, or the bins, boxes or containers transported by trucks, vans or trailers and which are used for the collection of recyclable materials.

(5) *Recyclable processing facility* - any recycling facility which exceeds the area or processing limits of a large collection facility or which involves the remanufacturing or conversion of recyclables to new products or raw materials used for new products.

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

Residential conversion - any conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units. (See §27-

604.)

Restaurant, fast food - an establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises and that does not meet the definition of a "standard restaurant."

Restaurant, standard -

(1) An establishment that serves ready-to-consume food or drink for compensation in which the clear majority of sales involve the following: the customers order their food from a waiter or waitress while seated inside a building and then the food is consumed at the table.

(2) A standard restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" must be met.

Retail Business - an establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, and which is not otherwise listed as a use in the schedule of uses.

Right-of-way - land reserved for use as a street, drainage facility or other public or community use.

Satellite dish antenna or "satellite antenna" - a ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure. A satellite antenna shall be considered an accessory structure for the purposes of this Chapter.

School, public or private primary or secondary school - an educational institution primarily for persons between the ages of 5 and 19 that primarily provides State-required or largely State-funded educational programs. Such schools shall be considered "public uses" for the purpose of this Chapter. This term shall not include "trade schools" (such as privately operated schools of trade, vocation or business).

Screened - not visible from any adjoining or neighboring property, any public or private road right-of-way, any other premises which is accomplished by fencing, topography, berms, natural and planted vegetation or other means approved by the Borough.

Self-storage facility - a building or buildings containing separated spaces to be leased or rented to individuals and/or business for the storage of personal belongings, goods or supplies.

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

Service establishment - establishments engaged in providing services involving the care or needs of a person or his or her apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, private ambulance services, fitness and exercise clubs, etc.,

and which is not otherwise listed as a use in the schedule of uses.

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

Sexual encounter center - a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; persons is in a state of nudity or semi-nude.

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons in a state of nudity or semi-nude.

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

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

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

Signs - any object, device, display, structure, or part thereof, situated outdoors or indoors, and intended for viewing from the building exterior, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

Sign, billboard - a sign advertising a business, product, service, commodity, activity or other concern which is located, produced or offered at a location other than the premises on which the billboard is located.

Sign, facade - any sign attached parallel to, but within 6 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign face.

Sign, free standing - a sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

Sign, overhanging - any sign affixed to a building or wall in such manner that its leading edge extends more than 6 inches beyond the surface of such building or wall.

Sign, portable - any sign not permanently affixed to the ground or to a building, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and any sign attached to, painted on, or displayed on a vehicle which is used for the expressed purpose of advertising a business establishment, product, service, or entertainment, when that vehicle is so parked as to attract the attention of the motoring or pedestrian

traffic, unless said vehicle is used in the day-to-day operations of the business.

Sign, sandwich board - a portable sign which is used for the expressed purpose of advertising a business establishment, product, service, or entertainment on the premises upon which the sign is erected; such sign comprised of no other framework or support than the wood or other material on which the advertising material is displayed.

Sign, surface area - the area of any sign computed by multiplying its greatest length by its greatest height. Structural members not bearing advertising material or not in the form of a symbol, character, logo or design shall not be included in the computation of surface area. In the case of signs with no definable edges (e.g., raised letters attached to a facade or painted windows) surface area shall be that area within the perimeter of a rectangle enclosing the extreme limits of the advertising material.

Sign, temporary - a display, informational sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other temporary material, with or without a structural frame, and intended for a limited period of display, including decorative displays for holidays or public demonstrations.

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

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

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

Solid waste facility, public - any facility or operation of a public entity pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities,

hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid waste staging area - any parcel of property used for the transfer of solid waste from one vehicle to another vehicle, at a location other than the generation site, for transport to a solid waste facility; or which is used for the parking or storage of vehicles and/or containers used to transport solid waste; and which is not regulated by the Pennsylvania DEP is a solid waste transfer facility.

Special exception - a use allowed, with permission granted by the Zoning Hearing Board, to occupy and use land and/or a building for specific purposes in accord with this Chapter.

Specified anatomical areas - 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.

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities - 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.

(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1), (2) and (3) of this definition.

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

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

Story (and half-story) - a level of a building routinely accessible to humans having in average vertical clearance 6 feet or greater shall be considered a full story, except as provided for in the definition of "basement." Any level of a building having an average vertical clearance from floor to ceiling of less than 6 feet shall be considered a "half story."

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

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

Structure, permanent - anything constructed, the use of which requires permanent location on the ground, or attachment to something having a

permanent location on the ground.

Structure, portable - anything constricted that is not permanently affixed to the ground but is designed to be moved from place to place. Structures comprised of frameworks and covered with plastic, canvass or other materials shall be considered portable structures.

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

Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

Tavern - a place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur.

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

Trade school - a facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons under age 16. This shall include a dancing school, martial arts school or ceramics school.

Treatment center - a use (other than a prison or a permitted accessory use in a "hospital") providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than 1 year and who need such facilities because of:

- (1) Criminal rehabilitation, such as a criminal half-way house/criminal transitional living facility or a treatment-housing center for persons convicted of driving under the influence of alcohol.
- (2) Chronic abuse of or addiction to alcohol and/or a controlled substance.
- (3) A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

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

Truck wash - any building or premises or portion thereof used for washing trucks with a gross vehicle weight exceeding 5,000 lbs.

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

Variance - relief granted pursuant to the provisions of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

Vehicle - any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land including, but not limited to, automobiles, trucks, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles,

machinery, trailers, farm machinery and implements, and other wheeled equipment, boats, and aircraft.

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

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

Veterinary clinic - a place operated by a licensed veterinarian where animals or pets are given medical or surgical treatment and the keeping of animals is limited to short-term care incidental to the clinic use and no outdoor kennels or pens are on the premises.

Wall - see "fence."

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

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

Yard - an open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines.

Yard Sale - any offering for sale to the public of used and accumulated normal household and other personal items conducted on a temporary, intermittent basis (not to exceed five sales per year for not more than 3 consecutive days each) as an accessory use to a residential dwelling. The buying and selling of new or used items or surplus material shall be considered a commercial operation and shall be prohibited, except as otherwise permitted and regulated by this Chapter.

Zoning Map - the Official Zoning Map of the Borough of Clarks Green.

Zoning Officer - the administrative officer charged with the duty of enforcing the provision of this Chapter. The Zoning Officer may also serve as the enforcement officer for other Borough ordinances.

The above definitions are also supplemented by those contained in other Borough ordinances. Where there is any conflict between definitions or provisions contained in this Chapter and other ordinances, the definitions or provisions contained herein shall apply insofar as they affect this Chapter.

(*Ord. 4/13/1998*, 4/13/1998, §303; as amended by *Ord. 2-2000*, 8/14/2000, §7; by *Ord. 2-2003*, 9/8/2003, §§3, 4; and by *Ord. 3-2005*, 10/10/2005)

Part 4

District Regulations

§27-401. Designation of Districts.

1. *Designation.* For the purposes of this Chapter, the Borough of Clarks Green is hereby divided into the following Zoning Districts:

R-1	Single-Family Residential District
R-2	Multifamily Residential District
R-1-A	Single-Family Residential District
NC	Neighborhood Commercial District [<i>Ord. 2-2000</i>]
C	General Commercial District

2. *Intent.* The intent of each district and the uses permitted in each district are set forth on the District Use Schedules contained in §27-404 of this Chapter. Bulk and density standards for each district are set forth on the *Schedule of Development Standards* contained in §27-404 of this Chapter.

3. *Floodplain Regulations.* The Federal Emergency Management Agency for the Borough as shown on the most recent Federal Insurance Floodplain Overlay District is hereby created to be coterminous with the flood hazard areas established by rate maps. In addition to all the applicable standards of this Chapter the requirements of *Ord. 3-1987, 3/9/1987* [Chapter 8] shall apply in the Floodplain Overlay District.

(*Ord. 4/13/1998, 4/13/1998, §401; as amended by Ord. 2-2000, 8/14/2000, §1*)

§27-402. Official Zoning Map.

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

(*Ord. 4/13/1998, 4/13/1998, §402*)

§27-403. District Boundaries.

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

2. *Interpretation.* Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries. Where district boundaries are so indicated that they approxi-

mately follow the lot lines, such lot lines shall be construed to be said boundaries. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official Zoning Map.

3. *Uncertainty.* In the event of uncertainty as to the true location of a district boundary line in a particular instance, any decision of the Zoning Officer may be appealed to the Zoning Hearing Board. It shall be the duty of the Zoning Hearing Board to render its determination with respect thereto.

(Ord. 4/13/1998, 4/13/1998, §403)

§27-404. District Regulations.

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

A. *Use Regulations.* District use regulations are provided in the following schedule of uses.

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

(2) Conditional uses and special exception uses shall be subject to the additional review procedures and criteria as specified in this Chapter.

(3) No land and no structure in a particular zoning district shall be used for any use which is not specifically listed on the schedule of uses for that particular district, and only in accord with all other requirements of this Chapter. In cases where this Chapter provides different requirements for the same use, the most restrictive requirement shall apply.

B. *Uses Not Specified in Schedule of Uses.*

(1) *Jurisdiction.* Whenever a use is neither specifically permitted nor specifically denied in any zoning district established under this Chapter and an application is made to the Zoning Officer for such use, the application shall be submitted to the Zoning Hearing Board which shall have the authority to permit the use or deny the use as a special exception.

(2) *Findings.* The use may be permitted only if the Zoning Hearing Board makes all of the following findings; and, the burden of proof shall be upon the applicant:

(a) The use is similar to and compatible with the uses listed for the subject zoning district by the schedule of use regulations.

(b) The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this Chapter.

(c) The use is not permitted in any other zoning district.

(3) *Planning Commission Review.* At the time the application is

submitted to the Zoning Hearing Board, the Zoning Officer shall also provide a copy to the Borough Planning Commission for its recommendation. The Zoning Hearing Board shall not conduct a public hearing on the application until the comments from the Planning Commission are received or 30 days have passed from the time the application was referred to the Planning Commission.

(4) *Conditions.* The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted in accord with this §27-404.B; incorporating standards in this Chapter for similar uses in the district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code.

C. *Development Standards.* The schedule of development standards which follows establishes minimum standards for lot area; lot depth, average lot-width and front, side and rear yards; and establishes maximum standards for building height and lot coverage. The standards also establish specific standards and criteria that apply to the use as may be appropriate to protect the public health, safety and welfare.

R-1 Single-Family Residential District - Schedule of Uses

Intent: To provide areas adequate to accommodate the Borough's single-family housing needs, and limiting unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow, as special exceptions, public and semi-public uses compatible with residential neighborhoods provided certain conditions are satisfied.

Principal Permitted Uses	Conditional Uses	Special Exceptions	Accessory Uses
<ul style="list-style-type: none"> - Group homes - Single-family detached dwellings - Forestry [<i>Ord. 2-2003</i>] 	<ul style="list-style-type: none"> - Cemeteries - Home occupations - Places of worship - Recreational facilities, public - Residential conversions 	<ul style="list-style-type: none"> - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Child day care, accessory - Essential services - Gardens, greenhouses and nurseries for home use - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

Note: Uses not specifically listed by this schedule shall not be permitted in the R-1 District.

Multi-Family Residential District - Schedule of Uses

Intent: To meet the housing needs of individuals and families in all income groups by providing areas for higher density residential development where such housing will not substantially alter traffic patterns or otherwise detract from single-family neighborhoods, and to limit intrusions of commercial and other incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow, as special exceptions, public and semi-public uses compatible with residential neighborhood provided certain conditions are satisfied.

Principal Permitted Uses	Conditional Uses	Special Exceptions	Accessory Uses
<ul style="list-style-type: none"> - Group homes - Single-family detached dwellings - Two-family dwellings - Forestry [<i>Ord. 2-2003</i>] 	<ul style="list-style-type: none"> - Cemeteries - Home occupations - Mobile home parks - Multi-family dwellings - Places of worship - Recreational facilities, public - Residential conversions 	<ul style="list-style-type: none"> - Public and semi-public buildings and uses - none 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Child day care, accessory - Essential services - Gardens, greenhouses and nurseries for home use - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

Note: Uses not specifically listed by this schedule shall not be permitted in the R-2 District.

R-1-A Single-Family Residential District - Schedule of Uses

Intent: To provide areas adequate to accommodate the Borough's single-family housing needs and limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow, as special exceptions, public and semi-public uses compatible with residential neighborhoods provided certain conditions are satisfied. [Ord. 2-2003]

Principal Permitted Uses	Conditional Uses	Special Exceptions	Accessory Uses
<ul style="list-style-type: none"> - Group homes - Single-family detached dwellings - Forestry [2-2003] 	<ul style="list-style-type: none"> - Cemeteries - Home occupations - Places of worship - Recreational facilities, public - Residential conversions 	<ul style="list-style-type: none"> - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Child day care, accessory - Essential services - Gardens, greenhouses and nurseries for home use - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

Note: Uses not specifically listed by this schedule shall not be permitted in the R-1-A District.

NC Neighborhood-Commercial District – Schedule of Uses

Intent: To designate that area of the Borough for professional-commercial and limited re-tail/service development in structures of residential appearance consistent with the neighborhood which will allow certain additional commercial opportunities in the Borough while preserving property values of proximate residential structures, and to limit intrusions of other more intensive commercial and incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public and semi-public uses compatible with residential neighborhoods.

Principal Permitted Uses	Conditional Uses	Special Ex-ceptions	Accessory Uses
<ul style="list-style-type: none"> - Group homes - Office buildings - Professional offices - Retail businesses (see note) - Service establishments (see note) - Single-family detached dwellings - Two-family dwellings - Forestry [2-2003] 	<ul style="list-style-type: none"> - Bed and breakfast establishments - Home occupations - Multi-family dwellings 	<ul style="list-style-type: none"> - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Child day care, accessory - Commercial communication devices (CCD) on existing structures (See §27-809.2.A) - Essential services - Gardens, greenhouses and nurseries for home use - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

Retail Business and Service Establishments in the NC District shall be limited to a total of two retail businesses and/or service establishments per lot and each retail business and/or service establishment shall not exceed 1,500 square feet in gross floor area. The permitted retail businesses and/or service establishments may be located in the same building or may be located in separate buildings legally existing on the lot.

Note: Uses not specifically listed by this schedule shall not be permitted in the NC District.

[Ord. 2-2000]

C General Commercial District - Schedule of Uses

Intent: To designate areas for retail and service establishments and other nonresidential uses to meet the needs of residents of the Borough and adjoining communities while excluding those heavier commercial uses which generate more traffic and other nuisance.

Principal Permitted Uses	Conditional Uses	Special Exceptions	Accessory Uses
<ul style="list-style-type: none"> - Bed and breakfast establishments - Boarding and lodging houses - Day care, child - Day care, adult - Group homes - Places of worship - Professional offices - Single-family detached dwellings - Two-family dwellings - Office buildings - Retail businesses - Service establishments - Forestry [<i>Ord. 2-2003</i>] 	<ul style="list-style-type: none"> - Abused person shelter - Adult businesses - Amusement arcade - Apartment buildings - Banks - Betting uses - Car washes - Clubs/lodges, private - Commercial communication devices (CCD) - College or university - Commercial antenna sites - Convenience stores [<i>Ord. 2-2000</i>] - Dormitories - Drive-in establishments - Fraternities or sororities - Food markets [<i>Ord. 2-2000</i>] - Funeral parlors - Gasoline service station - Greenhouse, commercial - Health facilities - Home occupations - Hotels - Manufacturing, light - Motels - Multi-family dwellings - Nursing home - Personal care home or center - Recreational facilities, private - Recreational facilities, public - Recycling collection facilities - Recycling units, mobile - Residential conversions - Restaurants, fast-food - Restaurants, traditional - Self-storage facilities - Shopping center or mall - Taverns - Theaters - Trade schools - Treatment centers - Vehicle or equipment repair operation - Vehicle or equipment sales operation - Veterinary clinics - Warehouses - Wholesale businesses 	<ul style="list-style-type: none"> - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Child day care, accessory - Commercial communication devices (CCD) on existing structures (See §27-809.2.A) - Essential services - Gardens, greenhouses and nurseries for home use - Private garages, carports, sheds - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

[*Ord. 2-2000*]

Schedule of Development Standards
Regulations Governing the Size of Lots, Yards and Buildings

Zoning District

R-2

Type of Regulation	R-1	Single-Family Dwellings	Two-Family Dwellings (see also §27-602)	Multi-Family Dwellings (see also §27-603)	R-1-A	NC [Ord. 2-2000]	C
Minimum lot size							
Area (square feet)	10,000	10,000	15,000		15,000	5,000	5,000
Width (feet)	85	85	100		100	50	50
Depth (feet)	100	100	150	See §27-603	135	100	100
Average lot	10,000	10,000	15,000		15,000	–	–
Area per dwelling unit (square feet)	–	–	7,500		–	–	–
Minimum yards							
Front (feet)	25	25	25		25	10	10
Rear (feet)	30	30	40	See §27-603	50	20	20
Each side yard (feet)	10	5	5		10	20	20
Maximum building height							
Number of stories	2.5	2.5	2.5	See §27-603	2.5	2.5	2.5 [Ord. 2-2000]
Feet	35	35	35		35	35	35
Maximum building coverage (percent)	35	60	50		35	50	50

Note: Other supplementary regulations in this Chapter govern various uses, including variations to lot and yard sizes and regulating governing accessory structures, signs, off-street parking and loading and nonconforming uses and lots.

(Ord. 4/13/1998, 4/13/1998, §404; as added by Ord. 2-2000, 8/14/2000, §§3-6; as amended by Ord. 2-2003, 9/8/2003, §§2, 3)

§27-405. Nonresidential Uses/Community Character -- Applicant Option.

1. The intent of this Section is to encourage commercial development in the C Districts consistent with the existing character of the Borough by establishing appropriate site development and building design standards to be considered as part of the conditional use process. [Ord. 2-1999]

2. The early development pattern and the 1973 enactment of zoning have combined to maintain the Borough's small town character while intense commercial development has occurred in adjoining municipalities. The strip commercial

development along Route 6 in South Abington Township and Clarks Summit Borough has largely alleviated the pressure for intense commercial development in Clarks Green Borough. In short, the Borough is a mature bedroom community with little room for additional residential and commercial development. Another key element of the Borough's character is the small scale of commercial development which is consistent with the historical development pattern of the Borough and blends well with adjoining residential uses. Careful design of commercial uses is key to maintaining the character of the Borough.

A. *Conditional Uses.*

(1) *Requirements.* In addition to the standards in §27-701, §27-1108, and all other applicable requirements in this Chapter, the standards in this Section shall apply.

(2) *Factors for Evaluation.* In addition to the conditional use criteria in §27-1108.4, the Borough shall consider the following factors and characteristics in evaluating the application:

- (a) Conformance to other ordinances and regulations.
- (b) Logic of design.
- (c) Exterior space use.
- (d) Architectural character.
- (e) Attractiveness.
- (f) Material selection.
- (g) Compatibility.
- (h) Circulation -- vehicular and pedestrian.
- (i) Maintenance aspects.

B. *Parking.* Adequate off-street parking shall be provided and in addition to the requirements of §27-504 of this Chapter, the following additional provisions shall apply:

(1) *Location.* With the exception of off-street parking areas existing at the time of adoption of this §27-405, all off-street parking area shall be to the rear of the principal structure. (See also §27-504.5.)

(2) *Buffers and Landscaping.* Parking area buffers and landscaping shall be required in accord with §27-504.9, §27-504.13 and §27-701.2 of this Chapter with special attention given to maintaining residential character and buffering adjoining residential uses. [Ord. 2-1999]

C. *Building Setbacks and Buffers, Site Landscaping.* An overall landscaping plan meeting the requirements of §27-701.2 of this Chapter shall be submitted by the applicant for approval by the Borough. [Ord. 2-1999]

D. *Building Construction, Exterior Remodeling, and Additions.* Specific architectural styles are not prescribed, however the structure shall be consistent with the design, scale and appearance of the surrounding neighborhood.

(1) *Existing Structures.* In order to preserve the mature bedroom community character of the Borough, the structural appearance of the building shall not be altered and the building shall be maintained in such manner as

to preserve its appearance, style and scale. Alterations to restore or otherwise change a building to its original appearance shall be permitted.

