

## CHAPTER 1

### PRELIMINARY PROVISIONS

**SECTION 101. TITLE.** This ordinance may be cited as the “Hazleton City Zoning Ordinance of 2021”.

**SECTION 102. PURPOSE.** This ordinance is enacted to:

- a. Promote, protect, and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations; the provision of adequate light and air; access to incident energy sources, police protection, vehicle parking and loading space, transportation, water, sewer, schools, recreational facilities, and public grounds; the provision of a safe, reliable, and adequate water supply for domestic, commercial, and industrial use; as well as the preservation of the natural, scenic, and historic values in the environment and the preservation of forests, wetlands, and aquifers.
- b. Prevent any or all of the following: overcrowding of land; blight, danger, and congestion in travel and transportation; and loss of health, life, and property from fire, panic or other dangers.
- c. Provide for the use of land within the City for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, as well as manufactured homes and manufactured home communities.
- d. Accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and non-residential uses.

**SECTION 103. COMMUNITY DEVELOPMENT OBJECTIVES.** This ordinance is intended to promote the public health, safety, morals, and welfare of the present and future residents of the City of Hazleton (“City”) by:

- a. Providing standards to control the amount of open space and impervious surfaces in connection with the improvement or use of lots within the City, while controlling the intensity of development in areas of sensitive natural resources or natural features in order to reduce or eliminate adverse environmental impacts.
- b. Controlling and regulating the growth of the City by providing for all types of residential, agricultural, commercial, and industrial uses in areas that have adequate community facilities, utilities and infrastructure taking into consideration existing circumstances and anticipated future development.

- c. Promoting new business development in appropriate areas that will provide additional tax revenue and job opportunities.
- d. Directing industrial and commercial developments to locations that will minimize conflicts with residential uses, while avoiding traffic congestion and safety problems.
- e. Preserving and maintaining environmental areas of exceptional quality and scenic beauty and environmentally sensitive areas from inappropriate development.
- f. Lessening the danger and congestion of traffic on the roads, streets and highways within the City, while at the same time discouraging development of a nature which utilizes heavy traffic either in number or size of vehicles on roadways, streets, or highways inadequate for such traffic.
- g. Securing safety from fire, flood, panic and other dangers.
- h. Identifying areas and the locating of facilities within the City suitable for public and quasi-public uses, public and private recreation, and indoor and outdoor recreation.
- i. Controlling development within the City by implementing regulations which allow for the review of such things as; soil types, topography, physical characteristics, the environment, access and utilities.
- j. Reviewing and regulating the potential environmental impacts development will have upon the natural resources within the City.
- k. Regulating off-street parking, loading and unloading facilities in such a manner as to lessen traffic congestion in the streets, prohibit traffic hazards, and promote traffic safety.
- l. Acknowledging that technical developments in the telecommunication field have provided new options for the expansion and delivery of communication services, the City desires to encourage efficient and adequate wireless communication services while at the same time, protecting the health, safety and welfare of its residents by regulating the construction and placement of communication towers, antennas, and accessory equipment buildings and structures.
- m. Regulating small cell installations and wireless communications facilities for the purpose of protecting residential districts; schools, parks, churches, playgrounds, historic districts, sites, and structures; preserving scenic areas; minimizing aesthetic impacts; to preserve the health and safety of residents; and to respect the need of wireless communications service providers to relay signals without

electronic interference from other service providers' operations, while not unreasonably limiting competition among them.