(2) *All Building Construction, Exterior Remodeling, and Additions.*

(a) Materials shall have good architectural character and shall be selected for consistency of the building with adjoining buildings.

(b) Materials shall be selected for suitability to the type and design of the building.

(c) Building components, such as windows, doors, eaves, and parapets shall have good proportions and interrelationships.

(d) Colors shall be compatible with the residential neighborhood and only compatible accents shall be used.

(e) Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from public view with materials consistent with the buildings.

(f) Exterior lighting shall be integrated into the architectural concept. Fixtures, standards, and all exposed accessories shall be consistent with building design.

(3) *Building Maintenance.* All buildings approved under this §27-405 shall be maintained in accord with the approval. The building owner shall attach to the deed of the property such covenants and restrictions as will assure continued maintenance of the building in accord with its existing appearance, style and scale, and the neighborhood character. Said covenants and restrictions shall be approved by the Borough Council with the recommendation of the Planning Commission. Said covenants and restrictions shall also apply to the construction of any additions to the building.

E. *Signs.* Signs for commercial uses approved under this Section shall comply with the requirements of §27-505 of this Chapter and the additional standards in this §27-405.5. Signs so approved shall be eligible for an increase in size of 50% more than permitted under §27-505.

(1) Signs shall be wood or simulated wood relief only with external illumination.

(2) Signs shall be designed as an internal architectural element of the building and component of the site.

(3) Sign colors, materials, and lighting shall be restrained and compatible with the building and site.

(4) Signs shall not exceed a height of 15 feet.

F. *Information Required.* In addition to the information required for conditional uses by §27-1108.6, applications under this Section may be required to include the following:

(1) *Elevations.* Complete elevations of all proposed renovation and construction, and related elevations of existing structures including:

(a) Scale.

(b) All signs on the elevations.

(c) Designation of the type, color and texture of all primary material proposed.

(2) *Section Profiles*. Two section profiles through the site including:

- (a) Scale.
- (b) Building(s).
- (c) Lighting fixtures and standards.
- (d) Signs.

(3) *Material Samples*. Material samples for all major materials.

(Ord. 4/13/1998, 4/13/1998, §405; as amended by Ord. 2-1999, 5/10/1999, §§1-3)

§27-406. Prohibited Uses.

1. Recognizing that Clarks Green Borough is a mature bedroom community, which is largely residential in character with little room for additional residential or commercial development, the uses listed in this §27-406 are not permitted in any location in the Borough. These uses would have a profound effect on the community, and areas for the development of such uses are clearly available when growth and development is considered regionally. Given the small lot sizes in the Borough, inadequate highway access, and the proximity of adjoining residential uses, permitting the uses listed in this §27-406 would violate the basic tenet of zoning regulations – to protect established uses from the externalities (negative impacts) of incompatible uses. In addition, given the detrimental effect, the identified uses are hereby declared to be a public nuisance, the elimination of which is necessary to protect the public health, safety and general welfare of the residents of the Borough and public at large.

2. The following uses shall not be permitted in any location in the Borough:

- A. Agricultural products processing.
- B. Airports.
- C. Amusement parks.
- D. Bus terminals.
- E. Bulk fuel storage facilities.
- F. Campgrounds or recreational vehicle parks.
- G. Fertilizer manufacturing.
- H. Flea markets.
- I. Golf driving ranges.
- J. Heliports.
- K. Hide rendering and tanning plants.
- L. Institutional uses.
- M. Junkyards.
- N. Kennels, commercial.
- O. Livestock operations.
- P. Manufacturing and industry, heavy.
- Q. Natural resources processing.

- R. Natural resource uses.
- S. Outdoor archery ranges.
- T. Recyclable collection facilities, large.
- U. Recyclable processing facilities.
- V. Slaughterhouses.
- W. Solid waste facilities, commercial and public.
- X. Solid waste staging areas.
- Y. Stables, commercial.
- Z. Stables, private.
- AA. Truck terminals.
- BB. Truck washes.

3. Any other use not meeting the performance standards contained in §27-701 and all other applicable requirements of this Chapter shall also not be permitted in the Borough.

(Ord. 4/13/1998, 4/13/1998, §406)

Part 5**Supplementary Regulations****§27-501. Introduction.**

The standards that follow shall be applied to the specific situations indicated and are intended to supplement the standards in Part 4. Standards contained in a specific section regulating a specific use shall not exempt said use from other applicable regulations contained in this Chapter.

(Ord. 4/13/1998, 4/13/1998, §500)

§27-502. Deviations From Required Sizes.

1. No part of any structure, whether attached to the principal structure or not; including but not limited to, porches, carports, decks, balconies, chimneys, bay windows or overhangs shall project into any required yard except as permitted in this Section.

2. No lot area may be increased to comply with minimum lot size requirements unless the annexed area runs the full width or depth of the lot to which it is added. No lot, yard, or other space shall be so reduced in area or dimension as to make it less than the minimum required by this Chapter except as follows:

A. *Nonconforming Lots of Record.* See §27-911.

B. *Front Yard Exception.* Where a vacant lot exists between two improved lots, each of which has a principal building within 30 feet of the property line separating the parcels, a building may be erected on the vacant lot with a front yard not less than the greater front yard of the two adjoining buildings. However, the front yard shall not in any case be reduced to less than 25 feet for dwellings and 10 feet for nonresidential buildings.

C. *Height Limitations.* Height regulations shall not apply to spires, belfries, cupolas, domes, not used for human occupancy, nor to chimneys, ventilators, monuments, water towers, masts and aerials, television antennae, public utility structures that are not buildings, silos, chimneys, ventilators, and parapet walls extending not more than 4 feet above the regulated height of the building, skylights, bulkheads, and ornamental or necessary mechanical appurtenances. However, any such structure proposed to be a height in excess of 45 feet shall be treated as a conditional use. (See §27-809 for communication/reception antennae which are considered conditional uses regardless of height.)

D. *Extension of Non-Conforming Setbacks.* See Part 9 of this Chapter.

E. *Projections Into Yards.* Projections into required yards shall be permitted as follows; however, in no case shall a projection be less than 7 feet from any side or rear lot line or 10 feet from any public road right-of-way.

(1) Bay windows, fire places, fire escapes, chimneys, uncovered stairs and landings, and balconies and cornices, canopies, eaves, or other architectural features not required for structural support may project into the required front or rear yard not more than a total of 3 feet.

(2) Unenclosed decks and porches may project into the required front and

rear yards up to 10 feet.

(3) Unenclosed and uncovered patios may be located in the required side and rear yards not less than 10 feet to any adjacent property line, and may project into front yards up to 15 feet.

(Ord. 4/13/1998, 4/13/1998, §501)

§27-503. Unique Lots, Yards and Building Locations.

1. *Two or More Uses on a Lot.*

A. *Development Standards.* Two or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this Chapter which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking, lot coverage, and sewage disposal requirements.

B. *Residential Density.* For the purposes of density of residential structures, lot size shall be increased to maintain the density required by this Chapter. For example, the parcel size required for three single-family dwellings on one parcel would be determined by multiplying the minimum lot size for one dwelling by a factor of three.

C. *Nonresidential Uses.* In the case of nonresidential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this Chapter are satisfied. See the NC District Schedule of Uses for limitations on retail businesses and service establishments in the NC District. This shall not apply to any use which this Chapter otherwise restricts to the number of structures or larger lot sizes. In such cases the parcel size shall be increased to provide for the minimum land area for each use on the parcel. [Ord. 2-2000]

D. *Residential and Nonresidential on the Same Lot.*

(1) *R-1, R-2, and R-1-A Districts.* Residential dwellings provided for in the district by the *Schedule of Uses* shall be permitted on the same lot as a permitted nonresidential use provided the lot is of sufficient size to meet the residential unit density required by this Chapter in addition to the land area needed to meet the density requirement for the nonresidential use.

(2) *NC and C Districts.* One residential unit per property shall be permitted in association with a nonresidential use(s) without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal nonresidential structure. Any additional residential dwelling units, if provided for in the district by the *Schedule of Uses*, shall be permitted on the same lot as a nonresidential use only if the lot is of sufficient size to meet the residential unit density required by this Chapter in addition to the land area needed to meet the density requirement for the nonresidential use. [Ord. 2-2000]

E. *Structure Separation.* Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than 20 feet unless another applicable building code requires a larger separation. (See §27-504.1 for Accessory Structures.)

2. *Street Frontage; Alley Frontage.* A principal building shall be permitted only

upon a lot with frontage on a public or private road right-of-way. Each yard of a lot which abuts a street shall not be less than the front yard required for the district. In the case of corner lots, yards not abutting a street may be considered a side yard. Structures on lots fronting an alley shall maintain the required front yard for the district. Yards abutting an alley shall meet the normal yards required for the district. (e.g., If the rear yard abuts an alley the normal rear yard setback shall be required.)

3. *Clear View At Street Intersections.* Visual obstructions at street intersection including, but not limited to, structures, opaque fences, vegetation and signs, (excluding an existing building, post, public utility structures, column or deciduous tree between a height of 2½ and 10 feet shall be prohibited on any lot within the triangle formed by the street right-of-way lines and a line drawn between points along the street right-of-way lines 30 feet distant from their points of intersection. More restrictive standards shall be required in cases where intersection alignment, topography or other circumstances dictate same to maintain adequate clear view.

(Ord. 4/13/1998, 4/13/1998, §502; as amended by Ord. 2-2000, 8/14/2000, §8)

§27-504. Accessory Structures and Uses.

1. *Accessory Structures.* All accessory structures shall conform to the minimum regulations established in Part 4 except as permitted below.

A. *Unattached Residential Accessory Structures.* Unattached residential accessory structures shall not exceed 15 feet or 1½ stories in height and may be erected within the required rear yard of a principal structure, provided:

- (1) A minimum side yard of 10 feet is maintained, except on corner lots where the side yard as specified in §27-503.2 shall be maintained.
- (2) A minimum rear yard of 10 feet is maintained.
- (3) A minimum separation distance of 10 feet is maintained from the principal structure.

B. *Unattached Nonresidential Accessory Structures.* Unattached nonresidential accessory structures shall conform to the required front and side yards for principal structures and shall maintain a minimum rear yard of 20 feet.

C. *Attached Accessory Structures.* An accessory structure attached to a principal building shall be considered to be a part of the principal building and shall conform to the yards for principal structures.

2. *Fences and Walls.* The erection of any fence or wall in all districts shall require a zoning permit, and shall be subject to the following provisions: (For the purposes of this Section, height shall mean the height measured above the average natural grade.)

A. All fences and walls shall comply with §27-503.3 of this Chapter for clear sight triangles.

B. Fences and walls may be erected in front yards; however, no such fence or wall shall encroach upon any public right-of-way and shall not exceed a height of 4 feet. Any fence erected in a front yard shall be 75% open area in ratio to structural area.

C. Fences and walls greater than 6 feet in height are prohibited.

D. All fence posts and other structural supports shall be located on the side

of said fence towards the interior of the property owned by the person erecting the subject fence.

E. The following fences and fencing materials are prohibited:

- (1) Barbed wire.
- (2) Electrically charged fences.
- (3) Broken glass surmounting a wall.
- (4) Fabric, junk, junk vehicles, sheet metal, appliances, tanks, barrels or similar material.
- (5) Fences which exceed district maximum height requirements.

3. *Home Occupations.* It is the intent of this subsection to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of the existence of the home occupation. All home occupations shall be considered conditional uses. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential nuisances of a proposed home occupation the Borough Council may determine that a particular type or intensity of use is unsuitable to be a home occupation or that the proposed lot area or setbacks are not adequate. In addition to the standards for conditional uses in this Chapter, the following standards shall apply:

A. The home occupation must be conducted entirely inside the dwelling and shall be clearly incidental and secondary to the use of the dwelling as a residence.

B. The total area used by all home occupations on the premises does not exceed 25% of the gross floor area of the dwelling unit, including basement, as existed at the effective date of this Chapter, but not to exceed 500 square feet in any case.

C. No outdoor display or display visible from outdoors, or outdoor storage of materials, goods, products, supplies, or equipment used in the home occupation(s) shall be permitted.

D. There shall be no evidence visible from outside the dwelling (show windows, business displays, advertising, etc.) that the residence is being operated as a home occupation except for a sign, if permitted, and required parking area.

F. The home occupation shall be conducted only by members of the family residing in the dwelling and not more than one person other than residents of the dwelling shall be employed on the premises.

G. Off-street parking shall be provided on the premises as required by this Chapter to prevent parking on any public or private street right-of-way.

H. No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.

I. No goods or items for retail or wholesale sale shall be permitted. Mail order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises shall be permitted.

J. The professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and veterinarians, and similar types of professional practice uses shall be limited to practitioners who reside on the

premises.

K. §27-701, "Performance Standards," shall also apply to home occupations.

L. Signs for home occupations shall not be permitted in the R-1 District. See §27-506. for home occupation signs in other districts.

M. The following uses shall not be permitted as home occupations: commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops, retail sales, restaurant, funeral parlor or other uses not meeting the requirements of this §27-504.3 as determined by the Borough Council.

N. The use shall not require the parking or servicing by a vehicle with more than 26,000 pounds registered gross vehicle weight, except for deliveries of a maximum of two times per day. The use shall not involve the parking of more than one truck of any type on the lot or on adjacent streets at any period of time. The use shall not require servicing by, deliveries by or parking of tractor-trailer trucks.

4. *Private Parking Areas and Garages.* Accessory off-street parking areas or garages serving the residential or nonresidential parking demand created by the principal building are permitted in accord with §27-505. Accessory garages shall conform with §27-504.1.

5. *Home Gardening, Nurseries and Greenhouses.* Home gardening, and accessory structures used for nurseries or as greenhouses, are permitted in residential areas, provided they are used by the residents thereof for non-commercial purposes and do not include the outdoor storage of equipment and supplies.

6. *Private Outdoor Swimming Pools.*

A. A single private outdoor swimming pool per dwelling unit is permitted as an accessory use to a residential structure, provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests, and provided that the edge of the pool is not located closer than 10 feet to any property line nor located between any principal structure and a public street. Decks around pools shall comply with setbacks for accessory structures.

B. Access to pools shall be restricted in accord With the requirements of *Ord. 6-1987, 8/10/1987, "Swimming Pools,"* [Chapter 23].

C. A zoning permit shall be required for pools 10 feet or more in diameter and/or capable of holding 2 or more feet of water.

7. *Temporary Uses.*

A. *Definition.* A use accessory to another permitted principal use that operates at a fixed location for a temporary period of time.

B. *Zoning Permit Required.* No temporary use shall be established unless a zoning permit evidencing the compliance of such use with the provisions of §27-504.7 and other applicable provisions of this Chapter shall have first been issued.

C. *Particular Temporary Uses Permitted.* The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Chapter.

(1) *Contractor's Office and Construction Equipment Sheds.*

(a) Permitted in any district where use is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommoda-

tions.

(b) Maximum length of permit shall be 1 year.

(c) Office or shed shall be removed upon completion of construction project.

(d) Required water supply and sanitary facilities shall be provided.

(2) *Real Estate Sales Office.*

(a) Permitted in any district for any new subdivision approved in accord with the Borough Subdivision and Land Development Ordinance [Chapter 22]. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office.

(b) Maximum length of permit shall be 1 year.

(c) The office shall be removed upon completion of the development of the subdivision.

(d) Required water supply and sanitary facilities shall be provided.

(3) *Temporary Shelter.*

(a) When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.

(b) Required water supply and sanitary facilities must be provided.

(c) Maximum length of permit shall be 12 months, but the Zoning Officer may extend the permit for a period or periods not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least 15 days prior to expiration of the original permit.

(d) The mobile home shall be removed from the property prior to issuance of any occupancy permit for the new or rehabilitated residence.

D. *Tents.* The following are permitted by right accessory uses: tents erected for a use during a maximum of 5 days in any calendar year for: 1) routine and customary accessory non-commercial uses (such as weddings in a rear yard) and for 2) a routine and customary accessory use to an existing commercial use.

E. *Other Temporary Uses.* For temporary structures or uses that are not specifically permitted by right by this Chapter, and other than customary accessory uses and other than those uses that were lawfully occurring on a periodic basis prior to the adoption of this Chapter, a temporary permit may be issued by the Zoning Officer as a special exception of structures or uses that would not otherwise be permitted, subject to the following additional provisions:

(1) *Duration.* The Zoning Officer shall establish a limit on the duration of the use. In the case of a special event, except under special circumstances, this should be a maximum of 7 days in any 60-day period. The Zoning Officer may grant a single approval once for numerous occurrences of an event.

(2) *Statement from Owner.* The applicant shall present a statement from

the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.

(3) *Removal.* Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough. If the structure or use is not removed in a timely fashion after proper notification, the Borough may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.

(4) *Conditions.* The temporary use or structure shall: 1) be compatible with adjacent uses and 2) clearly be of a temporary nature.

(5) *Fee.* The Borough Council may waive and/or return the required application fee if the applicant is an Internal Revenue Service recognized and well-established nonprofit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly primarily serve a charitable or public service purpose.

(6) *Nonprofit.* Only a well-established and Internal Revenue Service-recognized nonprofit organization proposing a temporary use to clearly primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use is not permitted.

(7) *Special Event.* For a special event that will attract significant numbers of the public, the Zoning Officer shall deny the use if it is determined that the following will not be generally appropriate sanitary and water service, traffic control, off-street parking and protection of the public health and safety.

F. *Additional Regulations.*

(1) Documentation must be provided to the Borough that adequate arrangement for temporary sanitary facilities has been made.

(2) All uses shall be confined to the dates specified in the permit.

(3) Hours of operation shall be confined to those specified in the permit.

(4) Access and parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained with a minimum of 6 inches or as otherwise needed, of bank-run gravel or equal material.

8. *Yard Sales.* Individual private family yard sales are a permitted accessory use in all zoning districts. A permit shall be required and yard sales shall be subject to the following specific regulations and requirements:

A. Each individual property location may have a maximum of three yard sales during anyone 1 calendar year. Each sale shall last a maximum of 3 consecutive days.

B. All items shall be placed and offered for sale within the confines of the property described in the permit.

C. Yard sales are meant to allow individuals to offer for sale accumulated normal household items or arts and crafts; and the buying and selling of commercial or surplus material shall be considered a commercial operation and

shall be prohibited except in Districts where permitted and in accord with the requirements of this Chapter.

D. Signs for yard sales shall be permitted in accord with §27-506 of this Chapter.

9. *Pets, Keeping of.* The keeping of pets is a permitted accessory use in all districts subject to the standards in this Section and any other ordinance or standards adopted by the Borough.

A. *Type Permitted.* Only domesticated animals compatible with a residential character shall be permitted, including for example, dogs, cats, lizards, turtles, gerbils and fish. The keeping of bears, exotic cats, wolves, wolf-dog hybrids, venomous snakes and other wild animals, and the keeping of pigeons, chickens, ducks, geese, and similar fowl shall not be permitted in the Borough.

B. *Dogs and Cats.* The combined maximum number of dogs and cats over 3 months of age shall be six. Any number in excess of six and commercial breeding shall be considered a kennel subject to regulation by this Chapter.

C. *Rabbits.* A maximum of two rabbits may be kept as pets provided such animals are kept within the principal building or within a secure fenced or caged area not less than 30 feet from any property line. The keeping of more than a combined total of two such animals shall be considered a livestock operation regulated by §27-824.

D. *Bees.* Any area intentionally used for the outdoor keeping of bees shall be a minimum of 150 feet from all lot lines and shall be well marked.

E. *Nuisances.* The keeping of any animals shall not create a public nuisance, health hazard or safety hazard. The person responsible for the animal shall collect and properly dispose of all pet fecal matter.

(Ord. 4/13/1998, 4/13/1998, §503)

§27-505. Off-Street Parking and Loading.

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

2. *Size and Design of Parking Spaces.* Parking shall be provided in accord with an overall parking plan prepared in accord with generally accepted design standards and which takes into consideration access design and control, size and shape of the parking area, types of vehicles using the parking area, traffic patterns and other applicable considerations. The net parking space per vehicle shall be not less than nine 9 feet wide and 18 feet long. Garages and carports not in the public right-of-way may be considered parking spaces. Notwithstanding the above, all parking spaces shall be ample in size for the vehicles for which use is intended.