- n. Providing for local regulations of small cell installations and small wireless communications facilities in a manner so as to protect residential areas and dwellings.
- o. Encouraging consolidations, shared use and co-location of antenna and antenna-mounting structures over the construction of new facilities.
- p. Regulating small cell installations and wireless communication facilities in compliance with Federal Communications Commission (“FCC”) regulations on wireless telecommunications providing that all local jurisdictions with various restrictions on the exercise of local aesthetic, zoning, public works, and fee restrictions when dealing with wireless installation siting applications; including modified requirements for the City to approve or deny applications within certain periods of time.
- q. Ensuring that the installation, augmentation and relocation of small cell installations in the public rights-of-way are conducted in such a manner as to lawfully balance the legal rights of applicants with the rights, safety, privacy, property and security of residents of the City.
- r. Providing citizens with an environment free from nuisances such as excess or objectionable noise, glare, odors, and vibration that would otherwise jeopardize their health, welfare and safety; degrade their quality of life; and impede their quiet use and enjoyment of their property.
- s. Providing housing to comply with the Federal Fair Housing Act.
- t. Promoting alternative energy sources in an effort to conserve energy by allowing development in such a manner as not to negatively impact the environment.
- u. Establishing locations within the City wherever reasonable and possible for timber harvesting activities in the remaining wooded areas, agricultural operations in the outskirts, and extraction of minerals in such a manner as to not conflict with any state law while regulating the operations of those uses and protecting the public health, safety and welfare of the community.
- v. Regulating aesthetics so as not to negatively impact property values while promoting harmonious neighborhoods.
- w. Promoting compatibility among land uses by classifying land uses and then separating those uses into different zoning districts within the City including residential (single-family, two-family and multi-family), commercial, industrial, institutional and open space recreational.

- x. Encouraging redevelopment and rehabilitation of buildings, including establishing regulations regarding nonconforming uses; buildings and structures to observe constitutional rights of the landowners to continue such uses; buildings and structures to avoid undue hardship, but still regulate such uses; buildings and structures to protect public health, safety and welfare and conform neighborhoods to future planned development.
- y. Providing quality energy in an economically friendly way by creating an overlay district that would promote the use of wind and solar by allowing for the construction, operation and location of wind farms and solar energy systems while establishing regulations to protect the public health, safety and welfare of the community.
- z. Regulating signs in such a manner as to promote the safety of persons and property by providing signs that do not create a safety or traffic hazard by confusing or distracting motorists or impairing one's ability to see pedestrians, obstacles or other vehicles, or to read traffic signs; and obstruct emergency service personnel such as fire and police.
- aa. Promoting the efficient transfer of information in sign messages by permitting one to identify or locate a person or business; and prohibiting signs that distract motorists and obstruct pedestrians based upon the number and messages presented, while still permitting one to exercise freedom of speech and choice.
- bb. Protecting the public welfare and enhancing the aesthetics, appearance and economic value of the City, by regulating signs that interfere with scenic beauty and views of the City; create a nuisance to persons using the public property and rights-of-way; constitute a nuisance to use and enjoyment of other's property such things as light, height, size and movement; and detract from property value, or the special character of particular zoning districts within the City.
- cc. Prohibiting signs that constitute a nuisance by creating a condition harmful to the public health, safety and welfare or obstructing the free use of property, so as to interfere with the use and enjoyment of life and property, or the free passage or use, in the customary manner, of any public property, public road or the property of another.
- dd. Establishing an overlay district to promote local businesses while protecting existing businesses by imposing regulations meant to preserve the general character of the downtown business district.
- ee. Creating an overlay district designating a historical district intended to recognize a group of buildings, properties, or sites of architectural significance for the purpose of protecting historical resources. The purpose of the historical district is

to provide a comprehensive framework for the preservation of historic sites, objects, buildings, and structures.

- ff. Adopting an ordinance consistent with the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.

#### **SECTION 104. INTERPRETATION.**

- a. It is the intent of this ordinance to establish minimum requirements for the promotion of the public health, safety, morals and general welfare.
- b. In interpreting the language of this ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by City Council, in favor of the property owner and against any implied extension of the restriction.
- c. This ordinance does not repeal, annul, modify, or in any way impair, interfere with, or supersede any private restriction placed upon property by covenant, deed, or other private agreement. The provisions of this ordinance shall be separate from private restrictions or covenants.
- d. Unless this ordinance or any other ordinance, rule, law or policy provides otherwise, if an application under this ordinance would also be regulated by the City of Hazleton Subdivision and Land Development Ordinance ("SALDO"), then any permit issued or approval granted under this ordinance shall be interpreted as conditional approval until the plan is in compliance with the SALDO.
- e. Unless this ordinance or any other ordinance, law or policy provides otherwise, any zoning permit or approval shall be construed as being conditioned upon the applicant obtaining all other applicable permits and approvals, including, but not limited to building permits, highway occupancy permits, and stormwater plan approval.
- f. In referring to units in this ordinance, the Section is the basic unit of organization ("SECTION"). The level immediately above a section is the Chapter. Chapters are numbered sequentially. The terminology for referring to units within a Section is as follows:
  - 1. (a) (Subsection) (lower-case letter).
  - 2. (1) (Paragraph) (Arabic numeral).
  - 3. (A) (Subparagraph) (upper-case letter).
  - 4. (i) (Clause) (lower-case letter).