3. *Lighting.* Any lighting used to illuminate any off street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways. (See also §27-701.8.)

4. *Public Rights of Way.* Parking, loading and unloading of vehicles shall not be permitted on public right-of-ways, except in designated areas and in accord with Borough parking regulations. No parking area shall be designed which requires or encourages parked vehicles to be backed into a public street, except for single-family and two-family dwellings with access onto a local street or parking court.

5. *Off-Street Parking in NC and C Districts.* Off-street parking and loading for new nonresidential uses in new structures in the NC and C Districts shall be provided to the rear of the principal structure. In the case of a change in use in the NC and C Districts which requires additional parking, existing on-site parking may be used as necessary to meet the minimum requirements. Off-street parking and loading areas for nonresidential uses in the NC and C Districts shall be permitted only in the NC and C Districts and shall not be permitted in other zoning districts. [Ord. 2-2000]

6. *Number of Spaces to Be Provided.*

A. Any structure or building not exempted by §27-505.5 and which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off-street parking spaces adequate to serve such use but with not less than the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

B. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.

C. Additional parking for the handicapped shall be provided in accord with §27-505.16.

D. Should the applicant provide evidence that the number of parking spaces required by this Section is not necessarily required to meet the immediate needs of the proposed use, the number of spaces provided may be reduced as a conditional use by a maximum of 50% provided sufficient and suitable area is dedicated to future parking to meet the normal standards in this Section and the applicant shall agree in writing to install the parking at the direction of the Borough Council. Reserve parking areas shall be included in the calculation of lot coverage area. Parking facilities used jointly by two or more principal uses may be considered for a parking reduction. (See §27-505.12.)

USE	PARKING SPACES REQUIRED
A. Dwellings	2 per dwelling unit
B. Homes for handicapped or infirm, nursing homes, group care homes, halfway houses and similar uses	3 per every 5 beds
C. Hotels, motels, boarding and tourist homes, bed and breakfast establishments and other uses providing overnight accommodations	1.1 per bedroom
D. Sales and rental of goods, merchandise and equipment	
1. Retail establishments	1 per 200 SFGFA open to the public

USE	PARKING SPACES REQUIRED
2. Wholesale establishments	1 per 800 SFGFA
E. Offices, research facilities and services not primarily related to goods	
1. Serving customers or clients on premises such as attorneys, physicians, insurance	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
4. Funeral homes	1 per 100 SFGFA open to the public
F. Manufacturing, processing, renovating, assembling goods, merchandise and equipment	
G. Educational, cultural, religious, social, fraternal uses	
1. Public schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Trade and vocational schools, colleges	1 per 100 SFGFA open to the public
3. Churches, synagogues and temples	1 per every 4 seats used for services
4. Libraries and museums, social, fraternal clubs and lodges; and similar uses	1 per 300 SFGFA open to the public
H. Recreational, amusement and entertainment	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 3 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums and similar uses with seating accommodations	1 per every 4 seats
3. Public and private outdoor recreation facilities such as golf courses, swimming pools and similar uses	1 per 200 SFGFA open to the public plus 1 per every 3 persons of fully utilized design capacity
I. Hospitals, clinics and other medical treatment facilities	
J. Restaurants, bars, taverns and other eating establishments	
K. Vehicle related uses	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car wash	1 per 100 SFGFA plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type

USE	PARKING SPACES REQUIRED
L. Warehousing and storage	1 per 4,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA open to the public
2. Nursery schools and day care	1 per 150 SFGFA open to the public
3. Greenhouses	1 per 200 SFGFA open to the public
4. Emergency services	1 per 200 SFGFA open to the public
5. Post office	1 per 200 SFGFA open to the public

Note: SFGFA means “square feet of gross floor area.” Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than 6 feet.

For uses not specifically provided above, the Borough Council, with the recommendation of the Planning Commission, shall determine the required number of spaces based upon the similarity of the proposed use the uses provided.

7. *Loading and Unloading Areas.* In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital or other nonresidential uses, to provide adequate off street areas for loading and unloading of vehicles. The applicant shall provide, to the satisfaction of the Borough, documentation of the types and frequency of vehicles servicing the proposed use. Each required space shall meet the following dimensions:

Largest Type of Truck Service	Minimum Width (feet)	Minimum Length (feet)
Tractor trailer	12	55 with 12 ft. clear height
Trucks other than tractor trailers, pick-ups or vans	10	25
Pick-up truck or van	9	18

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

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

WIDTH	1-Way Use	2-Way Use
Minimum	12 feet	20 feet
Maximum	35 feet	50 feet

B. *Controlled Access.* Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit.

C. *Distance Between Nonresidential Driveways.* In no case shall one entrance or exit be located within 50 feet of any other on the same property or adjoining property along the same public right-of-way.

D. *Distance From Intersections.* At a minimum, the following distance shall be maintained between the centerline of any driveway/access way and the centerline of any street intersecting the same street as the driveway/access way:

Type of Street	Minimum Separation Distance
State	75 feet
Borough	50 feet

E. *Highway Occupancy Permit.* A Borough or State highway occupancy permit, as applicable, shall be required for any new or escalated access to any public street or any other regulated activity within the right-of-way.

9. *Parking and Loading Area Buffers.* All parking and loading areas and parallel circulation and service lanes serving any nonresidential or multi-family use shall be separated from any public road right-of-way or adjoining property lines by a buffer area not less than 3 feet in width unless adjoining uses share parking in accord with §27-505.12. In the case of adjoining R-1, R-2, or R-1-A Districts, the buffer shall be increased to 10 feet. Buffers shall be improved in accord with §27-505.12.

A. *Measurement.* The width of the buffer shall be measured from the curb line or from the legal right-of-way line after development if no curbs will be provided.

B. *Uses Prohibited.* The buffer area shall be maintained in natural vegetative ground cover and shall not include:

- (1) Fences. [Ord 2-1999]
- (2) Parking, storage or display of vehicles.
- (3) Items for sale or rent.

C. *Uses Permitted.* The buffer area may include the following:

- (1) Pervious stormwater facilities. [Ord. 2-1999]

D. *Sidewalks.* If sidewalks exist or will be provided, the buffer area may be provided between the sidewalk and the street or between the sidewalk and the paving.

E. *Clear Sight Triangles.* All required clear sight triangles at intersections shall be maintained.

10. *Surfacing.* Off-street parking and loading areas and driveways/access ways shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface, and in the case of nonresidential uses shall be comprised of a concrete or bituminous concrete surface. All such facilities shall be constructed in accord with accepted standards to assure durability.

11. *Off-Lot Parking.* Required parking may be provided on a different lot than on

the lot on which the principal use is located, provided the parking is not more than 200 feet from the principal use lot. Off-lot parking areas shall be permitted only in a district where the principal use is permitted. Both parcels shall be under the same control, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

12. *Joint Use Parking.* In cases where two principal uses share a common property line, shared parking facilities maybe utilized. The arrangement for joint-use parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The joint-use parking area may span the common property line thereby eliminating the setback required in §27-505.9. The standards in §27-505.6 for number of spaces to be provided shall apply to joint-use parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to 10% of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)

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

14. *Parking for Residential Use.* Off-street parking shall be provided in accord with this Section for all residential uses in all Districts.

15. *Handicapped Parking.*

A. *Number of Spaces.* Any lot including four or more off-street parking spaces shall include a minimum of one handicapped space. The number of handicapped spaces shall be provided in accord with Table 505.15-1, unless a revised regulation is established under the Federal Americans With Disabilities Act (ADA).

B. *Location.* Handicapped parking spaces shall be located where access to the use is via the shortest reasonable accessible distance. Curb cuts with an appropriate slope shall be provided as needed to provide access from the handicapped spaces.

TABLE 505.15-1

Total # of Required Spaces on Parking	Required Minimum # / % of Lot Handicapped Parking Spaces
4 to 25	1
26 to 50	2
51 to 75	3
76 and more	4

C. *Minimum Size.* Each required handicapped parking space shall be a minimum of 8 feet by 18 feet. In addition, each space shall be adjacent to an access aisle 5 feet in width. Such access aisle may be shared by two handicapped spaces by being placed between the spaces. In order to provide for van accessibility, one of every eight required handicapped spaces shall have an adjacent access aisle of

8 feet in width instead of 5 feet.

D. *Slope.* In accord with ADA requirements, handicapped parking spaces shall be located in areas of less than 2% slope in all directions.

E. *Marking.* All required handicapped spaces shall be well-marked by clearly visible signs and/or pavement markings.

17. *Parking of Commercial Vehicles.* The purpose of this Section is to prevent the character of residential areas from being harmed by nuisances, hazards and visual blight.

A. *Definitions.* For the purposes of this §27-505.17, the following terms shall have the following meanings:

(1) *Commercial Vehicle.* A motor vehicle that has a gross vehicle weights of greater than 6,000 pounds and is primarily used for business purposes including, but not limited to, making service calls, transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material).

(2) *Tractor of a Tractor-Trailer.* A truck with a minimum of three axles that is primarily intended to pull a trailer, as defined below, and not primarily to carry goods itself.

(3) *Trailer of Tractor-Trailer.* A commercial vehicle with a length of 20 feet or more that is not self-propelled, that is intended to haul materials, vehicles, goods, gases or liquids and that is intended to be pulled by a tractor (as defined above), and that is not a "recreational vehicle."

(4) *Heavy Equipment.* Any wheeled or tracked equipment not typically associated with a residential use including, but not limited to, tractors, backhoes, loaders, excavators, compressors, drilling equipment, and similar equipment.

B. *Commercial Vehicles in a Residential District.*

(1) In any R-1, R-2 or R-1-A District, a maximum of one commercial vehicle (as defined above) may be parked for more than 8 hours in any 48-hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of transportation between their home and work. No commercial vehicle in any R-1, R-2 or R-1-A District shall have a gross vehicle weight of over 15,000 pounds if parked outside of an enclosed building.

(2) In any R-1, R-2 or R-1-A District, the engine of a tractor of a tractor-trailer shall not be idled for more than 10 minutes on the property between the hours of 10:00 p.m. and 6:00 a.m. or be repaired.

(3) No heavy equipment or trailer of a tractor-trailer shall be parked, stored, maintained or kept in any R-1, R-2 or R-1-A District.

(4) See the requirements of the Vehicle Code, Title 75, Pa.C.S.A., that require vehicles parked on a public street to have current registration.

(Ord. 4/13/1998, 4/13/1998, §504; as amended by Ord. 2-1999, 5/10/1999, §4; and by Ord. 2-2000, 8/14/2000, §9)

§27-506. Signs.

1. *Permits Required.* No sign shall be erected, altered or relocated except in conformity with this Chapter and until a permit, if required, for same has been issued by the Zoning Officer. For the purpose of this Section, "alter" shall include any change in size or height, and "relocate" shall include any change in the physical location of the sign. The painting, changing of parts and preventive maintenance of signs shall not require a permit.

2. *Signs Requiring No Permits.* The following signs shall be permitted in all Districts and no permits shall be required.

A. *Awning, Canopy, and Marquee Signs.* Signs, not exceeding an aggregate gross surface area of 4 square feet, indicating only the name of the activity conducted on the premises on which the sign is to be located and/or a brief generic description of the business being conducted by the activity. Advertising material of any kind is strictly prohibited on signs affixed to awnings, canopies, and marquees.

B. *Civic and Religious.* Civic and religious organization signs indicating only the organization insignia, name, meeting place, and time. Such signs shall not exceed 2 square feet for each exposed surface and 4 square feet aggregate gross surface area.

C. *Directional or Instructional Signs.* Signs, not exceeding 4 feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind. Such signs include those identifying rest rooms, public telephones, public walk-ways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility, but not including those signs accessory to parking areas. Advertising material of any kind is strictly prohibited on directional and instructional signs.

D. *Temporary Real Estate Signs.* Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:

(1) *Number.* There shall be not more than one temporary real estate sign for each zoning lot except that where a lot abuts two or more streets, additional signs, one oriented to each abutting street, shall be permitted.

(2) *Area.*

(a) *Residential Areas.* In all residential areas, temporary real estate signs shall not exceed 6 square feet in gross surface area of 12 square feet.

(b) *Nonresidential Areas.* In nonresidential areas, temporary real estate signs shall not exceed 16 square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of 32 square feet.

(3) *Location.* Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required yard, but shall not extend over any lot line or within 15 feet of any point of vehicular access from a zoning lot to a public roadway.

(4) *Height.* Temporary real estate signs shall not project higher than 15

feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

(5) *Special Conditions.* Temporary real estate signs shall be removed within 7 days of the sale or lease of the premises upon which the sign is located.

E. *Non-Commercial Signs.* Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations providing that such flags, emblems, and insignia are displayed for non-commercial purpose.

F. *Governmental Signs.* Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties.

G. *Holiday Decorations.* Signs or other materials temporarily displayed on traditionally accepted civic, patriotic, or religious holidays related to observance of the civic, patriotic, or religious holiday.

H. *Interior Signs.* Signs which are not visible from the exterior of the building and which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby court or entrance of any theater.

I. *Memorial Signs.* Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events that are non-commercial in nature.

J. *Name and Address Plates.* Signs identifying single-family and two-family dwellings, not exceeding 2 square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of 4 square feet, indicating the name of the occupant and the address of the premises.

K. *No Trespassing, No Hunting, No Fishing, No Dumping, No Parking, No Towing, and Other Similar Signs.* No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs, as set forth in the Vehicle Code, Title 75, Pa.C.S.A., and its regulations and as set forth the Crimes Code, Title 18, Pa.C.S.A, and its regulations, not exceeding 2 square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of 4 square feet.

L. *Parking Lot Directional and Instructional Signs.*

(1) *Directional Signs.* Signs designating parking area entrances and exits limited to one sign for each entrance and/or exit and not exceeding 4 square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than 5 feet in height, as measured from the established grade of the parking area to which such signs are accessory.

(2) *Instructional Signs.* Signs designating the conditions of use or identity of parking areas and not exceeding 8 square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of 16 square feet. Parking lot instructional signs shall not project higher than 10 feet for wall signs and 7 feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.

M. *Patron Advertising Signs.* Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of 32 square feet of gross aggregate surface area. Sponsors advertising on score boards may not exceed 25% of the surface area of the score board.

N. *Plaques.* Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior walls of a building, not exceeding 4 square feet in aggregate gross surface area.

O. *Public Notices.* Official notices posted by public officers or employees in the performance of the officer's or employee's duties.

P. *Public Signs.* Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be on any type, number, area, height, location, or illumination as required by law, statute, or ordinance.

Q. *Signs on Vehicles.* Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles and/or trailers, which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearly property.

R. *Symbols or Insignia.* Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding 2 square feet in gross surface area for each exposed face not exceeding 4 square feet in aggregate gross surface area.

S. *Vending Machine Signs.* Permanent, non-flashing signs on vending machines, gasoline pumps, ice or mills containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information as to the use, and other similar information not exceeding 4 square feet in gross surface area for each exposed face not exceeding an aggregate gross surface area of 8 square feet on each machine.

T. *Warning Signs.* Signs warning the public of the existence of danger, but containing no advertising material; to be removed within 3 days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.

U. *Window Signs.* Signs displayed in windows shall not exceed 25% of the window area of the building but not a total area of 40 square feet and shall not advertise any business, service or product not located, provided or sold on the premises.

3. *General Sign Regulations.* The following regulations shall apply to all signs:

A. With the exception of billboards, a sign shall be permitted only in connection with the permitted use on the premises.

B. All signs shall be removed when the reasons for their erection no longer apply. The Zoning Officer may identify such signs and notify the property owner of the violation and establish a reasonable time period for the removal of the sign. If such sign is not removed within said time period, the property owner shall be subject to the fines and penalty provisions for violation of this Chapter.

C. Signs shall not be permitted on the roof or above the roof line of the building to which they are attached.

D. Banners, pennants, streamers, balloons and other gas-filled figures, and similar displays shall not be permitted.

E. Signs other than official traffic signs shall comply with the required side yard setbacks as established for principal structures in the subject Zoning District.

F. Signs other than official traffic signs shall not project into, onto, or over any public sidewalk, right-of-way or alley and shall not be erected, installed, maintained or replaced so as to be a hazard to the users of a public sidewalk, right-of-way or alley.

G. No signs shall be erected, installed, or maintained in a location which will constitute an obstruction to vision or endanger the safety of the traveling public.

H. No sign, except a public sign, visible from a public street, shall use the words "stop," "danger," or any other word, phrase, symbol or character which could be interpreted by a motorist as being a public safety warning or traffic sign.

I. No sign shall be so constructed, erected, or located which would create a safety hazard by obstructing the visibility of a motorist or pedestrian proceeding along the public way or entering or leaving a parking lot or any road intersection.

J. No revolving sign or any other type of moving animated or electronic message sign shall be permitted with the exception of barber poles and time and temperature indicators.

K. No sign shall be attached to any tree, fence, or other object not specifically intended for sign support except for "no trespassing" signs, legal warning or other private signs not exceeding 2 square feet in surface area. No sign shall be attached to any utility pole.

L. Freestanding signs and sign structures shall not exceed a height of 15 feet from the average natural grade measured to the top of the sign.

M. All signs, with the exception of permitted temporary signs, shall be permanently attached to the ground or a structure. Portable signs shall not be permitted except in accord with §27-506.9 and §27-506.11 of this Chapter.

N. Signs shall be constructed of durable material and be maintained in good condition.

O. Signs shall be illuminated only by a steady, stationary (excepting for indicators of time and temperature), shielded light source directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians or neighboring premises. No interior or exterior light shall be permitted that by reason of intensity, color, location, movement or direction of its beam may interfere with public safety. This shall include flashing, oscillating, and spot lights when improperly placed. No sign shall resemble traffic signals.

P. Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property, so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or other property shall not be permitted.

4. *Business and Institutional Signs.* Freestanding, overhanging and facade signs shall be permitted for the identification of any business, profession, manufacturing or other commercial establishment (hereinafter referred to as "business"); or any public or semi-public use, school, church, hospital or similar institution (hereinafter referred to as "institution"), which is permitted in accord with this Chapter. Such signs may only be placed on and maintained by the said owner, lessee or occupant of land upon which is located the main office or principal place of "business" or "institution" or where a branch office, store, warehouse or other principal permitted facility is maintained by said owner, lessee or occupant. In the case of freestanding and overhanging signs, advertising material may be shown on each side of the sign.

A. *Freestanding and Facade Signs.* Not more than one freestanding sign or one facade sign shall be permitted along each road frontage of the subject parcel. The surface area of each sign face of a freestanding sign shall not exceed 2 square feet for each lineal foot of horizontal building facade length along the road frontage, but not to exceed 40 square feet. A facade sign shall only be attached to the facade of the building which abuts a public road right-of-way, shall be attached directly to and in the same plane of the facade and shall not project more than 6 inches from the facade. The total aggregate surface area of the facade sign shall not exceed 10% of the facade area along the road frontage, but not to exceed a maximum of 40 square feet.

B. *Overhanging Signs.* Overhanging signs shall not be permitted.

C. *Facade Sign.* In addition to the signs permitted in subsection .A and subsection .B, "business" or "institution" signs may be attached to the facade principal structure.

D. *Sign Text.* The text on any sign permitted by this Section shall not contain information or advertising for any product not sold or any service not provided on the premises.

E. *Canopy and Awning.* In addition to the other signs permitted by this Section, a canopy or awning shall be permitted provided the lowest part of the canopy or awning is not less than 8 feet above the sidewalk and bears no text or other advertising except the name of the "business" or "institution," and shall be fully supported by attachment to the building and no posts to the sidewalk or which encroach on the sidewalk or into any public road right-of-way shall be permitted.

F. *Bulletin Boards.* One bulletin board sign, not to exceed 12 square feet in surface area for each sign face, shall be permitted for schools, churches, public buildings and similar institutional uses. Said sign to be used solely for the display of information applicable only to the subject use.

G. *Directional Signs.* Signs giving directions to a public or semi-public use not located on Abington Road or Grove Street, provided that the sign surface area does not exceed 4 square feet. Such signs shall be limited to one per establishment and

the written permission of the property owner upon whose premises the sign is erected shall be required.

5. *Billboards.* The following regulations shall apply to all billboards:

A. Billboard shall comply with all applicable State and Federal regulations governing outdoor advertising.

B. Billboards shall be permitted in the C-General Commercial District only.

C. A billboard may only be erected on a lot or parcel of property which fronts on East Grove Street.

D. Not more than one billboard shall be erected on any lot or parcel of property; and in no case shall a billboard be located closer than 300 feet to any other billboard.

E. No billboard shall exceed 200 square feet in surface area.

F. All billboards shall maintain a side yard setback of not less than 25 feet; and shall be located not less than 30 feet, nor more than 75 feet, from the adjoining public road right-of-way line.

G. No billboard shall be attached to or erected on any other building or structure.

6. *Home Occupation Signs.* Home occupation or nameplate signs displaying the name and address of the occupant or the profession or activity of the occupant of a dwelling unit shall be permitted provided that not more than one such sign shall be erected for on any premises. The surface area of each sign face shall not exceed 2 square feet; and the sign shall meet the setback requirements for principal structures in the subject district.

7. *Residential Development and Multi-Family Project Signs.* The following signs shall be permitted:

A. Free-standing real estate signs for advertising the sale or rental of the premises upon which the sign is erected, provided that the sign surface area does not exceed 32 square feet, that there shall be no more than one such sign on any one lot on the same street frontage. For the purpose of this Chapter, multi-family dwelling units shall not be advertised by such real estate signs for more than 12 months after building construction is completed.

B. Directional signs, not to exceed a surface area of 2 square feet, erected within the project to direct persons to a rental office or sample apartment.

C. Facade signs to identify the individual buildings within the project, provided such signs do not exceed 6 square feet and are limited to one per building and are attached to the building facade.

8. *Shopping Center or Multiple Commercial or Institutional Occupant Signs.*

A. One free standing sign identifying the multiple occupant building is permitted on the premises of such project and one sign identifying each business or profession located in the building is permitted provided the total sign surface area does not exceed 32 square feet. All such signs shall be attached to the same frame.

B. In addition, one sign for each occupant of the building may be attached to the principal structure provided such signs do not exceed 6 square feet and are

limited to one per building and are attached to the building facade.

9. *Temporary Sign and Displays.* Banners, pennants, streamers, balloons and other gas-flied figures, and similar displays shall be permitted for activities conducted by charitable groups or government agencies. Banners shall not exceed 32 square feet in total surface area. Such signs shall not be erected more than 1 week prior to the activity and shall be permitted for the length of the activity, but in no case exceeding 21 days. Temporary signs announcing a campaign, drive or event of a civic, nonprofit, educational or religious organization, provided such sign shall not exceed 120 square feet in sign surface area. Such signs shall not be erected more than 2 weeks prior to the function and shall be removed immediately upon the completion of the function. All such signs shall also comply with any requirements of PennDOT.

10. *Political Signs.* The erection of political campaign signs advertising a candidate for a governmental election shall be permitted in any district in accord with the standards in this Section. All such signs shall be removed within 7 days following the election for which the signs were erected.

11. *Sandwich Board Signs.* Sandwich board signs shall not be permitted.

12. *Non-Conforming Signs.*

A. *Legal, Non-Conforming Signs.* Any sign lawfully existing or under construction on the effective date of this Chapter, which does not conform to one or more of the provisions of this Chapter, may be continued in operation and maintained indefinitely as a legal non-conforming sign subject to compliance with the requirements of subsection .12.B.

B. *Maintenance and Repair of Legal Non-Conforming Signs.* Normal maintenance of legal non-conforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the non-conforming features of the sign, shall be permitted. However, no alteration, enlargement, or extension shall be made to a legal non-conforming sign unless the alteration, enlargement, or extension will result in the elimination of the non-conforming features of the sign. If a legal non-conforming sign is damaged or destroyed by any means to the extent of 50% or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.

13. *Removal of Certain Signs.*

A. *Non-Conforming Signs.* If the Zoning Officer shall find that any non-conforming sign, except for those legal non-conforming signs as specified in subsection .12 is displayed, he shall give written notice to the owners, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within 10 days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such 10-day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

B. *Obsolete Signs.* Any sign, whether existing on or erected after the effective date of this Chapter, which advertises a business no longer being conducted or a

product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within 90 days upon the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. If the Zoning Officer shall find that any such sign advertising a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located has not been removed within 90 days upon the cessation of such business or sale of such product, he shall give written notices to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be affected within 10 days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such 10-day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

C. *Unsafe Signs.* If the Zoning Officer shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction to the condition which caused the Zoning Officer to give such notice shall be effected within 10 days after receipt of the notice. If such condition is not corrected after the conclusion of such 10-day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding, the foregoing provisions, the Zoning Officer is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.

14. *Temporary Yard or Garage Sale, Open House, or Auction Signs.* Temporary yard sale or garage sale, open house, or auction signs advertising the sale of items and the sales location shall be subject to the following:

A. *Number.* There shall not be more than three such signs for each location of a sale.

B. *Area.* In all zoning districts no such sign shall exceed 4 square feet in size.

C. *Location.* Such signs may not be located within the street or road right-of-way. No sign may be placed on a utility or municipality owned pole or structure. Such signs shall be self-supported and shall not create a public hazard.

D. *Height.* Such signs shall not exceed 30 inches in height.

E. *Timing.* Such signs may be erected no sooner than 7 days before the sale and must be removed no later than 3 days after the sale. No such sign shall remain erected for a period longer than 10 days.

6. *Sidewalks.* In cases where sidewalks exist in the Borough, all development, including but not limited to, residential and commercial uses and new construction, additions to existing structures, and reconstruction, shall only be undertaken in such manner as to preserve the existing sidewalks or to reconstruct to Borough standards

any sidewalks which are disturbed.
(*Ord. 4/13/1998, 4/13/1998, §505*)

Part 6**Residential Standards****§27-601. Cluster Residential Development.**

Cluster residential development is permitted in the R-1-A District and, in addition to the other applicable criteria in this Chapter, the following standards shall apply:

A. *Applications.* Cluster development applications shall be processed concurrently with the subdivision approval procedures set forth in the Borough Subdivision and Land Development Ordinance [Chapter 22] and all applicable development requirements of said ordinance shall apply.

B. *Minimum Size.* A minimum parcel size of 2 acres shall be required and all lands, including open space, proposed for a cluster development shall be contiguous.

C. *Individual Lots and Density.* Individual building lots may be reduced to a size of 5,000 square feet; however, the overall density on the parcel shall be maintained as required by this Chapter. The number of units permitted shall be determined by one of the following two methods:

(1) The applicant shall submit a subdivision plan for the parcel as if it were to be developed in accord with all the standards and requirements in this Chapter and the Borough Subdivision and Land Development Ordinance [Chapter 22] for a normal (i.e., non-cluster) single-family residential subdivision served by the Borough water supply and the Borough sewage disposal system. Any lot which, due to slope, soil, wetlands or other limitation, does not contain a suitable area for erecting a dwelling and associated improvements using normal development and building practices, shall not be considered a "buildable lot" for the purposes of this Section; and such determination shall be made by the Borough.

(2) Deduct the following areas:

(a) Land contained within public rights-of-way.

(b) Land contained within the rights-of-way of existing or proposed private streets and parking areas (where formal rights-of-way are not involved the width of the street shall be assumed as 50 feet wide).

(c) Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service, and any petroleum products pipeline rights-of-way; and any petroleum products pipeline and railroad rights-of-way.

(d) The area of water bodies including lakes, ponds and streams (measured to the normal high water mark on each side), wetlands; quarries; areas with slope in excess of 24% or greater; and areas used for improvements, from the total area of the project parcel and multiply the remainder by one unit per 1 acre.

D. *General Planning Criteria.*

(1) Individual lots, buildings, streets, and parking areas shall be designed

and situated to minimize alteration of the natural site features.

(2) Cluster open space shall include irreplaceable natural features located in the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).

(3) Individual lots, buildings, and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen area devoted to motor vehicle access.

(4) Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and the land.

(5) Special attention shall be given to stormwater management due to existing stormwater problems in the Borough; and special controls may be required.

E. *Open Space and Improvements.* All areas of a cluster development not conveyed to individual lot owners and not occupied by required or proposed development improvements shall be dedicated in perpetuity as permanent open space to be used for the sole benefit and enjoyment of the residents of the development.

(1) *Open Space Characteristics.*

(a) A minimum of 25% of the gross area of the project parcel shall remain as open space and the location and configuration of the open space shall be suitable for recreation purposes and shall be approved by the Borough.

(b) The buffer area required by subsection .J shall be considered open space for the purposes of this Section.

(c) Open space areas shall be part of the project parcel and shall be contiguous and shall be maintained as open space and may not be separately sold, subdivided, developed or used to meet open space requirements for other developments.

(d) At least 50% of the open space shall be usable for active recreation purposes and shall not include wetlands, quarries, slopes in excess of 24% or otherwise unusable areas. Open space areas shall be dedicated and preserved as follows.

(2) *Dedication and Ownership.* Ownership and maintenance of open space, common property and improvements shall be in accord with Part 10 of this Chapter.

F. *Minimum Lot Dimensions.* Minimum lot dimensions shall comply with the Schedule of Development Standards in Part 4 of this Chapter.

G. *Water Supply.* The cluster development shall be served by the Borough public water supply system.

H. *Sewage Disposal.* The cluster development shall be served by the Borough sewage disposal system.

I. *Lot Access.* Access for individual building lots shall be provided by development roads only and no individual driveways shall be permitted to encroach upon any public road right-of-way.

J. *Buffer*. A buffer area of 50 feet shall be provided between individual building lots and exterior property lines and/or any public road right-of-way.

K. *Accessory Structures*. Setbacks for accessory structures shall meet the setbacks for principal structures.

(Ord. 4/13/1998, 4/13/1998, §601)

§27-602. Two-Family Dwellings.

Where permitted by the schedule of uses, two-family dwellings shall comply with the requirements of this Section and other applicable standards in this Chapter.

A. *Unit Size*. Each unit in a two-family dwelling shall contain a minimum of 700 square feet of habitable indoor heated floor area.

B. *Common Wall*. In cases where a two-family dwelling is a duplex involving a common (i.e., party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The area of each lot shall not be less than 50% of the minimum lot size required in the Schedule of Development Standards in Part 4 of this Chapter and minimum lot dimensions shall also comply with the Schedule of Development Standards in Part 4 of this Chapter.

C. *Over/Under Units*. In cases where the two-family dwelling consists of two dwelling units constructed with one unit located on the second floor above a first floor dwelling unit, the lot size and minimum lot dimensions shall comply with the Schedule of Development Standards in Part 4 of this Chapter. If such a two-family dwelling is proposed on two or more separate lots of record, said lots shall be combined into one lot prior to the issuance of a zoning permit.

D. *Conversions*. See §27-604 of this Chapter.

(Ord. 4/13/1998, 4/13/1998, §602)

§27-603. Multi-Family Dwellings.

Multi-family projects are permitted in certain districts in accord with the Schedule of Uses in order to provide the opportunity for the development of a variety of housing types in the Borough.

A. *Procedure*. Multi-family projects shall be considered major subdivisions and land developments subject to the Borough Subdivision and Land Development Ordinance [Chapter 22]. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Borough Planning Commission in the manner provided in the Subdivision and Land Development Ordinance [Chapter 22]. The developer shall also submit all information required by said Ordinance [Chapter 22] in addition to the following additional information:

(1) *Site Plan*. A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm

drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Chapter. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design, standards contained herein and any other building standards which may be applicable in the Borough. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.

(2) *Open Space.* A schedule or plan, and proposed agreements) either with the Borough or a property owner’s association for the purpose of dedicating, in perpetuity, the exclusive use and/or ownership of the open space required by this Chapter to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Borough that maintenance and use of the property, regardless of ownership, be restricted to either (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2) permanent open space as hereinafter provided.

(3) *Procedure.* The application package shall be processed on a schedule concurrent with requirements for review and approval of other preliminary plans pursuant to the Borough Subdivision and Land Development Ordinance [Chapter 22].

B. *Bulk and Density Standards.* All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous. The following standards shall apply:

STANDARD	Garden Apartments	Townhouses	Apartment Buildings
Minimum size for project parcel (sq. ft.)	25,000	25,000	25,000
Density – minimum square feet of land area per DU	4,200	4,200	4,200
Minimum habitable indoor heated floor area per DU (sq.ft.)	600	700	600*
Maximum number of DU's per building	12	8	15
Minimum lot dimensions (feet)			
lot width	100	100	100
lot depth	175	175	175
front yard	25	25	25
rear yard	50	50	50
side yard (each) (townhouses - applies to end units)	10	10	10
Maximum lot depth to width ratio	3 :1	3 : 1	3 : 1
Maximum building height			
number of stories	3	3	3
feet	35	35	35
Maximum lot coverage (percent)	50	60	60

STANDARD	Garden Apartments	Townhouses	Apartment Buildings
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ADDITIONAL STANDARDS FOR TOWNHOUSES PROPOSED FOR SALE

Density – minimum square feet of land area per DU	4,200 square feet
Minimum lot size	1,000 square feet
Minimum lot width at house location	20 feet
Minimum front and rear yard setback	10 feet front/ 10 feet rear
Minimum side yard setback for end unit	15 feet
Maximum lot coverage for individual townhouse parcels	80%

DU= dwelling unit

*May be reduced to 450 sq. ft. for units specifically limited to persons over 55 years old and their spouses and/or the physically handicapped

C. *Design Criteria.* The following design criteria shall apply to multi-family projects:

(1) *Road/Parking Setbacks.* No structure in a multi-family project shall be constructed within 15 feet of the edge of the shoulder of any access road to or through the development or within 5 feet of any parking area.

(2) *Road Standards.* Access roads through the development shall comply with the street requirements of the Borough Subdivision and Land Development Ordinance [Chapter 22] for minor roads.

(3) *Building Orientation.* Walls containing main window exposures or main entrances shall be oriented to ensure adequate light and air. All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than 25 feet. No building group shall be so arranged that any building is inaccessible by emergency vehicles.

(4) *Buffers.* Buffers, not less than 8 feet in width shall be provided in accord with §27-701.A of this Chapter where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any R-1 District, or any right-of-way of any arterial street abutting the rear of the project. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Borough.

(5) *Pedestrian Access.* Walkways of such design and construction as approved by the Borough shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Borough Subdivision and Land Development Ordinance [Chapter 22].

(6) *Trash Storage.* Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.

(7) *Architectural Renderings.* Preliminary architectural renderings, models or photos shall be provided for multi-family dwelling projects.

(8) *Townhouses.* The following additional standards shall apply to townhouses:

(a) *Facade Changes.* A minimum of two changes in the front wall plane with a minimum offset of 4 feet shall be provided for every attached grouping of townhouses. This can be met by varying setbacks between an attached garage and a dwelling, or varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.

(b) *Width.* Each townhouse dwelling unit shall have a minimum width of 18 feet.

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

E. *Conversions of Existing Structures.* Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve structural alteration, shall be subject to the provisions of this §27-603, including but not limited to §27-603.B. (See also §27-604.)

F. *Common Property Ownership and Maintenance.* In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Borough in accord with Part 10 of this Chapter. The developer shall also submit evidence of compliance with the Pennsylvania Condominium Law or an attorney's opinion that said law does not apply to the subject project.

(Ord. 4/13/1998, 4/13/1998, §603)

§27-604. Conversion to Dwellings.

The conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units shall comply with the standards in this Section and the other requirements applicable to the dwelling type to which conversion is proposed.

A. *General Requirements.* The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units, or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to dwelling unit, living space, lot coverage, dimensions of yards and other open spaces, off-street parking, and other applicable standards.

B. *Structural Alterations.* If the proposed project involves structural alterations, the preliminary plan shall include a certification of a registered architect or engineer that the existing building is structurally sound and that the proposed conversion will not impair its structural integrity.

(Ord. 4/13/1998, 4/13/1998, §604)

§27-605. Group Homes.

Group homes shall be permitted in any lawful dwelling unit in accord with this

Section and other applicable standards of this Chapter.

A. *Definition.* See definition in Part 3.

B. *Supervision.* There shall be adequate supervision as needed by an adequate number of person(s) trained in the field for which the group home is intended.

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

D. *Registration.* The group home shall register its location, general type of treatment/care, maximum number of residents and sponsoring agency with the Zoning Officer annually. Such information shall be available for public review upon request.

E. *Counseling.* Any medical or counseling services provided on the lot shall be limited to residents and a maximum of three nonresidents per day.

F. *Parking.* One off-street parking space shall be provided for each employee on duty at any one time, and every two residents of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than five spaces shall be buffered from adjacent existing single-family dwellings by a planting screen meeting the requirements of §27-701.A of this Chapter.

G. *Appearance.* If the group home is within a residential district, the building shall be maintained and/or constructed to ensure that it is closely similar in appearance, condition and character to the other residential structures in the area. No exterior signs shall identify the type of use.

H. *Number of Residents.* The following maximum number of persons shall reside in a group home, including the maximum number of employees/supervisors and/or care providers routinely in the group home at any point in time:

(1) Single-family detached dwelling with minimum lot area of 10,000 square feet and minimum building setbacks from all "residential lot lines" of 10 feet: eight total persons.

(2) Any other lawful dwelling unit: 6 total persons.

(Ord. 4/13/1998, 4/13/1998, §605)

§27-606. Reserved.

(Ord. 4/13/1998, 4/13/1998, §606; as amended by Ord. 2-2003, 9/8/2003, §5)

§27-607. Mobile Home Parks.

Mobile home parks are considered conditional uses in the R-2 District and shall comply with the requirements of this Section and the applicable standards in the Subdivision and Land Development Ordinance [Chapter 22]. In cases where the standards in this Section and the Subdivision and Land Development Ordinance

[Chapter 22] conflict, the standards in this Section shall apply.

A. *Sale or Long Term Lease.* Applications for development of mobile home parks in which mobile home lots or spaces are proposed for sale or longer term lease (exceeding 12 months) shall meet all requirements and standards for a single-family residence, residential subdivision as set forth in this Chapter and other applicable Borough ordinances.

B. *Rental or Short Term Lease.* Applications for development of new mobile home parks or expansions of existing mobile home parks that are proposed to be held under single ownership and to provide mobile home sites on a maximum 12-month lease period or rental basis only, shall meet the design standards and required improvements set forth in this Section.

C. *Procedures.* A mobile home park or expansion of a mobile home shall be considered a land development as defined by the Pennsylvania Municipalities Planning Code and a conditional use application for the development of a mobile home park shall be processed in accord with all the procedures established by the Borough Subdivision and Land Development Ordinance [Chapter 22] for major subdivisions and land developments in addition to the requirements of §27-1108 of this Chapter.

D. *Parcel Size, Density- Home Sites.* The minimum parcel size for a mobile home park shall be 5 acres and the overall density of a mobile home park, shall not exceed eight units per acre. Each mobile home site shall have a minimum area of 5,000 square feet for exclusive use of the occupants of the mobile home placed upon the lot. Minimum lot widths and depths shall be 50 feet. Each mobile home lot shall be defined by metes and bounds on a survey and shall be shown as such on the development plan, and markers shall be installed at each corner of every lot.

E. *Slope.* The longitudinal gradient and cross slope of any mobile home lot shall not exceed 5%, except for terracing at the periphery, and the minimum slope in any direction shall be 1%.

F. *Mobile Home Placement.* Each mobile home lot shall be improved to provide a permanent foundation for the placement and tie-down of the mobile home, thereby securing the structure against uplift, sliding, rotation and overturning. See §27-608.

G. *Soil and Ground Cover.* All areas of a mobile home park disturbed during the development process and not covered by improvements shall be stabilized and protected with such vegetative growth as necessary to prevent soil erosion and the emanation of dust during dry weather. Such vegetation shall be maintained by the park owner in such condition as to provide continued soil protection.

H. *Stormwater/Drainage.* Mobile home parks shall be designed to insure that all surface water is drained in a safe and efficient manner away from mobile home sites.