5. (I) (Subclause) (upper-case Roman Numeral).

## **SECTION 105. APPLICABILITY.**

- a. This ordinance shall apply to the use of land, buildings, and structures, and the erection, construction, alteration, addition, placement, or relocation of a building or structure. However, this ordinance does not apply to ordinary repairs and maintenance to existing buildings or structures that do not involve an expansion or change of use of a building or structure such as the repair or replacement of doors, windows, siding and roofing except when those repairs are being done to a historical building under the Historical Overlay District or a building or structure regulated under the Downtown Overlay District.
- b. Any existing use, structure, or land which does not comply with the provisions of this ordinance, but legally existed prior to the adoption of this ordinance, shall constitute a pre-existing legal nonconformity that may be continued provided that it is not abandoned, changed, enlarged, altered, restored or replaced.
- c. This ordinance does not apply to any existing buildings, proposed buildings, or extension thereof, used or to be used by a public utility corporation; if upon petition of the corporation, the Pennsylvania Public Utility Commission (PUC) shall, after a public hearing, decide that the present or proposed building in question is reasonably necessary for the convenience or welfare of the public. This exemption shall not apply to telecommunications antennas, communications equipment buildings, and communication towers for wireless telecommunication services regulated under the 1996 Telecommunications Act.
- d. City owned, occupied or operated uses, building and structures (both existing and proposed) are exempt from this ordinance.
- e. This ordinance shall be limited only to the extent that regulations of mineral, coal and fuel extraction have been superseded and preempted by the act of:
  1. May 31, 1945 (P.L. 1198, No. 418), known as the "Surface Mining Conservation and Reclamation Act".
  2. December 19, 1984 (P.L. 1093, No. 219), known as the "Noncoal Surface Mining Conservation and Reclamation Act".
  3. December 19, 1984 (P.L. 1140, No. 223), known as the "Oil and Gas Act".
  4. April 27, 1966 (1 st Sp. Sess., P.L. 31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act".

5. This ordinance shall be limited only to the extent that activities related to commercial agricultural production would exceed the requirements imposed under the act of:
  - A. May 20, 1993 (P.L. 12, No.6), known as the "Nutrient Management Act", regardless of whether any agricultural operation within the area to be affected by the ordinance would be a concentrated animal operation as defined by the "Nutrient Management Act".
  - B. June 30, 1981 (P.L. 128 No. 43), known as the "Agricultural Area Security Law"; or
  - C. June 10, 1982 (P.L. 454, No. 133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances", or that regulation of other activities are preempted, but only to the extent preempted, by other Federal or State laws.

**SECTION 106. SAFE HARBOR PROVISION.** Whenever a use is not permitted in any zoning district by right, special exception or conditional use, the use shall only be permitted by special exception approval of the zoning hearing board in the General Industrial (GI) zoning district subject to the following rules:

- a. The use must be less objectionable in terms of impacts than any permitted use in the zoning district.
- b. The use is compatible with other permitted uses in the zoning district.
- c. The use is consistent with the purposes of the zoning district.
- d. The use meets the criteria for the granting of a special exception under this ordinance.
- e. The use meets the general and supplemental regulations of this ordinance for a use similar to the proposed use.
- f. The use meets the dimensional regulations of the zoning district.

**SECTION 107. JURISDICTION.** This ordinance shall apply to all land, buildings, and structures within the City.

**SECTION 108. LIABILITY.**

- a. Any determination of the zoning officer, recommendations of a professional consultant, commentary of the City Planning Commission, or decision of the

zoning hearing board or City Council may not constitute a representation, guarantee or warranty of any kind by the City, in regards to the lawfulness or safety of any structure, building, or use, and shall not create any liability or cause of action against the City or any of its elected or appointed officials, boards or officers for any damage that may result from the determination, recommendation, or decision.

- b. If the zoning officer mistakenly issues or revokes a zoning permit, neither the City nor the zoning officer shall be liable for such action.
- c. When one begins construction pursuant to a zoning determination or decision, such as the grant of a permit, variance, special exception or conditional use, during the pendency of the appeal that person proceeds at their own risk as the permit or approval may later be reversed on appeal by an aggrieved party.
- d. By filing an application, the applicant acknowledges disclosure of this Section of the ordinance.

**SECTION 109. REPEALER.** The City of Hazleton Zoning Ordinance adopted December 14, 1995, as amended, is hereby repealed. All other ordinances, or parts thereof, which are inconsistent or in conflict with this ordinance are hereby repealed to the extent of any such inconsistency or conflict.

**SECTION 110. SEVERABILITY.** If any provision or provisions of this ordinance shall be held to be invalid, illegal, unenforceable, or in conflict with the laws of the Commonwealth of Pennsylvania, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. It is the intention of City Council that this ordinance would have been adopted had such invalid, illegal, unenforceable or conflicting provision or provisions not been included therein.

**SECTION 111. EFFECTIVE DATE.** This ordinance shall take effect immediately following the date of enactment, being this \_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**

**HAZLETON CITY COUNCIL:**

\_\_\_\_\_  
**Secretary**

By: \_\_\_\_\_  
**President**

\_\_\_\_\_  
**Mayor**

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**CHAPTER 2**  
**RULES OF ORDINANCE CONSTRUCTION AND DEFINITIONS**

**SECTION 201. RULES OF ORDINANCE CONSTRUCTION.** In the construction of this ordinance, the rules set forth in this Chapter shall be observed, unless the application of such rules would result in a construction inconsistent with the manifest intent of the governing body.

- a. Number, gender and tense.
  - 1. The singular shall include the plural, and the plural shall include the singular.
  - 2. Words used in the masculine gender shall include the feminine and neuter.
  - 3. Words used in the past or present tense shall include the future.
  
- b. Computation of time.
  - 1. Generally. Any period of time referred to in this ordinance in all cases shall be so computed as to include the first and last day of such period no matter when the first or last day of any such period shall fall whether it be a Saturday, Sunday or legal holiday.
  - 2. Appeal Period. For the purposes of calculating the time period to appeal a decision of the zoning hearing board or governing body, the 30 day time limit shall begin to run on the date of mailing the decision.
  
- c. Grammatical and punctuation.
  - 1. Grammatical errors shall not impair or destroy this ordinance and a transposition of words or sections may be corrected to give meaning to the words or sections as written.
  - 2. In no case shall the punctuation in this ordinance affect the intent of the governing body.
  
- d. Limitations and headings.
  - 1. Conditions shall be construed to limit rather than to extend the operation of the sections to which they refer.
  - 2. Exceptions expressed in this ordinance shall be construed to exclude all others.
  - 3. Headings are for convenience only and shall not be used to aid in the construction or interpretation of this ordinance.

e. Undefined words and terms.

1. If a word or term is not defined in Section 202 of this ordinance, but is defined in the Pennsylvania Municipalities Planning Code (“Pa MPC”), the definition of the word or term shall be as defined in the Pa MPC. If a word or term is not defined in this ordinance or the Pa MPC, but is defined in the SALDO, then the definition of the word or term in the SALDO shall apply to this ordinance.
2. Specific definitions shall apply instead of general definitions in the sections of this ordinance where specific definitions are meant to apply, such as in certain overlay districts and as to signs.
3. If a word or term is not defined in this ordinance, the Pa MPC, or the SALDO, then when interpreting undefined words or terms in this ordinance they are to be construed in a sensible manner, utilizing the rules of grammar and applying their common and approved usage, and giving undefined terms their plain, ordinary meaning. When a word or term needs to be defined, definitions in latest edition of Webster’s dictionary shall apply.

f. Interpretation of ordinance provisions.