I. *Buffers and Screening.* A buffer area shall be provided around the mobile home park. No mobile home lot shall be located closer than 25 feet to any public road right-of-way or closer than 25 feet to any other exterior property line. All mobile home parks shall be required to provide screening such as fences, or plant materials along the property boundary line separating the park and any adjacent

use. Plantings shall provide an effective screen to a height of 5 feet at the time of planting and an effective screen to a height of 8 feet within 5 years. These buffer strips shall be properly maintained at all times.

J. *Streets Parking and Access.*

(1) *Streets.* Mobile home park streets shall be provided, designed and constructed in accord with the standards for mobile home park streets in the Subdivision and Land Development Ordinance [Chapter 22].

(2) *Parking.* Parking shall not be permitted on roads or drives within the mobile home park, but shall be restricted to designated parking areas either at each mobile home site or at a common location. Off-street parking for two motor vehicles shall be provided at each mobile home lot and off street, common parking areas for additional vehicles of park occupants and guests shall be provided at a rate not less than one space per five mobile home lots. These spaces shall be improved to a grade not greater than 8% and shall be paved with a minimum 6 inches depth of select material approved by the Borough Engineer.

(3) *Access.* There shall generally be at least two points of ingress and/or egress in each mobile home park from any one public right-of-way (emergency accesses excepted) and all driveways to individual units along a public right-of-way shall front on an interior access drive.

(4) *Lot Frontage.* Mobile home sites and parking spaces shall have direct access to and frontage on the interior park street system. Mobile home sites and parking spaces shall not front or have access directly to public roads or streets or to private roads or streets passing through the mobile home park and providing access to other parcels or developments.

(5) *Illumination.* All mobile home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights, as will provide adequate levels of illumination for the safe movement of pedestrians and vehicles at night.

(6) *Curbs and Gutters.* Curbs and sidewalks shall be provided and constructed according to the basic standards of the Borough Subdivision and Land Development Ordinance [Chapter 22], however, curbs may be the rolled type and the width of sidewalks may be reduced to 3 feet.

K. *Recreation Area.* A common recreational area of land, consisting of 10% of the total area of the park shall be maintained within the park for the common use of park residents only. This area shall generally be suitable for active recreation and shall be of suitable configuration, with less than 10% percent slope and free of hazards to permit recreational use. Fifty percent of this area shall be designed, equipped and properly maintained for active recreational use in the mobile home park. Plans for development of the recreational area and facilities shall be submitted by the applicant for approval by the Borough.

L. *Landscaping and Outdoor Living Requirements.*

(1) *Landscaping.* Screen planting shall be provided to adequately and effectively screen objectionable views within a reasonable time; views to be screened including laundry drying yards, garbage and trash collection

stations, nonresidential uses, and rear yards of adjacent properties. Other plantings shall be adequate in size, quantity, and character to provide an attractive setting for the mobile homes and other improvements, to provide adequate privacy and pleasant outlooks for living units, to minimize reflected glare and to afford summer shade. An overall landscaping plan shall be submitted by the developer for approval by the Borough. All landscaping and associated vegetation shall be maintained in a good and healthy condition.

(2) *Private Area.* Private outdoor living and service space shall be provided for each mobile home and shall be partially paved or otherwise surfaced to provide a durable, mud and dust-free surface. The minimum area shall be not less than 300 square feet with the smallest dimension of 15 feet. The paved area shall be not less than 100 square feet with the smallest dimension of 8 feet.

M. *Nonresidential Uses.* No part of any park shall be used for - purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

(Ord. 4/13/1998, 4/13/1998, §607)

§27-608. Mobile/Manufactured Homes on Individual Lots and In Mobile Home Parks.

Mobile and manufactured homes on an individual lot or within a mobile home park shall:

A. Shall be constructed in accordance with the safety and construction standards of the U.S. Department of Housing and Urban Development. These standards supersede the BOCA Code for the actual construction of the unit itself.

B. Shall have a site graded to provide a stable and well-drained area.

C. Shall have the hitch mechanisms removed. The wheels and axles shall be removed or screened from view.

D. Foundation. Shall be securely attached to the ground in such as way as to prevent overturning, shifting or uneven settling of the home. This shall involve the following method, unless the applicant proves to the satisfaction of the Zoning Officer that another appropriate method will be used that (1) is recommended by the manufacturer of the home or by the manufacturing housing industry or (2) is specified by any future applicable building code.

(1) The foundation system shall consist of 10-inch diameter concrete piers, concrete footing perpendicular to the main longitudinal frame, or equivalent and shall be installed from ground level to below the frost line (36 inches minimum). This foundation system shall be placed on 8-foot centers (unless a different length is specified by the manufacturer) along each of the two main longitudinal frames for each section of the home with no more than 3-foot overhang at each end of the section.

(2) One-half inch diameter by 12-inch long eye bolts, unshaped bars or equivalent metal bars shall be cast in place at each corner and at two midpoints in the concrete piers, concrete footing, slab or equivalent. Concrete blocks shall be used to support the home on the foundation system and wood

shims maybe used for final leveling. The concrete support blocks shall not be wider than the support foundation.

(3) The mobile/manufactured home shall be securely anchored or tied down with cable and turn buckles or equivalent connecting the frame to the cast in place abates on at least four comers and two midpoints. The tie down shall also be in accordance with the manufacturers' recommendations furnished with each home.

(4) Mobile homes shall not be placed more than 4 feet above the supporting area.

E. Shall be enclosed from the bottom of the home to the ground or stand using industry-approved skirting material compatible with the home, or if a slab foundation is used, masonry walls underneath the home with soil backfill to result in the surrounding ground level being flush or one normal step height below the first floor elevation. If masonry walls are used, then an appropriate service access area shall be provided.

F. Homes shall have a pitched instead of a flat roof.

G. Shall be located with the longest side facing the public street.

H. Mobile/manufactured homes placed on individual lots shall be a minimum of 800 square feet of habitable indoor heated floor area.

(Ord. 4/13/1998, 4/13/1998, §608)

§27-609. Bed and Breakfast Establishments.

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

A. Adequate off-street parking is provided in accord with §27-504 of this Chapter with the minimum number of parking spaces provided as follows: one space for each rentable room; one space for each nonresident employee, and two spaces for the dwelling unit.

B. Not more than five rentable rooms are provided in the establishment.

C. The owner/manager of the bed and breakfast must reside on the premises.

D. Not more than two nonresident employees shall be permitted.

(Ord. 4/13/1998, 4/13/1998, §610)

§27-610. Principal Entrance to Residences.

The principal entrance to any single-family dwelling, two-family dwelling, townhouse, garden apartment building or apartment building shall front on the road right-of way side of the lot on which the structure is located.

(Ord. 4/13/1998, 4/13/1998, §611)

Part 7**Performance Standards and Environmental Protection****§27-701. Performance Standards Applicable to All Nonresidential Uses in All Districts.**

The intent of this Chapter is to regulate the development and operation of all development in the Borough and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all commercial, manufacturing and other uses.

A. Yards and Buffers.

(1) Unless otherwise regulated by this Chapter, where a commercial or manufacturing use is proposed contiguous to any existing residential use or any R-1, R-2, or R-1-A District, the minimum size of the abutting yard shall be increased by 50% and a landscaped buffer not less than 10 feet in width shall be provided in accord with this Section.

(2) In the case of conditional uses and special exceptions, landscaped buffers may be required by the Borough in any yard in order to assure the protection of adjoining uses by providing:

(a) In determining the type and extend of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.

(b) The width of the required buffer, as determined by the Borough, shall not be less than 10 feet.

(c) A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than 6 feet in height will be formed within 3 years of planting.

(d) Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than 4 feet; however, all clear sight triangles shall be maintained,

(e) In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Borough shall determine that the proposed use and adjoining users are not incompatible.

(f) Design details of buffers shall be included on the site plan, and buffers shall be considered "improvements" for the purposes of guaranteeing installation in accord with the requirements for "land developments" in the Borough Subdivision and Land Development

Ordinance [Chapter 22]. It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material.

B. *Landscaping.* A landscaping plan for the proposed project shall be prepared by the developer for review and approval by the Borough. Landscaping shall be considered an improvement for the purposes of regulation by the Borough Subdivision and Land Development Ordinance [Chapter 22]. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards:

(1) All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.

(2) Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping and shall be consistent with the architectural type of the project and shall be a minimum of four feet in width.

(3) Plants shall be of a type which are proven successful in the Borough's climate.

(4) Where landscaping is required to serve as a buffer (e.g., between the project and adjoining properties or between buildings and parking areas) the plants used shall be of the evergreen type and of adequate size to provide an effective buffer within a reasonable number of years.

(5) The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.

(6) All unusable areas in and around parking areas shall be landscaped.

(7) Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.

(8) Plastic landscape materials shall not be used. All trees to be planted shall have a trunk diameter of at least 1 inch as measured 1 foot above the ground.

(9) Ground cover shall be spaced to allow for complete fill-in within 1 year of the date of planting.

(10) All shrubs not used for ground cover shall be at least 5 gallons in size.

(11) Adequate soil preparation in accord with accepted landscape industry practices shall be required.

(12) All landscaping shall be maintained in good growing condition by the property owner.

C. *Operations and Storage.* Facilities and operations of the principal use including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building. This shall not apply to the display (but not servicing or

repairing) of automobiles and other vehicles for sale by an approved dealer; however, vehicles shall not be permitted in any front, side or rear yard. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted.

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

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

F. *Noise.* The maximum sound pressure level radiated by any use or facility at any lot line shall not exceed the values in the designated octave bands listed in Table 1, after applying the corrections shown in Table 2. The sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association, Inc., as designated by the Borough Council.

(1) *Maximum Levels.* Maximum permissible sound pressure levels at the lot line for noise radiated continuously from any facility or activity between the hours of 9:00 p.m. and 7:00 a.m. shall be as listed in Table 1.

Table 1		Table 2	
Frequency Band (cycles/second)	Sound Pressure Level (decibel re 0.0002 dyne/cm)	Type of Operation OR Character of Noise	Correction in Decibels
20-75	69	Day time operation only	+5
76-150	60	Noise source operation less than:	
151-300	56	a. 20% of any 1-hour period	a. +5*
301-600	51	b. 5% of any 1-hour period	b. +10*
601-1,200	42	c. 1% of any 1-hour period	c. +15*
1,201-2,400	40	Noise of impulsive character (hammering, etc.)	-5
2,401-4,800	38	Noise of periodic character (hum, scream, screech, etc.)	-5
4,801-10,000	35	*Apply only one of these corrections	

(2) *Corrections.* If the noise is not smooth and continuous, and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one or more of the corrections in Table 2 shall be applied to the decibel levels in Table 1.

(3) *Exemptions.* The maximum permissible sound levels of this Section shall not apply to any of the following noise sources:

(a) Sound needed to alert people about an emergency or building, equipment, or facility security alarms.

(b) Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.

(c) Household power tools and lawn mowers between the hours of 7:00 a.m. and 9:00 p.m.

(d) Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7 a.m. and 9 p.m., except for emergency repairs which shall not be restricted by time.

(e) Agricultural activities, but not exempting kennels.

(f) Motor vehicles when used on public streets in accord with State regulations.

(g) Railroads and aircraft.

(h) Public celebrations, specifically authorized by the Borough, the County, State or Federal government body or agency.

(i) Unamplified human voices.

(j) Routine ringing of bells or chimes by a place of worship or municipal clock.

(4) *Professional Studies and Costs.* If the Zoning Hearing Board determines that professional analysis is required to enforce this Section for a particular situation, the owner shall reimburse the Borough for such reasonable costs of such analysis. In addition, the Zoning Officer may base a determination under this Section on a written study prepared and certified by a qualified professional and submitted by an affected party. Any such study shall state the methods used and the credentials of the involved professional(s).

G. *Vibration.* No vibration shall be permitted which is detectable without instruments at or beyond the property line. No use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness. This requirement shall not apply to occasional blasting conducted in accord with applicable regulations that may be necessary during construction of streets, structures and utilities.

H. *Lighting and Glare.* Lighting shall be controlled in both height and intensity to maintain community character. Lighting design should be an inherent part of the project design. The standards of the Illuminating Engineering Society shall be used as a guideline for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site; and all

required lighting shall be considered improvements for the purpose of regulation by the Borough Subdivision and Land Development Ordinance [Chapter 22].

(1) *Exemption.* This Section shall not apply to street lighting that is owned, financed or maintained by the Borough or State.

(2) *Areas to be Lighted.* All access ways, off street parking areas and areas of intensive pedestrian use shall be adequately lighted for safety purposes. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs.

(3) *Shielding.* No light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source.

(4) *Glare.* No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the property line.

(5) *Nuisances.* The intensity, height and shielding of lighting shall provide for adequate and proper safety, and shall not be a nuisance or hazard to drivers and residents of the Borough.

(6) *Height.* The maximum height of light standards shall not exceed the maximum building height of the district but in no case greater than 35 feet. This limitation shall not apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building.

(7) *Type.* The use of mercury vapor lighting shall be prohibited.

(8) *Flashing.* Flashing, flickering or strobe lights are prohibited, except for non-advertising seasonal lights between October 25 and January 10.

I. *Odors.* No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the parcel from which the odors are emitted.

J. *Other Forms of Air Pollution.* No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.

K. *Surface and Ground Water Protection.* All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Borough may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Borough. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies. No use shall be permitted which would result in the depletion of ground water

supplies.

L. *Stormwater Management and Soil Erosion Control.* A stormwater management plan and soil erosion control plan may be required by the Zoning Officer, Planning Commission, Borough Council or Zoning Hearing Board, as the case may be, for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Borough Subdivision and Land Development Ordinance [Chapter 22] or other applicable Borough regulations and County Conservation District standards and shall be based on generally accepted engineering principles appropriate for the proposed use.

M. *Waste Materials.* No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable state and Federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir, sewage or stormwater disposal system, stream, open body of water or onto the ground.

N. *Handicapped Access.* Access for handicapped persons to all uses shall be provided in accord with all applicable State and Federal requirements.

O. *Architectural Rendering; Building Design.* Applications which include the exterior renovation of structures or the construction of new structures shall include an architectural rendering to enable the Borough to assess the effect of the renovation or construction on the character of the district. The Zoning Officer, Planning Commission, Borough Council or the Zoning Hearing Board, as the case may be, may require documentation from the applicant demonstrating that the project will comply with all other applicable local, state and Federal regulations, and zoning approval may be conditioned on the issuance of all required permits, certifications and authorizations, including but not limited to the Pennsylvania Department of Transportation, the Pennsylvania Department of Environmental Protection, the Pennsylvania Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency. [Ord. 3-2005]

(Ord. 4/13/1998, 4/13/1998, §701; as amended by Ord. 3-2005, 10/10/2005)

§27-702. Placement and Screening of Waste Containers.

1. *Screening.* All trash dumpsters shall be screened on three of four sides (not including the side it is to be emptied from) as needed to screen the dumpster from view from public streets or dwellings on abutting lots. A solid wooden fence, brick wall, evergreen plants or structure designed to be architecturally compatible with the principal building shall be used for such screening.

2. *Setback from Dwellings.* If physically possible, solid waste containers of a capacity over 15 cubic feet shall be kept a minimum of 15 feet from any window or door of a dwelling or commercial building on an abutting lot.

3. *Food Sales.* Any use that involves the sale of ready-to-eat food for consumption outside of a building shall provide at least one outdoor solid waste receptacle for

customer use at a convenient location outside of the main exit door of the property. The operator of such use shall be responsible for regular emptying and maintenance of such receptacle.

4. *Enclosed Containers.* Solid waste receptacles stored outdoors shall be adequately enclosed and covered to control the attraction of rodents and insects.

(Ord. 4/13/1998, 4/13/1998, §702)

§27-703. Environmental Impact Statement.

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

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

B. *Contents of EIS.* An environmental impact statement shall include a description of the proposed use including location relationship to other projects or proposals with adequate data and detail for the Borough to assess the environmental impact. The EIS shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships. At a minimum, the EIS shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts; and said proposal shall comply with all other standards included in this Chapter and other Borough ordinances:

(1) *Soil Types.*

- (a) U.S.D.A. soil types (show on map).
- (b) Permeability of soil on the site.
- (c) Rate of percolation of water through the soil for each soil type on the parcel.

(2) *Surface Waters.*

- (a) Distance of site from 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 an erosion and sediment control plan meeting the requirements of the Pennsylvania DEP and the Lackawanna County Conservation District.
 - (g) Said information shall be set forth in a stormwater management plan meeting the requirement of the Borough Subdivision and Land Development Ordinance [Chapter 22] or other Borough requirements.
- (3) *Ground Cover Including Vegetation and Animal Life.*
- (a) Extent of existing impervious ground cover on the site.
 - (b) Extent of proposed impervious ground cover on the site.
 - (c) Type and extent of existing vegetative cover on the site.
 - (d) Extent of proposed vegetative cover on the site.
 - (e) Type of animal life and effect on habitat.
- (4) *Topographic and Geologic.*
- (a) Maximum existing elevation of site.
 - (b) Minimum existing elevation of site.
 - (c) Maximum proposed elevation of site.
 - (d) Minimum proposed elevation off site.
 - (e) Description of the topography of the site and any special topographic features and any proposed changes in topography.
 - (f) Surface and subsurface geology.
- (5) *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.
 - (d) Quality.
- (6) *Water Supply.*
- (a) The source and adequacy of water to be provided to the site.
 - (b) The expected water requirements (gpd) for the site.
 - (c) The uses to which water will be put.
- (7) *Sewage Disposal.*
- (a) Sewage disposal system (description and location on the site, of system).
 - (b) Expected content of the sewage effluent (human waste, pesticides,

detergents, oils, heavy metals, other chemicals).

(c) Expected daily volumes of sewage.

(d) Affected sewage treatment plant's present capacity and authorized capacity.

(8) *Solid Waste.*

(a) Estimated quantity of solid waste to be developed on the site during and after construction.

(b) Method of disposal of solid waste during and after construction.

(c) Plans for recycling of solid waste during and after construction.

(9) *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.

(10) *Noise.*

(a) Noise levels above existing levels expected 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.

(11) *Land Use and Community Character.*

(a) Past and present use of the site with particular attention to storage or disposal of toxic or hazardous waste.

(b) Adjoining land uses and character of the area.

(12) *Critical Impact Areas.*

(a) Any area, condition or feature which, is environmentally sensitive, if disturbed during construction would adversely affect the environment.

(b) Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas.

(13) *Historic Resources.* Identification of structures or sites of historic significance and probable effect of project.

(14) *Transportation Network.* Existing network traffic volumes and capacities and need for improvements required by project.

(15) *Law Enforcement.* Existing law enforcement capabilities of the Borough and State. Assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.

(16) *Fire Protection.* Existing fire protection capabilities of the Borough and mutual aid fire companies. Assess the impact of the proposed development on said companies along with actions proposed to mitigate any burdens created by the development.

(17) *Additional Requirements.* In addition to the above requirements, the Planning Commission and/or Borough Council or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Borough to evaluate the proposed use for its effect on the community.

C. *Additional Considerations.* The following shall also be addressed:

(1) A description of alternatives to the proposed use.

(2) A statement of any adverse impacts which cannot be avoided.

(3) Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.

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

(5) A listing of steps proposed to minimize environmental damage to the site and region during and after construction.

D. *Qualifications.* The EIS shall be prepared by a professional architect, landscape architect, planner, engineer or other, qualified individual whose qualifications have been previously approved by the Borough Council.

E. *Procedures for Evaluating the Environmental Impact Statement Shall be as Follows:*

(1) Upon receipt of the application, the Secretary shall forward the EIS to the Borough Engineer and any other agency or firm which the Borough may desire for consultation.

(2) The above mentioned agencies shall review the applicant's EIS and shall report its comments to the Planning Commission and Borough Council or Zoning Hearing Board.

(3) The Planning Commission and/or Borough Council or Zoning Hearing Board may require the opinion of experts in their review of the EIS.

(4) Fees for the costs of such consultation as described in subsections (1) and (3) above shall be paid by the applicant.

(5) Copies of the environmental impact statement shall be on file and available for inspection in the Borough office.

(6) The Planning Commission shall evaluate the proposed project and the EIS and recommend action on same to the Borough Council or Zoning Hearing Board.

(Ord. 4/13/1998, 4/13/1998, §703)

§27-704. Special Conservation Standards.