1. In interpreting the language of this ordinance to determine the extent of the restriction upon the use of a property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction. An ambiguity exists when language is subject to two or more reasonable interpretations and not merely because two conflicting interpretations may be suggested.
2. The primary objective of interpreting this ordinance is to determine the intent of the governing body. Where the words in this ordinance are free from all ambiguity, the letter of the ordinance may not be disregarded under the pretext of pursuing its spirit.
3. Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning or are defined in this part, shall be construed according to such peculiar and appropriate meaning or definition.
4. The terms “shall”, “must” or “may not” means that an action is required.

5. The term “may” or “should” means something is permitted but not required.
6. The basic distinction between the terms “means” and “includes” is that “means” is exclusive” while “includes” is not. If a definition says that a terms means A, B, and C, then the term means only A, B, and C and cannot also mean D or E. If a definition says that a term includes A, B, and C, then the term includes A, B, and C, but it may also include D or E, or both.

## **SECTION 202. DEFINITIONS.**

- a. General definitions. For purposes of this ordinance:

“Abutting” or “Abuts” means contiguous lots that share a common lot line, including lots located directly across from one another and separated by a street or waterway.

“Access” means a way of providing ingress, egress, and regress to a lot.

“Access drive” means an improved cartway designed and constructed to provide for vehicular movement between a public or private street and off-street parking or loading areas, buildings or uses.

“Accessory structure” means a structure not attached to, but located on the same lot as the principal structure, which is used to serve a purpose customarily incidental to and subordinate to the use of the principal structure. An addition to a principal building shall not be considered an accessory building, but shall be considered part of the principal building.

“Accessory use” means a use customarily incidental and subordinate to the principal use or principal structure and located on the same lot as the principal use or structure.

“Addition” means a new structure attached to an existing structure that increases the size of the existing structure.

“Adjoining” means a lot having a common or shared lot line with a contiguous lot, or being separated by a street, waterway, right-of-way, or easement. This term includes the words “adjacent” or “abutting”.

“Adult use” includes an adult bookstore, adult entertainment, adult movie theater, and adult massage parlor.

“Adult bookstore” means an establishment where 10 percent or more of the total retail floor area is occupied by books, magazines, periodicals, photographs, films,

motion pictures, video cassettes, slides, instruments, devices, paraphernalia or things that have a clear emphasis on depicting or describing explicit sexual activities or specified anatomical areas.

“Adult care center” means a use providing supervised care and assistance to persons who need such daily assistance because of their old age or disabilities. This use shall not include persons who need oversight because of behavior that is criminal, violent or related to substance abuse. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

“Adult entertainment” means live entertainment where persons performing expose specified anatomical areas or display, simulate or carryout explicit sexual activities, including entertainers performing in a state of nudity (either partially or completely) or performing or dancing with “pasties” or “G-strings” or other means to cover portions of the anatomical areas of one’s body leaving other areas exposed.

“Adult massage parlor” means an establishment where a massage is performed for some form of consideration on a person with the use of one’s hand or a mechanical device. This term does not include any type of massage therapy or treatment performed by a licensed medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the state, or any accessory use to a permitted athletic or health club, educational facility, or similar establishment.

“Adult movie theater” means a use where persons expose specified anatomical areas or display, simulate or carryout explicit sexual activities on film, motion pictures, videos, slides, or other forms of reproducing images that have an emphasis on depicting explicit sexual activities or specified anatomical areas.

“After hours club” means a use that permits the consumption of alcoholic beverages by any number of unrelated persons between the hours of 2:00 AM and 6:00 AM and that involves some form of monetary compensation paid by such persons for the alcohol or for the use of the premises where the alcohol is consumed.

“Agricultural” mean crop farming, plant nursery and animal husbandry. See agricultural uses.

“Agribusiness” means an agricultural operation that involves one or more of the following:

1. Concentrated Animal Feeding Operation (CAFO) means an agricultural operation that meets the criteria established by the Department of Environmental Protection under authority of the act

of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law where the operation has greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR Section 122.23.

2. Concentrated Animal Operation (CAO) means an agricultural operation that meets the criteria established by the State Conservation Commission in regulations under the authority of Title 3 (Agricultural) Pa.C.S. Chapter 5 (relating to nutrient management and odor management) in Chapter 83, Subchapter D (relating to nutrient management) where the operation has eight or more animal equivalent units [AEUs] where the animal density exceeds two AEUs per acre on an annualized basis.
3. Other agribusinesses include any agricultural operation other than a CAFO or CAO, whether involving animal, animal product, or vegetable production, which occurs within an enclosed building exceeding 10,000 square feet of gross floor area.

“Agricultural equipment sales and rentals” means an establishment primarily engaged in the retail sale and/or rental of specialized machinery, equipment, and related parts generally used in agricultural, farm, and lawn and garden activities.

“Agricultural operation” means an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aqua cultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. The term does not include an Agri-business, Concentrated Animal Operation (CAO), and Concentrated Animal Feeding Operation (CAFO).

“Agricultural product marketing and sales” means an enterprise conducted upon, and accessory to, an active principal agricultural operation for the purpose of directly marketing agricultural products, in their natural or manufactured state, produced by the agricultural operation. The term includes any on-site processing, packaging, or other activity performed in the course of direct marketing of the agricultural products produced by the agricultural operation. This term also includes roadside stands, farm markets, “pick-your-own” operations, and other similar uses.

“Agricultural related business” means a use primarily engaged in servicing the needs of an agricultural operation by providing goods and services needed for and supporting agricultural operations. Agricultural related businesses may involve commercial uses limited to:

1. Agricultural equipment and other similar heavy duty motor vehicle repair and service;
2. Grain mills;
3. Processing, preparation and retail sale of locally produced agricultural products;
4. Feed and farm supply stores and distributors; and
5. Warehousing, distribution, and wholesaling of agricultural products, supplies or equipment.

“Agricultural support occupation” means an enterprise conducted upon, and accessory to, an active principal agricultural operation or agri-business.

“Agritourism” means an enterprise conducted upon, and accessory to, an active principal agricultural operation or agri-business use, providing a combination of agriculture, entertainment, education, recreation, or active involvement elements, characteristics, and experiences related to the agricultural operation or agri-business. Activities include hayrides, pony rides, wine tasting, cornfield-maze contests, farmer’s markets, harvest festivals, rodeos, western style equestrian events and contests including but not limited to barrel racing and steer sorting that are offered to the public or to invited groups for the purpose of recreation, entertainment, and education.

“Aircraft” means an airplane, helicopter, hot air balloon, or other device capable of flight. The term does not include an unpowered hang glider or parachute.

“Airport” means an area used for the landing and taking-off of aircraft carrying either people or cargo, whether public or private. See also "Heliport".

“Aisle” means the travelled way by which vehicles enter or depart a parking space.

“Alcoholic liquors, alcohol and malt or brewed beverages” means as defined in the Pennsylvania Liquor Code, 47P.S. §1-101, et seq.

“Alley” means a public or private way affording secondary means of access to abutting property and not intended for general traffic circulation.

“Alterations” includes any change, addition, extension, enlargement, replacement, or movement of a building or structure.

“Animal day care” means a use that involves the keeping of more than a total of five dogs, cats or other domestic pets for temporary care a maximum of 12 hours per day.

“Animal kennel” means a place where more than five animals are kept, housed, boarded, bred or trained. The term includes the keeping of a greater number of dogs or cats or combination of dogs or cats in excess of those permitted under this Ordinance or the keeping of pets.

“Apartment building” means a multi-family residential building constructed as a single building containing three or more single-family residential dwelling units. The term is considered a multi-family dwelling unit under this ordinance.