All uses permitted by this Part shall be subject to the following special conservation performance standards which shall apply to any lands that are characterized as steep slopes, wetlands or floodplains. The procedures and standards are as follows:

A. *Steep Slope Areas.* Steep slopes shall be defined as slopes in excess of 25% grade as determined by the Zoning Officer, from United States Geological Survey topographic maps or USDA Natural Resources Conservation Service maps. In

cases where the slope cannot be specifically determined by said means, the Zoning Officer may require the applicant to provide certification from a professional engineer or registered land surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Borough Council and Planning Commission shall be satisfied that the following performance standards have been or will be met:

(1) An accurate map prepared by a registered surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.

(2) A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.

(3) Impervious surfaces are kept to a minimum.

(4) No finished grade where fill is used shall exceed a 50% slope.

(5) Where fill is used to later support structures, a minimum compaction of 90% percent of maximum density shall be achieved.

(6) No more than 2,500 square feet of area may be totally cleared for building purposes including house, garage, accessory structures, driveway or other impervious areas.

(7) At least 50% of the area to be used for any building or construction purposes shall be less than 15% slope.

(8) Soils characterized by the Natural Resources Conservation Service as highly susceptible to erosion shall be avoided.

(9) Roads and utilities shall be installed along existing contours to the greatest extent possible.

(10) Any steep slope areas also characterized by seasonal high water tables shall be avoided.

(11) Natural vegetation shall be preserved to as great a degree as possible.

(12) In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

B. *Wetlands.* If the Borough determines that wetlands may be present or may be impacted by the proposed development, the Borough may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Protection, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife

Service, to be delineated on any application proposing a new use or expanded use of land. The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated. If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations; and the applicant shall provide to the Borough evidence of such compliance. No zoning approval granted by the Borough shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations. The Borough shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

C. *Floodplain*. Floodplain shall be governed by *Ord. 7-1978*, 9/11/1978 [Chapter 8].

(*Ord. 4/13/1998*, 4/13/1998, §704)

§27-705. Earth Disturbance.

1. *Intent*. The intent of this Section is to regulate earth disturbance, minimize stormwater runoff and protect soil resources and water quality.

2. *Permit*. Any activity, except in cases where zoning or subdivision and land development approval has been otherwise granted, which will result in the initial or cumulative earth disturbance of more than 2,500 square feet of land area shall require a zoning permit.

3. *Plan*. The applicant shall include with the application for a zoning permit, a plan setting forth the details of the earth disturbance or clear cutting activity and including any additional information deemed necessary by the Borough to determine compliance.

4. *Soil Erosion and Sedimentation and Stormwater Control*. Any earth disturbance or clear cutting activity shall comply with §27-701.M of this Chapter and no earth disturbance or clear cutting shall be permitted within 25 feet of any water body or stream.

5. *Revegetation/Reforestation*. The plan shall include provisions for the revegetation and stabilization of any disturbed areas.

(*Ord. 4/13/1998*, 4/13/1998, §705)

Part 8**Standards for Specific Uses****§27-801. Adult Businesses.**

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

A. The concern over sexually transmitted diseases is a legitimate health concern of the Borough which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.

B. Certain employees of sexually oriented business regulated by this Chapter as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.

C. Sexual acts occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Chapter as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.

D. Offering and providing such space, encourages such activities, which create unhealthy conditions.

E. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

F. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.

G. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those

facilities.

H. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

I. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas, study, have demonstrated this.

J. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas, study, have demonstrated this.

K. The Borough desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve property values and the character of the surrounding community.

2. *Intent.* It is the intent of this Section to:

A. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.

B. Designate a zoning district where adult businesses are permitted, and establish reasonable, content, neutral standards applicable to such uses.

C. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.

D. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.

E. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

F. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the Pennsylvania Crimes Code or Pennsylvania Obscenity Code.

3. *Conditional Use in the C District.* Adult businesses are classified as conditional uses in the C-Commercial District, which provides an area for the development of such uses away from areas with concentrated residential development.

4. *Standards.* In addition to the other applicable general standards and the conditional use criteria contained in this Chapter, the following standards shall apply to adult businesses:

A. *Setback.* Adult businesses shall not be located less than:

- (1) 25 feet from any property line or public road right-of-way.
- (2) Not less than 50 lineal feet from any:
 - (a) Residence or residential district.
 - (b) Group care facility.
 - (c) Commercial enterprises catering primarily to persons under 18 years of age.
 - (d) Health facility.
 - (e) Any establishment that sells alcoholic beverages.
- (3) And, not less than 100 lineal feet from any:
 - (1) Church or synagogue.
 - (2) Public or private school.
 - (3) Public or semi-public building or use.
 - (4) Public park or public recreation facility.

B. *Similar Businesses.* Adult businesses shall not be located within 200 lineal feet of any existing adult business.

C. *Measurement.* The setback distances established in this Part A shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.

D. *Extension.* An existing, lawful adult business may be expanded as a conditional use once in total floor area by a maximum of 25% beyond the floor area that lawfully existed in such use at the time of adoption of this part of the Chapter. Such extension shall comply with the requirements of §27-907 and other applicable requirements of Part 9.

E. *Limit of One Use.* It shall be a violation of this Chapter for any person to cause or permit the operation, establishment, or maintenance of more than one adult business in the same building, structure or portion thereof; or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.

F. *Nonconformity.* Any adult business lawfully operating on the date of enactment of this Chapter that is in violation of any of the provisions of this Part shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except as permitted in subsection .E above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Chapter be changed to any type of adult business.

G. *Location of New Neighboring Uses.* An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant or renewal of an adult business permit, a use from which an adult

business is required to provide a setback under subsection .A above is developed within the required setback distance. This provision applies only to the renewal of a valid permit, and does not apply when the application for a permit is submitted after a permit has expired or the permit has been revoked.

H. *Visibility and Signs.* No sexually explicit material, signs, display, silhouette, or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of §27-505 of this Chapter; however, said signs shall be limited to a maximum of 50% of the size permitted for other business by §27-505. Content of such signs shall be limited to only the text of the name of the business and the hours of operation. Window signs shall not be permitted.

I. *Exemption for Modeling Class.* It is a defense to prosecution under this Part that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school licensed by the State, or an academically accredited college or university.
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.
- (3) In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.
 - (b) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.
 - (c) Where no more than one nude model is on the premises at any one time.
- (4) By an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a nonprofit organization or foundation.

(Ord. 4/13/1998, 4/13/1998, §801)

§27-802. Commercial Communication Devices.

The following regulations shall apply to commercial communication devices (CCD) including, but not limited to, cellular phone antennae, antennae for communication service regulated by the Pennsylvania Public Utility Commission, other commercial antennae and associated facilities, and certain antennae accessory to residential structures. Such antennae and associated facilities shall be permitted only in the districts as provided on the Schedule of Uses.

1. *Purposes.*

A. To accommodate the need for communication devices while regulating their location and number in the Township in recognition of the need to protect the public health, safety and welfare.

B. To minimize the adverse visual effects of communication devices and support structures through proper design, siting and vegetative screening.

C To avoid potential damage to adjacent properties from communication

device support structure failure and falling ice, through engineering and proper siting of support structures.

D To encourage the joint use of any commercial communication device support structures and to reduce the number of such structures needed in the future.

2. *Use Regulations.*

A. *Existing Tall Structures.* A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than 10 feet shall be permitted in the C Districts as accessory uses and conditional use approval shall not be required. In any case, a permit shall be required for every CCD installed at any location. The applicant shall provide the following information:

(1) Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.

(2) Detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review by the Township for compliance with the applicable requirements.

(3) Evidence of agreements and/or easements necessary, to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.

B. *New Structures.* A CCD site with a CCD that is either not mounted on an existing structure, or is more than 10 feet higher than the structure on which it is mounted shall require conditional use approval in accord with this Part and shall be permitted only in the C District.

C. *Associated Use.* All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.

D. *CCD Accessory to Residential Structures.* No communications device support structure accessory to a residential structure shall exceed a height of 75 feet.

E. *CCD as a Second Principal Use.* A telecommunications facility shall be permitted on a property with an existing use subject to the following land development standards:

(1) The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.

(2) The minimum lot area, minimum setbacks and maximum height required by this Chapter for the CCD shall apply, and the land remaining for

accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area and other requirements.

(3) Tile vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.

(4) The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

3. *Standards.*

A. *Location Requirement and Number.* The applicant shall demonstrate, using technological evidence, that the CCD must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant must document the need for the additional CCD to ensure the adequacy of current service.

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

(1) The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.

(2) The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.

(3) Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.

(4) Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal communications commission governing human exposure to electromagnetic radiation.

(5) A commercially reasonable agreement could not be reached with the owners of such structures.

C. *CCD Height.* The applicant shall demonstrate that the CCD is at the minimum height required to function satisfactorily. No CCD that is taller than this

minimum height shall be approved. No communications device support structure accessory to a residential structure shall exceed a height of 75 feet.

D. *Parcel Size; Setbacks.* If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of the existing structure on which it is mounted by more than 10 feet, the minimum parcel size and setbacks in this subsection shall apply.

(1) *Separate Parcel.* If the CCD is manned and/or the parcel on which the CCD and support structure is a separate and distinct parcel, the zoning district minimum lot size shall apply and the setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of 30 feet. In any case, the lot shall be of such size that all required setbacks are satisfied.

(2) *Lease License or Easement.* If the CCD is unmanned and the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of 30 feet from the line of lease, license or easement. In any case, the lease, license or easement area shall be of such size that all required setbacks are satisfied.

(3) *CCD and Support Structure Setbacks.* The distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall be not less than the height of the structure and any attachments thereto.

E. *CCD Support Structure Safety.* The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference.

(1) All support structures shall be fitted with anti-climbing devices, as approved by manufacturers.

(2) The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code.

(3) Within 45 days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.

F. *Fencing.* A fence shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of 8 feet in height.

G. *Landscaping.* Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and

any other ground level features (such as a building), and in general buffer the CCD site from neighboring properties. The Township may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

H. *Co-location; Other Uses.* In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Township for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Township, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.

I. *Licenses; Other Regulations; Insurance.* The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the Pennsylvania Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and Federal regulations. The applicant shall submit the name address and emergency telephone number for the operator of the CCD; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.

J. *Access; Required Parking.* Access to the CCD and support structure shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of 20 feet in width and shall be improved to a width of at least 10 feet with a dust-free all weather surface for its entire length. If the CCD site is fully automated adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.

K. *Color and Lighting; FCC and PennDOT Notice.* CCD support structures under 200 feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures 200 feet in height or taller, those near airports or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration (FAA) requirements. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the Federal Aviation Administration (FAA) and PennDOT Bureau of Aviation, and the CCD shall comply with all FAA and PennDOT requirements.

L. *Communications Interference.* The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will

not be disturbed or diminished.

M. *Historic Structures.* A CCD shall not be located on a building or structure that is listed on a historic register or within 500 feet of such a structure.

N. *Discontinued Use.* Should any CCD cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD is located, shall be required to remove the same within one year from the abandonment of use. Failure to do so shall authorize the Township to remove the facility and assess the cost of removal to the foregoing parties. The Township may also file a municipal lien against the land to recover the costs of removal and attorney's fees.

O. *Site Plan.* A full site plan shall be required for all CCD sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required in the Township Subdivision and Land Development Ordinance [Chapter 22]. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than 10 feet.

(Ord. 4/13/1998, 4/13/1998, §809)

§27-803. Vehicle Related Uses.

Vehicle related uses shall be considered conditional uses in the C-2 District and, in addition to all other applicable standards, shall comply with the standards in this Section.

A. *Car Wash Facilities.* All car wash facilities shall be subject to the following specific regulations and requirements:

(1) The principal building housing the facility shall be located on the site to meet the requirements of this Section but in no case less than the minimum setback requirements of the district.

(2) Appropriate facilities for the handling of waste water from the washing activities shall be provided including the prevention of water being dripped into the adjoining road or street from freshly washed vehicles during periods of freezing weather.

(3) The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least 75 feet from the intersections of the front and side street right-of-way lines.

(4) The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three vehicles.

(5) Any wash facility located within 100 feet of any residential district shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

B. *Gasoline Service Stations and Vehicle or Equipment Repair Operations.* All gasoline service stations and vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:

(1) The principal building housing the facility shall be located on the site to meet the requirements of this Section, but in no case less than the

minimum setback requirements of the district.

(2) All service and repair activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.

(3) Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than three vehicles per service stall outdoors, it shall comply with the junk regulation set forth in this and other Borough ordinances.

(4) No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Chapter.

(5) All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.

(6) Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than 30 feet from the road or street right-of-way line. Any aboveground storage tanks shall not be placed in the front setback area.

(7) No vehicles shall be stored within 5 feet of any adjoining residential zoning district or residential property.

(8) The supports for any gas island, canopy shall not be less than 15 feet from a road right-of-way or property line and the canopy overhang shall be not less than 5 feet from and road right-of-way or property line.

(9) All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required State and Federal health and safety standards.

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

(1) All principal and accessory buildings and structures shall be in accord with the yard setback, building height and lot coverage requirements of the district.

(2) No new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers or other equipment or vehicles shall be stored within 5 feet of any adjoining residential zoning district or residential property.

(3) Activities which are normally accessory to such sales operations, such as engine tune-up and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards

in subsection .B above.

(4) In addition to vehicles for sale, only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four vehicles per service stall in exterior areas, it shall comply with the junkyard regulations set forth in this Chapter. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.

(5) No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Chapter.

(6) All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.

(Ord. 4/13/1998, 4/13/1998, §856)

Part 9**Nonconformities****§27-901. Purpose, Applicability, Registration, and Continuation and Change.**

1. *Purpose.* It is the purpose of this Part to recognize that if, prior to the adoption of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced, property was used for a then lawful purpose or in a then lawful manner which the Zoning Ordinance [this Chapter] would render thereafter prohibited and nonconforming, such property is generally held to have acquired a vested right to continue such nonconforming use or nonconforming structure. Nevertheless, this does not preclude the Borough from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law.

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

3. It is further the purpose of this Part to prescribe those standards which are to be applied by the Borough determining the reasonableness of a proposal to change, alter, reconstruct, reestablish or extend a non-conforming use.

A. *Applicability.* The provisions and protections of this Part shall apply only to those nonconforming lots, structures and uses which legally pre-existed the applicable provisions of this Chapter, as amended, reenacted and replace, or which are recognized by §27-903 or §27-904 of this Part. Any lot, structure or use created, constructed or established after the effective date of the original Zoning Ordinance, as amended, reenacted and replaced, which does not conform to the applicable requirements shall be considered an illegal lot, structure or use subject to the penalties prescribed by this Chapter, and the said lot, structure or use shall not be entitled to any of the protections afforded to legal, pre-existing nonconforming lots, structures or uses.

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

C. *Continuation and Change.* A lawful nonconforming lot, structure or use as defined by this Chapter may be continued and may be sold and be continued by new owners. Any expansion, alteration, extension or change in a nonconformity

shall only proceed in compliance with this Part.

(Ord. 4/13/1998, 4/13/1998, §901)

§27-902. Definitions.

Nonconforming lot - any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Lackawanna County Recorder of Deeds prior to the effective date of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced.

Nonconforming structure - a structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure lawfully existed prior to the enactment of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced; and including, but not limited to, nonconforming signs.

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

Nonconforming structure reconstruction - the rebuilding of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.

Nonconforming use - a use, whether of land or of a structure, which does not comply with the applicable use provisions in this Chapter or amendments hereto, where such use was lawfully in existence prior to the enactment of the original Borough of Clarks Green Zoning Ordinance, as amended, reenacted and replaced.

Nonconforming use, change - the conversion of a nonconforming use to a different use classification as enumerated on the Schedule of Uses of this Chapter.

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

Nonconforming use, reestablishment - the reopening or reinstatement of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Chapter.

(Ord. 4/13/1998, 4/13/1998, §902)

§27-903. Nonconformities Under Development.

For the purposes of this Part, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing ordinances prior to the effective date of this Chapter, or any amendment hereto, and completed within a 1-year period after the effective date of this Chapter or amendment hereto, shall be considered nonconforming.

(Ord. 4/13/1998, 4/13/1998, §903)

§27-904. Nonconformities by Variance.

Building, structure or use allowed by variance in a district where it is nonconforming with any regulations of this Chapter, as amended, reenacted and replaced, shall be considered nonconforming for the purposes of this Chapter.

(Ord. 4/13/1998, 4/13/1998, §904)

§27-905. Normal Maintenance and Repair Activities.

Normal maintenance and repair, such as painting, replacement of siding, and similar activities is allowed, as well as those interior renovations which do not structurally alter the building or area or result in increased use of the building or area, or a change of nonconforming, or otherwise create more incompatibility with the surrounding permitted uses. Such maintenance and repair activities shall, however, comply with all other applicable standards and permit requirements of this Chapter.

(Ord. 4/13/1998, 4/13/1998, §905)

§27-906. Changes of Nonconforming Uses.

1. *Conditional Uses.* All changes of nonconforming uses shall be considered conditional uses subject to the specific procedures and review criteria contained in Part 9 of this Chapter and the review factors in §27-912 of this Part. A nonconforming use may only be changed to a use of equal or less nonconformity (i.e., more, restrictive classification) as determined by the Planning Commission and Council in accord with classification of the uses in the Schedule of Uses of this Chapter. The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative affects on the community and the long term application of this Chapter to eliminate incompatible uses from specific zoning districts. For example, a change from a nonconforming retail store in R-1 District to a bank may be permitted; however a change to a manufacturing use would not be permitted.

2. *Conforming Changes and Conversions.* A change in a nonconforming use to a conforming use shall not be considered a conditional use unless the proposed use is classified as a conditional use by the Schedule of Uses in this Chapter. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use. The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a conditional use. For example, a nonconforming retail establishment selling groceries proposed for conversion to a shoe store would not be considered a change in nonconforming use.

3. *Other Standards.* All changes to nonconforming uses shall also be subject to all other applicable standards in this Chapter.

(Ord. 4/13/1998, 4/13/1998, §906)

§27-907. Extension of Nonconforming Uses.

1. *Conditional Uses.* All extensions of nonconforming uses into more area of a structure or onto more area of property shall be considered conditional uses subject to the specific procedures and review criteria contained in Part 11 of this Chapter, and the review factors in §27-912 of this Part.

2. *Extension onto Other Properties of Record in the Same Ownership.* A nonconforming use may only be extended onto a new property of record if that property is contiguous to the existing location, the properties were both under the same ownership as of the effective date of this Chapter, as amended, the owner has clearly exhausted the alternatives available for expansion on the existing property, and the use is not one which has been altogether prohibited as a new use under this Chapter.

3. *Extension Limitation.* A nonconforming use shall not be extended more than 25% beyond the area of land or structure legally occupied by the use.

4. *Prohibited Extensions.* Should the use proposed for extension be one which is specifically prohibited as a new use in the Borough or is a use judged by the Borough to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this Chapter, the requested extension shall be denied. The Council shall consider past operating performance in making its decision.

(Ord. 4/13/1998, 4/13/1998, §907)

§27-908. Reconstruction.

1. *Time Limit.* If any nonconforming structure or use (see subsection .4 below for exception) is damaged up to a maximum of 75% of its appraised fair market value as a result of a casualty it maybe restored or reconstructed to its pre-existing condition of nonconformity provided:

A. The application for a building permit is submitted within 12 months of the date of the casualty.

B. The nonconformity is not increased and no new nonconformity is created.

2. *Procedure; Permits.* All applicable permits for the reconstruction of a nonconforming use shall be required. Such reconstruction shall be considered a conditional use if the reconstruction involves a change or extension of use as regulated by §27-906 and §27-907 of this Chapter, respectively.

3. *Reconstruction Prohibited.* A nonconforming structure that has been damaged or destroyed by more than 75% of its appraised fair market value by any cause shall not be rebuilt in any nonconforming manner except as provided for dwellings in §27-908.4.

4. *Dwellings.* A destroyed or damaged nonconforming building containing not more than two dwelling units may be reconstructed regardless of the percentage of destruction provided:

A. The application for a building permit is submitted within 18 months of the date of the casualty.

B. The nonconformity is not increased and no new nonconformity is created.

5. *Fair Market Value.* The applicant shall have the burden of proof to document the percent of the fair market value that was damaged. Such proof shall require an appraisal by a licensed real estate broker with substantial appraisal experience. Fair market value shall be as generally defined by real estate practice.