“Applicant” means a landowner, developer, or authorized agent of a landowner or developer, who has filed a zoning application with the zoning officer under the zoning ordinance.

“Asphalt, batch or Concrete plant” means the use of land for the production of asphalt, concrete, or asphalt or concrete products, including storing or stockpiling of materials used in the productions process or of finished products manufactured on the property and the storage and maintenance of required equipment.

“Assisted living residence” means any premises in which food, shelter, assisted living services, assistance or supervision and supplemental health care services are provided for a period exceeding 24-hours for four or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self- administration.

“Attic” means that part of a building which is immediately below and completely or partly within the roof framing. Within a dwelling unit, an attic shall not be counted as floor area unless it is constructed as or modified into a habitable room by the inclusion of dormer windows, an average ceiling height of 6.5 feet or more, and a permanent stationary interior access stairway to a lower building story.

“Auditorium” includes arenas, conference centers, performing arts centers, and places where exhibitions or trade shows are held.

“Automobile” means a motor vehicle, recreational vehicle, truck, bus, motorcycle, all-terrain vehicle or similar means of transportation powered by an engine or other mechanized means and designed to operate and carry persons or cargo on public streets. See also the definition of “Motor Vehicle”.

“Automobile, boat, equipment, home and recreational vehicle sales” means the use of any building, structure or land for the outdoor or indoor display, sale or rental of automobiles, recreational vehicles, boats, motorcycles, trucks, trailers, mobile, manufactured or modular homes. This term may include repairs as an accessory use provided that the requirements for an automobile repair garage are also met. The term does not include a manufactured home community or junk yard.

“Automobile detailing shop” means a place where automobiles are primarily cleaned, washed or waxed by hand.

“Automobile repair garage” means an establishment where repairs, installations and improvements are made to motor vehicles, motorcycles, recreational vehicles or boats. This use includes the installation of parts and accessories; the performing of mechanical repairs, bodywork, painting, welding and the rebuilding of any motor vehicle, motorcycle, recreational vehicle, boat, or trailer. The term trailer as used in this definition refers to a device used to transport, tow, pull or haul a vehicle. The term also includes an automobile storage compound.

“Automobile service station” means an establishment where gasoline or other petroleum products are sold and light automotive maintenance activities are performed such as oil changes, tune-ups, tire changing and other minor repairs.

“Automobile storage compound” means a use where passenger motor vehicles are towed or stored awaiting transport to a different location.

“Banquet hall” means an establishment which is rented by individuals or groups to accommodate private functions, including banquets, weddings, anniversaries and other similar celebrations. Such a use may include kitchen facilities for the preparation or catering of food, and the furnishing of alcoholic beverages for on-premises consumption during scheduled event.

“Bar” means an establishment used primarily for the sale or dispensing of alcoholic beverages, which may have live entertainment and food as secondary uses. The term does not include a tavern.

“Basement” means a portion of a building that is partly or completely below grade or underground. A basement constitutes a story if the majority of the basement has a clearance from floor to ceiling of six and one-half or more feet; and the top of the ceiling of the basement is an average of five feet above the finished grade along the majority of the front side of the building that faces onto a street. A building that has a walk-out basement in the rear does not count towards the maximum number of stories of a building.

“Bed and breakfast” means an owner-occupied dwelling containing not more than eight bed and breakfast units which are rented on a nightly basis for periods of not more than one month. Dining and other facilities are not to be open to the public,



but are to be used exclusively for the residents and registered guests. Such rooms are not to have separate cooking facilities, but are to be a part of the principle structure.

“Bee keeping” means the raising or keeping of bees within a man-made enclosure (beehive) for hobby or business purposes.

“Betting use” means a use licensed by any authorized governmental agency wherein gambling activities are conducted such as off-track horseracing betting establishments and mini-casinos. The term does not regulate state lottery sales or lawful small games of chances.

“Board” means a body granted jurisdiction under this ordinance or the provisions of the Pennsylvania Municipalities Planning Code, Act 247 as amended, to render final adjudications or decisions.