(Ord. 4/13/1998, 4/13/1998, §908)

§27-909. Abandonment of Nonconformities.

1. *Abandonment.* If a non-conforming use of a structure or land is discontinued, razed, removed or abandoned for 12 months or more, subsequent use of such structure or land shall conform to the regulations of the zoning district in which it is located, except for reconstruction in accord with §27-908.

2. *Applicant Evidence.* The property owner shall be responsible to provide evidence that the nonconformity has not been abandoned.

(Ord. 4/13/1998, 4/13/1998, §909)

§27-910. Alterations and Expansions of Nonconforming Structures.

1. *Alterations.* The alteration or expansion of nonconforming structures shall be permitted only in accord with this Section.

2. *Procedure; Permits.* All applicable permits for the alteration or expansion of a nonconforming structure shall be required. Such alteration or expansion shall be considered a conditional use if the alteration or expansion involves a change or extension of a nonconforming use as regulated by §27-906 and §27-907 of this Chapter respectively.

3. *Nonconforming Setbacks.* Should a building have a lawful nonconforming side or rear building setback, the structure may be altered to increase the height above such setback or to extend other portions of the building up to such nonconforming setback line provided no additional nonconformity is created and a variance is duly granted for the same by the Zoning Hearing Board. However, such additions shall not be permitted to any nonresidential structure which abuts a residential use.

4. *Increase in Area or Bulk Nonconformity.* In the case where a proposed alteration or expansion of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required from the Zoning Hearing Board.

(Ord. 4/13/1998, 4/13/1998, §910)

§27-911. Use of Nonconforming Lots of Record.

1. *Single-Family Dwelling.* A single-family dwelling may be erected or expanded on any lawful nonconforming lot of record in any district, provided:

A. *Front Yard.* The required front and side yard setback is maintained as required for the district in which the lot is located.

B. *Rear Yards.* No rear yard setback is reduced to less than 15 feet.

C. *Other Standards.* All other applicable standards in this Chapter are satisfied.

D. *Sewage Disposal.* Sewage disposal is provided in accord with applicable Borough and Pennsylvania DEP requirements.

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

A. *Adjoining Property.* The lot owner does not own adjoining property which can be combined to make the lot conforming.

- B. *Setbacks.* All setbacks normally required in the district are maintained.
- C. *Lot Size Requirement.* This Chapter does not require an increased lot size for the specific use.
- D. *Other Standards.* All other applicable standards in this Chapter are satisfied.
- E. *Sewage Disposal.* Sewage disposal is provided in accord with applicable Borough and Pennsylvania DEP requirements.

(Ord. 4/13/1998, 4/13/1998, §911)

§27-912. Review Factors.

The Borough shall consider any nonconformity conditional use application in terms of the conditional use standards in §27-1108.4 and all other applicable standards of this Chapter; and the effect on the following factors:

- A. Traffic generation.
- B. Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- C. Amount and nature of outdoor storage.
- D. Hours of operation.
- E. Compatibility with the character of the surrounding neighborhood.
- F. Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.

(Ord. 4/13/1998, 4/13/1998, §912)

Part 10**Open Land, Recreation Land, Development Improvements
and Common Facilities****§27-1001. Purpose.**

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

(Ord. 4/13/1998, 4/13/1998, §1001)

§27-1002. Plan and Legal Documents.

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

(Ord. 4/13/1998, 4/13/1998, §1002)

§27-1003. Use and Restriction.

The use of any common area shall be limited to those uses which are specifically permitted or required by the applicable sections of this Chapter and the Borough Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 4/13/1998, 4/13/1998, §1003)

§27-1004. Development Plan Designations.

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

(Ord. 4/13/1998, 4/13/1998, §1004)

§27-1005. Methods for Use Dedication and Common Area Ownership and Maintenance.

The use of common areas and common area ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of the Borough Council that the chosen

method(s) will preserve the common area use rights established in accord with this Part and provide for the perpetual ownership and maintenance of all open land, recreation land, common facilities and development improvements. All methods shall establish a mechanism for the Borough to effect the use dedication and require operation and maintenance of common areas, should the means established by the developer fail to provide the same. All methods for use dedication and common area ownership and maintenance, and any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of the Council. Operation and maintenance provisions shall include, but not be limited to, capital budgeting for repair and/or replacement of development improvements and common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

A. *Property Owners Association or Condominium Agreements.* All common areas may be owned and maintained by a property owners association (POA) or condominium agreements (CA) including all lot owners in the development provided:

(1) The POA/CA is established by the developer as a nonprofit corporation for the express purpose of ownership and maintenance of the common area, or as otherwise may be required by state statute.

(2) Participation in the POA/CA is mandatory for all lot owners.

(3) Provision is made for the maintenance of common areas during the lot sale period and the orderly transition of responsibility from the developer to the POA.

(4) The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common area responsibilities.

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

(1) The deed contains the necessary covenants and restrictions in favor of the Borough to effect the use dedication and common area ownership and maintenance standards of this Part and this Chapter.

(2) The organization proposed is a bona fide, operating and stable conservation organization with a perpetual existence, as approved by the Borough Council.

(3) The conveyance of title contains the necessary provisions for proper retransfer or reversion should the organization be unable to continue to execute the provisions of title.

(4) A maintenance agreement between the developer, organization and Borough is executed to the satisfaction of the Borough Council.

C. *Deed Restricted Private Ownership.* Deed restrictions on privately held lands used for agriculture or forestry enterprises may be used to preserve open land provided such restrictions include a conservation easement in favor of the Borough, with provisions for reversion to the Borough, POA or trustee holding the

remainder of the common area. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.

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

E. *Conservation Easements Held by the Borough.* In the case of open lands and recreation lands, the Borough may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA or condominium, while the development rights are held by the Borough.

F. *Fee Simple and/or Easement Dedication to the Borough.* In the case of open lands or recreation lands, the Borough may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public use and maintenance, provided:

- (1) There is no consideration paid by the Borough.
- (2) Such land is freely accessible to the public.
- (3) The Borough agrees to and has access to maintain such lands.

(Ord. 4/13/1998, 4/13/1998, §1005)

§27-1006. Failure to Preserve Dedication of Use and Operation and Maintenance of Common Area.

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

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

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

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

D. *Failure to Correct.* In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, the Council may enter upon the common area and maintain the same and/or correct the deficiencies. The Council shall continue such

action for such time as may be necessary to correct the deficiencies. Said action shall not constitute a taking or dedication of any common areas, nor vest in the public the right to use any common area.

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

F. *Appeal.* Any party to the action of the Council may appeal such action to court as provided for zoning appeals in the Pennsylvania Municipalities Planning Code, as amended.

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

(Ord. 4/13/1998, 4/13/1998, §1006)

Part 11**Administration****§27-1101. Applicability.**

1. *Conformance.* Any activity regulated by this Chapter shall only occur, be undertaken, or continue in conformance with the requirements of this Chapter.

2. *Authorization.* This Chapter regulates all matters and activities authorized by Article VI of the Pennsylvania Municipalities Planning code, as amended.

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

A. Erection, construction, movement placement or extension of a structure, building or regulated sign.

B. Change in the type of use or expansion of the use of a structure or area of land.

C. Creation of a lot or alteration of lot lines.

4. *Repairs and Maintenance.* Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provided such activity involve 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; 4) any other activity regulated by this Chapter.

(Ord. 4/13/1998, 4/13/1998, §1100)

§27-1102. General Procedure for Permits.

1. *Principal Permitted Use.* After receiving a proper and complete application for a principal (permitted by right) use, the Zoning Officer shall either:

A. Issue the permit under this Chapter.

B. Refuse the permit, indicating at least one applicable reason in writing to the applicant or his/her representative. If specifically requested in writing by an applicant, reason(s) for a refusal shall then be stated in writing.

2. *Reviews.* Certain activities require review and/or approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Commission. In such case, the Zoning Officer shall not issue a zoning permit until such required review or approval occurs.

3. *Appeal.* See §27-1106.2 which describes processes to appeal actions of the Zoning Officer to the Zoning Hearing Board.

4. *Timing.* After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Chapter provided the work complies with other Borough ordinances. However, it is recommended that applicants wait 30 days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of

construction or a use within this 30-day appeal period shall bear the risk of the applicant. (See occupancy permit process in §27-1103.7).

(Ord. 4/13/1998, 4/13/1998, §1101)

§27-1103. Permits and Certificates.

1. *Applicability.* See §27-1101

2. *Types of Uses.*

A. *Principal Permitted Uses (Permitted by Right Uses).* If a use is listed as a principal permitted use by this Chapter and meets the requirements of this Chapter, the Zoning Officer shall issue a permit in response to a complete application.

B. *Special Exception Use or Application Requiring a Variance.* A permit under this Chapter for a use requiring a special exception or variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board after a hearing.

C. *Conditional Use.* A permit under this Chapter for a conditional use shall be issued by the Zoning Officer only upon the written order of the Borough Council after the Planning Commission has been given an opportunity to review the application.

3. *Applications.*

A. *Applications.* Any request for a decision, interpretation or variance by the Zoning Hearing Board, application for a conditional use, or for a permit under this Chapter shall be made in writing on a form provided by the Borough and in accord with the procedures established by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Borough employee responsible for processing such application. The applicant is responsible to ensure that a responsible Borough official notes the date of the official receipt on the application.

B. *Number of Copies.* Unless waived by the Zoning Officer, five copies of a site plan, drawn to scale, shall be submitted if an application requires action by the Zoning Hearing Board or Borough Council, and two copies shall be submitted if action by the Zoning Hearing Board or Borough Council is not required.

C. *Information Required.* Any application to the Zoning Officer, Zoning Hearing Board, Planning Commission or Borough Council shall include the following information:

(1) In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this Section shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

(2) In the case of an application which does not involve the construction

of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this Section. However, a plot plan, as required by subsection (3)(f) which follows, shall not generally be required unless the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

(3) In any case, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Chapter or to identify any impacts of the proposed use.

(a) Names and address of the applicant, or appellant, and the name and address of the owner of the affected property.

(b) A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.

(c) A description of any proposed operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards.

(d) If a principal use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.

(e) A listing of any specific sections of this Chapters being appealed, with the reasons for any appeal.

(f) A plot plan legible in every detail and drawn to scale but not necessarily showing precise dimensions, and including the following information:

- 1) Name of the development.
- 2) Name and address of land owner and/or land developer (if corporation give name of officers.)
- 3) Location map.
- 4) North arrow, true or magnetic.
- 5) Graphic scale.
- 6) Written scale.
- 7) Date plot plan was completed.
- 8) Names of adjacent property owners and tax map numbers, including those across adjacent roads.
- 9) Proposed and existing street and lot layout including street

names and right-of-way widths.

- 10) Existing and proposed man-made and/or natural features:
 - a) Water courses, lakes and wetlands (with names).
 - b) Rock outcrops, ledges and stone fields.
 - c) Buildings, structures, signs and setbacks required by this Chapter.
 - d) Approximate location of tree masses.
 - e) Utility lines, wells and sewage system(s).
 - f) Entrances, exits, access roads and parking areas including the number of spaces.
 - g) Drainage and stormwater management facilities.
 - h) Plans for any required buffer plantings.
 - i) Any and all other significant features.
- (g) Location of permanent and seasonal high water table areas and 100 year flood zones.
- (h) Tract boundaries accurately labeled.
- (i) The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
- (j) Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
- (k) A statement of the type of water supply and sewage disposal proposed.
- (l) The present zoning district and major applicable lot requirements.

D. *Other Laws.* The Zoning Officer may withhold issuance of a permit under this Chapter if there is clear knowledge by him or her that such a use would violate another Borough, State or Federal law or regulation.

E. *Ownership.* No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application. (See definition of "landowner" in Part 3.)

F. *Advisory Reviews.* The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission, the Lackawanna County Regional Planning Commission, the County Conservation District or Borough Engineer) for review and comment.

G. *Subdivision Approval.* Applications for uses which also necessitate approvals under the Borough Subdivision and Land Development Ordinance [Chapter 22] shall be processed in the manner provided for plat approval under that Ordinance [Chapter 22]. Such applications shall also contain all information or data normally required for a submission under the Subdivision Ordinance [Chapter 22]. A zoning permit shall not be issued until the proposed use has been granted a preliminary approval under the Subdivision and Land Development Ordinance [Chapter 22]. However, no building or property shall be occupied or

used until final subdivision approval has been granted and a certificate of use has been properly issued pursuant to §27-1103.7 of this Chapter.

4. *Issuance of Permit.*

A. At least two copies of any permit required under this Chapter shall be made.

B. One copy of any such permit shall be retained in Borough files and one copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request. One copy of a submitted site plan should be returned to the applicant after approval/disapproval, with such action certified on the plan with the signature of the Zoning Officer.

C. The Zoning Officer shall issue or deny a permit for a principal permitted within a maximum of 90 days after a complete, duly filed application and fees are submitted.

D. No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this Chapter unless a valid zoning permit has been issued for such work, nor shall such persons conduct such work after notice that a zoning permit has been revoked.

5. *Revocation of Permits.*

A. The Zoning Officer shall revoke a permit or approval issued under the provisions of this Chapter in case of:

(1) Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based (The Pennsylvania Crimes Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties).

(2) Upon violation of any condition lawfully imposed upon a special exception, variance or conditional use.

(3) Any work being accomplished or land or structures being used in such a way that does not comply with this Chapter or an approved site plan or approved permit application.

(4) For any other just cause set forth in this Chapter.

B. If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer.

6. *Changes to Approved Plans.*

A. After the issuance of a permit and/or approval under this Chapter by the Borough, such approved application shall not be changed without the written consent of the Borough, as stated in subsection .B below.

B. Changes to an approval by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Hearing Board or the Council is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use,

as determined by the Zoning Officer.

C. A copy of such adjustment or correction shall be provided in writing to the Chairperson of the Planning Commission, the President of Borough Council or the Chairperson of the Zoning Hearing Board if the change concerns a plan approved by such bodies.

7. *Certificate of Use and Occupancy (or "Occupancy Permit").*

A. A certificate of use and occupancy shall be required by the Borough upon a change of use or completion of work authorized by a permit or approval under this Chapter. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such certificate has been issued. A new certificate of use and occupancy shall be required if a change in use of the property is proposed, and then such certificate shall be issued only after all required approvals are obtained.

B. An application for such certificate shall be made on an official Borough form. If such use is in conformance with Borough ordinances and approvals, such certificate should be issued in duplicate within 10 days of a properly submitted and duly filed application. A minimum of one copy shall be retained in Borough records.

C. The Zoning Officer shall inspect such structure or land related to an application for such certificate. If the Zoning Officer determines, to the best of his/her current knowledge that such work conforms with this Chapter and applicable Borough codes, approvals and permits, then the certificate of use and occupancy shall be issued.

D. The applicant shall show a valid certificate of use and occupancy to the Zoning Officer upon request.

(Ord. 4/13/1998, 4/13/1998, §1102)

§27-1104. Fees.

1. *Application Fees.* As authorized by §§617.2(e) and 908(1.1) of the Pennsylvania Municipalities Planning Code, the Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Chapter. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after fees have been paid in full, and the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

2. *Stenographer Fees.* The appearance fee for a stenographer shall be shared equally by the applicant and the Borough. The cost of the original transcript shall be paid by the Borough if the transcript is ordered by the Borough or shall be paid by the person appealing the decision of the Borough if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(Ord. 4/13/1998, 4/13/1998, §1103)

§27-1105. Zoning Officer.

1. *Appointment.* The Zoning Officer(s) shall be appointed by the Borough Council. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices not in conflict with the State Planning Code.

2. *Duties and Powers.* The Zoning Officer shall:

A. Administer this Chapter.

B. Provide information to applicants regarding required procedures.

C. Receive and examine all applications required under the terms of this Chapter, and issue or refuse permits within this Chapter.

D. Receive complaints of violation of this Chapter, and issue a written notice of violation to any person violating any provision of this Chapter.

E. Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exception granted by the Zoning Hearing Board, of conditional uses approved by the Borough Council, of complaints received, of inspections made, of reports rendered, and of notice or orders issued.

F. Make all required inspections and perform all other duties as called for in this Chapter.

G. Not have the power to permit any activity which does not conform to this Chapter, or all other ordinances of the Borough known to the Zoning Officer.

3. *Qualifications.* Pursuant to §614 of the Pennsylvania Municipalities Planning Code, the Zoning Officer shall meet the qualifications established by the Borough Council and shall be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning.

4. *Other Borough Officials.* Police officers, firefighters, construction inspectors, other Borough staff and Borough officials and the general public may report possible zoning violations to the Zoning Officer for his/her determination. All such reports shall be in writing.

(Ord. 4/13/1998, 4/13/1998, §1104)

§27-1106. Zoning Hearing Board.

1. *Appointment and Qualifications.*

A. *Appointment.* The Borough Council shall appoint a Zoning Hearing Board, which shall have the number of members and alternate members with such powers and authority, and which shall conduct all proceedings as set forth in Part 9 of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended.

B. *Recommended Qualifications.* Each Zoning Hearing Board member should:

(1) Demonstrate a working knowledge of zoning prior to appointment.

(2) Become familiar with the Pennsylvania Municipalities Planning Code.

(3) Attend at least one seminar and/or workshop pertaining to municipal planning and/or zoning within each calendar year.

C. *Vacancies.* The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.

D. *Removal of Members.* See §905 of the Pennsylvania Municipalities

Planning Code.

E. *Organization.*

(1) *Officers.* The Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.

(2) *Quorum.* For the conduct of any hearing and taking of any action a quorum shall be not less than a majority of all members of the Board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided by the Pennsylvania Municipalities Planning Code. The quorum may be met by alternate members, serving as permitted by the Pennsylvania Municipalities Planning Code.

(3) *Rules.* The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and State law.

2. *Jurisdiction.*

A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 (curative amendments) and §916.1(a) (2) (ordinance validity) of the Pennsylvania Municipalities Planning Code.

(2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a Zoning Hearing Board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

(3) Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(4) Applications for variances from the terms of this Chapter pursuant to §910.2 of the Pennsylvania Municipalities Planning Code.

(5) Applications for special exceptions under this Chapter pursuant to §912.1 of the Pennsylvania Municipalities Planning Code and the requirements of this Chapter.

(6) Appeals from the Zoning Officer's determination under §916.2 (preliminary opinion) of the Pennsylvania Municipalities Planning Code.

(7) 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 stormwater management insofar as the same relate to development not involving subdivision and land development applications.

(8) The Zoning Hearing Board shall not, under any circumstances, have

the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular district.

(Ord. 4/13/1998, 4/13/1998, §1105)

§27-1107. Zoning Hearing Board; Hearings and Decisions.

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code, as amended, 53 P.S. §10908, and the provisions of this Section. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final. (For the purposes of this Section, "Board" shall mean "Board or Hearing Officer," if a hearing officer is appointed.)

A. *Notice of Hearings.* Notice of all hearings of the Board shall be given as follows:

(1) *Advertisement.* Public notice shall be published, as defined by §107 of the Municipalities Planning Code, 53 P.S. §10107. The notice shall state the time and place of the hearing and the particular nature and property address of the matter to be considered.

(2) *Posting.* Notice of such hearing shall be conspicuously posted on the affected tract of land at least 1 week prior to the hearing. Such notice shall state the time and place of the hearing and a general description of the request.

(3) *Persons Given Notices.* All notice under this subsection should be intended to be received or posted at least 5 days prior to the hearing date.

(a) Written notice shall be mailed or personally delivered to the applicant or his/her representative listed on an official application form.

(b) Notice may be delivered or mailed to the Chairperson of the Planning Commission, the Mayor, the Clerk of Borough Council, and the last known address of owners of record of property abutting or directly across the street from the boundaries of the subject property. The applicant shall provide the Borough with a list of such property owners. Failure of the Borough to notify all such persons shall not invalidate any action by the Board.

(c) Also, such notice shall be mailed or delivered to the address of any other person or group (including civic or community organizations) who has made a written timely request (including an address) for such notice.

(4) *Adjacent Municipalities.* In any matter which relates to a lot which lies within 250 feet of the boundary of another municipality, and where the Zoning Officer determines the proposed activity may have significant impact on that municipality, the Borough staff may transmit to the offices of the

adjacent municipality a copy of the official notice of the public hearing on such matter prior to the hearing date. Representatives of such adjacent municipality shall have the right to appear and be heard at the public hearing. Failure of the Borough to notify such municipality shall not invalidate any action by the Board.

(5) *Fees.* The Borough Council may, by resolution, establish a reasonable fee schedule, based on cost, to be paid by: (a) the applicant for any notice required by this Chapter and (b) those persons requesting any notice not required by this Chapter.

B. *Parties in Hearings.* The Zoning Hearing Board shall have the authority, if it chooses to exercise it, to determine who has standing on each case before the Board. (Note-Standing generally means a party being sufficiently affected or threatened by affects by a controversy to obtain judicial resolution of that controversy.)

(1) The parties to a hearing shall be the Borough Council, the Clarks Green Planning Commission, any person affected by the application who has made timely appearance of record before the Board, representatives of any legitimate civic or community organization, and any other person permitted to appear before the Board.

(2) The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

(3) The Board shall determine that a person or business does not have standing if the Board finds that such person or business is apparently motivated primarily by an attempt to inhibit competition in an area of business, and that such person or business would not otherwise be threatened with substantive harm from the application.

C. *Oaths and Subpoenas.* The Chairperson of the Board or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents reasonably needed by and requested by the parties.

D. *Representation by Counsel.* The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on relevant issues.

E. *Evidence and Record.* Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded. The Board or the Hearing Officer, as applicable, shall keep a record of the proceedings as required by State law.

F. *Communications Outside of Hearings.*

(1) The Board shall not meet with, visit the site with or directly communicate specifically on the matter with the applicant or any officially protesting party or their representatives in connection with any issue involved, except if opportunity is provided for the applicant and any officially

protesting party to participate.

(2) The Board shall not take notice of any communications, reports, staff memoranda, or other materials directly affecting a proposed application unless the parties are afforded an opportunity to examine and contest the material so noticed or unless such materials are already a matter of public record. This restriction shall not apply to advice from the Board's Solicitor.

G. *Advisory Review.* The Zoning Hearing Board may request that the Planning Commission, County Conservation District or Borough Engineer provide an advisory review on any matter before the Board.

H. *Hearings and Decision.* The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the Pennsylvania Municipalities Planning Code, as amended, 53 P.S. §10908.

I. *Solicitor Conflict.*

(1) The Zoning Hearing Board Solicitor shall not represent private clients in cases before the Zoning Hearing Board.

(2) If a conflict of interest exists for the Zoning Hearing Board Solicitor on a particular application, the Zoning Hearing Board Solicitor shall notify the Chairperson of the Board at least 7 days before the scheduled hearing date.

(3) Borough Council may appoint an alternate Solicitor to the Zoning Hearing Board to serve as needed for a specific application or for a term of office.

(Ord. 4/13/1998, 4/13/1998, §1106; as amended by Ord. 2-2003, 9/8/2003, §6)

§27-1108. Variances.

1. The Board shall hear requests for variances filed with the Board in writing by any landowner (or any tenant with the permission of such landowner).

A. *Standards.* The Board may grant a variance only within the limitations of the Municipalities Planning Code. The applicant shall have the burden of proof to show compliance with such standards. As of 1993, the Municipalities Planning Code provided that all of the following findings must be made, where relevant in a particular case:

(1) There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

(2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and a variance is therefore necessary to enable the reasonable use of the property.

(3) Such unnecessary hardship has not been created by the appellant.

(4) 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, not be detrimental to the public welfare.

(5) 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.

2. *Re-application.* The Zoning Officer shall refuse to accept a proposed application that is not materially or significantly different from an appeal on the same property that was denied by the Board within the previous year.

3. *Variance Conditions.* In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Municipalities Planning Code and this Chapter, and to protect the public health, safety and welfare.

(Ord. 4/13/1998, 4/13/1998, §1107)

§27-1109. Conditional Uses and Special Exceptions.

1. *Applications.* Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §27-1109.6. The Borough Planning Commission, Borough Council, or the Zoning Hearing Board shall require any other information deemed necessary for the review of the proposal.

2. *Conditional Uses.* Uses specified as conditional uses shall be permitted only after review and approval pursuant to the express standards as provided for specific conditional uses in this Part and in §1109.4 and any other applicable standards in this Chapter.

A. *Expansions.* Expansions or additions to uses classified as conditional uses shall also be considered conditional uses unless said expansion or addition involves an increase of less than 25% of the floor area or lot area devoted to the use, as measured cumulatively from the effective date of this provision. The addition of an accessory structure shall not be considered a conditional use.

B. *Procedure.*

(1) *Submission.* The applicant shall submit the application as follows:

(a) Five complete copies of any required plan shall be submitted to the Zoning Officer.

(b) The Zoning Officer shall refuse to accept an incomplete application which does not provide sufficient information to determine compliance with this Chapter.

(2) *Distribution.* The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Borough Council. A minimum of one copy shall be retained in the Borough files. The Borough Fire Company should be given an opportunity for a review, if deemed appropriate by the Zoning Officer.

(3) *Zoning Officer Review.* The Zoning Officer shall report in writing or in person to the Planning Commission or Borough Council stating whether the proposal complies with this Chapter. The Zoning Officer may request a review by the Borough Engineer.

(4) *Planning Commission.*

(a) The Planning Commission shall be provided with an opportunity to review any proposed conditional use at a regular meeting prior to a decision by the Borough Council. The Commission, at its option, may provide a written advisory review.

(b) If such review is not received within the time limit within which the Borough Council must issue a decision, or within 30 days of such application being sent to the Planning Commission, then the Borough Council may make a decision without having received comments from the Planning Commission.

(5) *Council Action.* The Borough Council shall conduct hearings and make decisions in accordance with §908 and §913.2 of the Pennsylvania Municipalities Planning Code, as amended, 53 P.S. §§10908, 10913.2. In granting a conditional use, the Council may attach such reasonable conditions and safeguards (in addition to those expressed in this Chapter) as it determines are necessary to implement the purposes of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and this Chapter, and to protect the public health, safety and welfare.

[Ord. 2-2003]

3. *Special Exceptions.* Uses specified as special exceptions shall be permitted only after review and approval by the Borough Zoning Hearing Board pursuant to the express standards as provided for specific special exceptions in this Chapter and in §27-1109.4.

A. *Expansions.* Expansions or additions to uses classified as special exceptions shall also be considered special exceptions unless said expansion or addition involves an increase of less than 25% of the floor area or lot area devoted to the use, as measured cumulatively from the effective date of this provision. The addition of an accessory structure shall not be considered a conditional use.

B. *Procedure.*

(1) All applicants for a special exception use shall submit five sets of plans for the proposed use to the Zoning Officer together with a written application. Photographs of the existing site or buildings may also be requested to be presented by the applicant.

(2) All plans shall contain the information required in §27-1176.

(3) *Borough Procedures.*

(a) The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning Commission and the Zoning Hearing Board solicitor. A minimum of one copy shall be retained in the Borough files.

(b) The Zoning Officer shall, prior to the next Zoning Hearing Board meeting where the application will be discussed, review the Plan to determine compliance with this Chapter and report these findings to the Zoning Hearing Board.

(4) *Planning Commission Review of Special Exception Uses.*

(a) The Planning Commission shall be provided with an opportunity to review any proposed special exception use at a regular meeting prior to

a decision by the Zoning Hearing Board. The Commission, at its option, may provide a written advisory review.

(b) If such review is not received within the time limit within which the Board must issue a decision, or within 30 days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.

(5) *Zoning Hearing Board Action on Special Exception Uses.*

(a) The Board shall hear and decide such request for a special exception use under the procedures in §27-1107.

(b) In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards (in addition to those expressed in this Chapter) as it determines are necessary to implement the purposes of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and this Chapter, and to protect the public health, safety and welfare.

[Ord. 2-2003]

4. *Standards and Criteria.*

A. The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Chapter and other ordinances, of the Borough. In addition to the applicable general provisions of this Chapter and to the standards provided in this Chapter for specific conditional uses and special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions.

(1) The proposed use shall be in harmony with purposes, goals, objectives and standards of the Borough Comprehensive Plan, this Chapter and all other ordinances of the Borough.

(2) There shall be a community need for the proposed use at the proposed location. Need shall be assessed in terms of existing and proposed uses of a similar nature in the area. In order to provide or maintain a proper mix of uses within the Borough and, more specifically, that portion of the Borough in the immediate area, the proposed use shall not result in either a detrimental over-concentration of a particular use within the Borough or within the immediate area. The location chosen shall not be one demonstratively better suited or likely to be needed for uses which are permitted as a matter of right in the district. The proposal shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in light of other potential sites in the immediate area including those which might exist in adjacent communities.

(3) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Chapter, or

any other plan, program, map or ordinance of the Borough or other government agency having jurisdiction to guide growth and development.

(4) The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Borough, whether such services are provided by the Borough or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, or services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use the applicant shall be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with this and other ordinances of the Borough. The permit approval shall be so conditioned.

(5) In reviewing an application, the following additional factors shall be considered:

(a) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

(b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road pavement surfaces, dividers and traffic controls.

(c) Location, arrangement, appearance and sufficiency of off-street parking and loading.

(d) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

(e) Adequacy of stormwater and drainage facilities. Stormwater leaving any site shall not exceed pre-development levels and facilities shall be designed to accommodate a 10-year storm.

(f) Adequacy of water supply and sewage disposal facilities.

(g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

(h) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

(i) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(6) No application shall be approved unless it is found that, in addition to complying with each of the standards enumerated above, any of the applicable standards contained in this Chapter shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety and welfare of parties effected, all conditions and safeguards deemed necessary by the Board to protect the general health,

safety and welfare and implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code shall be imposed as conditions of approval in accord with §§912.1 or 913.2 of the Pennsylvania Municipalities Planning Code, as the case may be. Conditions which might be imposed shall include (but not be limited to) provisions for additional parking, traffic control, submission of landscaping plans for screening, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses. The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Borough and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

5. *Limitation of Approval.* Any conditional use approval granted by the Borough Council and any special exception approval granted by the Zoning Hearing Board shall expire 1 year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Borough Council or Zoning Hearing Board as the case may be, however, may grant an extension of the time limitations, for good cause.

6. *Information Required.* The applicant shall supply the information required by §27-1103.3 of this Chapter and evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Borough; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

(*Ord. 4/13/1998*, 4/13/1998, §1108; as amended by *Ord. 2-2003*, 9/8/2003, §§7, 8)

§27-1110. Time Limits on Permits and Variances.

1. *Zoning Permit.* After a variance is approved or a conditional or special exception approval is officially authorized under this Chapter, then a zoning permit shall be secured by the applicant within 12 months of the variance, conditional use or special exception approval.

2. *Review Completion.* If the applicant submits complete plans for a subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this Chapter within the above time limits, then such time limits shall begin after such plan review is completed or such plan approval is granted.

3. *Extension.* For good cause the Zoning Officer may, upon application in writing stating the reasons therefore, extend in writing the 12-month application period to up to 18 months.

4. *Expiration.* If an applicant fails to obtain the necessary permits within the above time period, or after obtaining the permit fails to diligently commence

substantial construction within 12 months or allows interruptions in substantial of longer than six months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and all such approvals, variances and permits shall be deemed automatically rescinded.

5. *Completion.* Any building construction shall be completed within 36 months of issuance of an applicable permit, unless a written extension is granted by the Zoning Officer for good cause. Otherwise, a permit shall be considered to have automatically expired at the end of such 36-month period.

(Ord. 4/13/1998, 4/13/1998, §1109)

§27-1111. Mediation.

Parties to proceedings authorized by this Chapter and the Pennsylvania Municipalities Planning Code may use the mediation option as authorized by and in accord with §908.1 of said Code.

(Ord. 4/13/1998, 4/13/1998, §1110)

§27-1112. Time Limits for Appeals.

1. The time limitations for appeals shall be as follows:

A. *Zoning Hearing Board; County Court.* No person shall be allowed to file any appeal with the Zoning Hearing Board later than 30 days after the decision by the Zoning Officer that is being appealed has been officially issued, or file any appeal with the County Court of Common Pleas later than 30 days after a decision of the Zoning Hearing Board has been officially issued, except as may be provided under §914.1 of the Pennsylvania Municipalities Planning Code.

B. *Temporary Permits.* This 30-day time limit for appeal shall not apply to the revocation of a permit under §27-1103.5.

C. *Subdivision or Land Development Approval.* The failure of an aggrieved person other than the landowner to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval except in the case where the final submission substantially deviates from the approved preliminary plan.

(Ord. 4/13/1998, 4/13/1998, §1111)

§27-1113. Appeals to Court and Other Administrative Proceedings.

Appeals to court and other administrative proceedings shall be governed by Article X-A and Article IX of the Pennsylvania Municipalities Planning Code, respectively.

(Ord. 4/13/1998, 4/13/1998, §1112)

§27-1114. Public Utility Exemptions.

See §619 of the Pennsylvania Municipalities Planning Code.

(Ord. 4/13/1998, 4/13/1998, §1113)

§27-1115. Limited Borough Exemption.

The minimum lot area requirements of this Chapter shall not apply to uses or

structures owned by the Borough of Clarks Green for uses and structures that are intended for a legitimate governmental, recycling, public recreation, stormwater control or public health and safety purpose.

(Ord. 4/13/1998, 4/13/1998, §1114)

§27-1116. Amendments.

The Borough Council may amend this Chapter by complying with the requirements set forth in Article VI of the Pennsylvania Municipalities Planning Code. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided on as provided in §§609.1 and 916.1 of the Pennsylvania Municipalities Planning Code.

(Ord. 4/13/1998, 4/13/1998, §1115)

§27-1117. Violations.

1. *Compliance.* Failure to comply with any provision of this Chapter, failure to secure or comply with a decision of the Council or Zoning Hearing Board or the failure to secure a permit, when required, prior to or (when ordered) after the erection, constriction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a certificate of use permit, shall be violations of this Chapter.

2. *Enforcement Notice.* When written notice of a violation of any of the provisions of this Chapter shall be served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the Pennsylvania Municipalities Planning Code, such violation shall be discontinued or corrected as set forth in said notice.

(Ord. 4/13/1998, 4/13/1998, §1116)

§27-1118. Penalties and Remedies.

1. *Causes of Action.* In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this Chapter, the Council or, with the approval of the Council, an officer of the Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute (in the name of the Borough) any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Council. No such action may be maintained until such notice has been given.

2. *Enforcement Remedies.*

A. Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the

Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough 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 was a good faith basis for the person, partnership or corporation violating the Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth 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 Chapter shall be paid over to the Borough.

B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Borough, the right to commence any action for enforcement pursuant to this Section.

(Ord. 4/13/1998, 4/13/1998, §1117)

§27-1119. Liability.

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the floodplain, site plan review, subdivision or land development approval erosion control, stormwater runoff, activity on steep slopes or any other review or permit of this Chapter, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto. If the Zoning Officer mistakenly issues a permit under this Chapter, the Borough shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

(Ord. 4/13/1998, 4/13/1998, §1118)

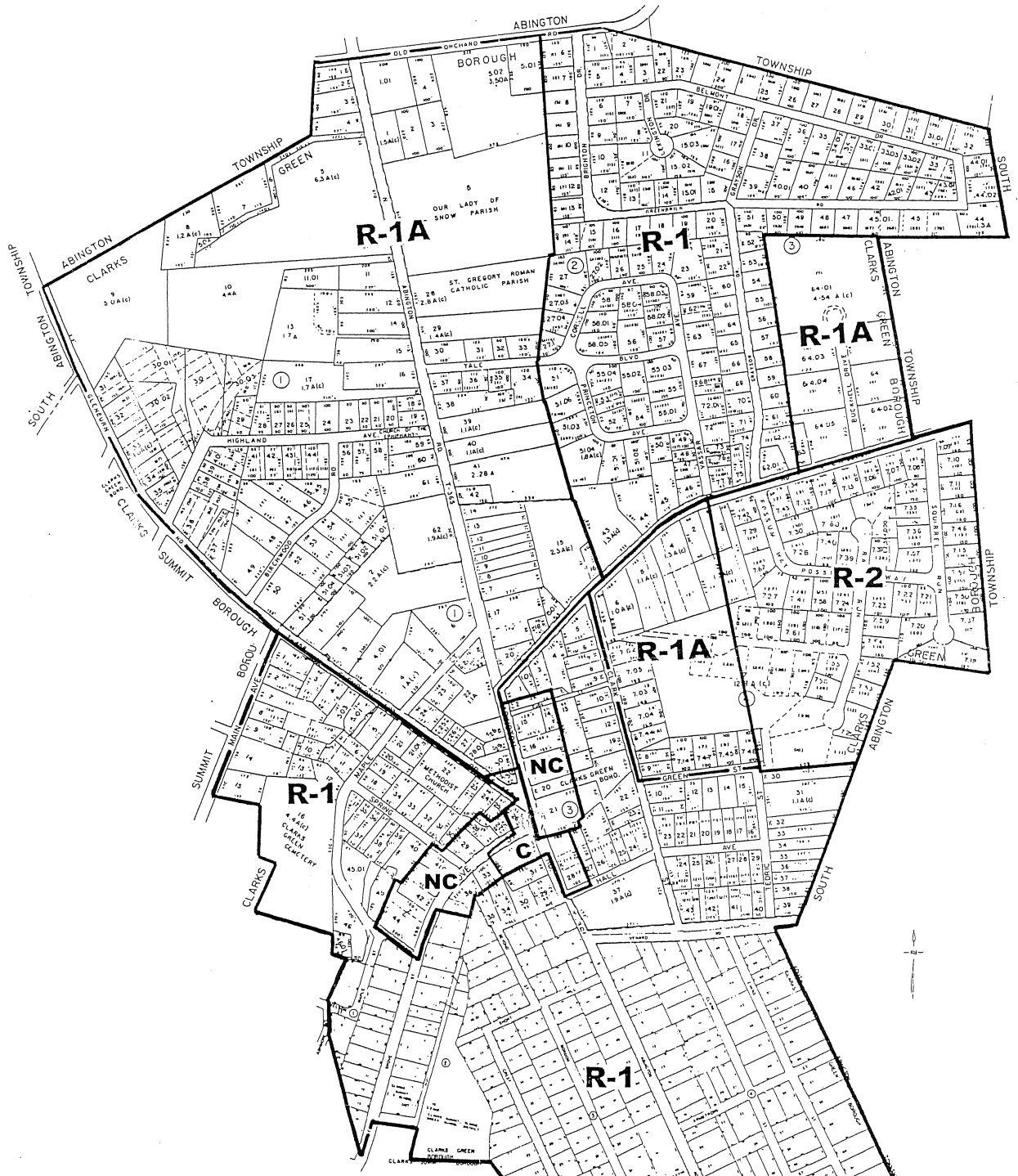
Part 12**Zoning Ordinance Enactment****§27-1201. Enactment.**

This Chapter is hereby ordained and enacted, on the 13th day of April, 1998, by the Borough Council of Clarks Green Borough, Lackawanna County, Pennsylvania by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as "Pennsylvania Municipalities Planning Code," and as to the use classifications for those properties located on:

A. The northerly side of West Grove Street from the gasoline service station (located at the intersection of West Grove Street, Glenburn Road, and Abington Road) to Nelson Street.

B. The easterly side of North Abington Road from the southerly side of the Mercy Medical Center to the southerly side of the corner property located at Fairview Road and North Abington Road, ordained and enacted on the 11th day of May, 1998.

(Ord. 4/13/1998, 4/13/1998, Article XII)



BOROUGH OF CLARKS GREEN
 LACKAWANNA COUNTY, PENNSYLVANIA

ZONING MAP - 1998
 (as amended through 2003)

- ZONING DISTRICT DESIGNATIONS
- R-1 – SINGLE-FAMILY RESIDENTIAL DISTRICT
 - R-2 – MULTI-FAMILY RESIDENTIAL DISTRICT
 - R-1A – SINGLE-FAMILY RESIDENTIAL DISTRICT
 - C – GENERAL COMMERCIAL DISTRICT
 - NC – NEIGHBORHOOD COMMERCIAL DISTRICT