“Boarding house” means a residential building or portion thereof containing dwelling units rented for habitation for a specified time period of more than five days, or on a week to week, month to month, or year to year basis, with the occupants of the units being non-transient, and utilizing the location as their domicile. The term does not include a dwelling unit, hotel or motel, personal care home, nursing home, assisted living facility, bed and breakfast, dormitory, or group home. The term may or may not involve providing meals to residents or providing shared cooking facilities.

“Bottle club” means an establishment operated for profit or pecuniary gain which is not licensed by the Pennsylvania Liquor Control Board and admits patrons upon payment of a fee, cover charge or membership fee and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption. The term shall not include a licensee under the Liquor Code or any organization as set forth in Section 6 of the Solicitation of Funds for Charitable Purposes Act.

“Brewery pub” means a retail establishment with on premises consumption of malt or brewed beverages produced at, and owned by the brewery in the same premises, and which is licensed by the Pennsylvania Liquor Control Board. A brewery pub may also sell, for on-premises consumption, wine manufactured by the holder of a Pennsylvania limited winery license. The term includes a micro-brewery.

“Buffer area” or “Buffer yard” means a strip of land area intended to separate one use from another use, wherein no structure, building, parking area, loading

space, or storage may be located unless otherwise specified in this ordinance. A buffer area or yard may be part of a minimum setback distance.

“Building” means any roofed structure intended for shelter, housing or enclosure of persons, animals, or property. A building is interpreted as including “or part thereof” or addition. Any structure having a roof attached to a principal building shall be considered part of the principal building.

“Building, accessory” means a subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental or secondary to the principal use.

“Building area” or “Building coverage” means the total area of outside dimensions at ground level of the principal building and all accessory buildings. Percentage of building area or coverage is calculated by dividing the maximum horizontal area in square feet of all principal and accessory buildings and attached structures covered by a permanent roof on a lot by the total lot area of the lot upon which the buildings are located.

“Building height” means the vertical distance measured from the mean level of proposed finished grade at the perimeter of the exterior walls of the structure to the highest point of the roof for flat roofs; and to the bottom of the eaves for all sloped roofs. Where any, or all, of a sloped roof is above the maximum building height, there shall be no occupied living or work space within the structure above the maximum building height. The maximum height of bottom of eave to ridge of roof for sloped roofs is 20 feet.

“Building setback line” means the actual distance between the closest part of a building including roof overhangs, but excluding projections permitted under this ordinance and in the case of a:

1. Front yard, all adjoining street right-of-way lines;
2. Side yard, all side lot lines; and
3. Rear yard, all rear lot lines.

“Building width” means the horizontal measurement between two vertical structural walls that are generally parallel of one building, measured in one direction that is most closely parallel to the required lot width.

"Bulk recycling center" means a use involving bulk commercial collection, separation and/or processing of types of waste materials found in the typical household or office for some productive reuse, but which does not involve the actual processing or recycling of hazardous or toxic substances, and which does

not primarily involve the processing of non-recycled solid waste. This use shall not include a junkyard.

“BYOB club” means any facility operated for profit or pecuniary gain which is not licensed by the Pennsylvania Liquor Control Board wherein patrons may consume alcoholic liquors, alcohol or malt or brewed beverages which said patrons have carried or brought into the premises. The term shall not include a licensee under the Liquor Code, any organization as set forth in Section 6 of the Solicitation of Funds for Charitable Purposes Act or any facility which is rented for a limited period of time, not to exceed 10 hours, by an individual or organization for the purpose of a private party.

“Car wash” means a building where automobiles are cleaned mechanically, using a conveyor, sprayer, blower, steam-cleaning equipment or other device. The use includes a place where motor vehicles are primarily cleaned, washed or waxed primarily with the use of a machine. The use may include detailing of motor vehicles by hand as an accessory use.

"Caregiver" means the individual designated by a patient to deliver medical marijuana.

“Carport” means any roofed accessory structure opened on one or more sides and used for the storage of private and personal motor vehicles.

“Cartway” means the surface of a street intended and available for use by vehicular traffic.

“Cemetery” means a place where humans or animals are buried or cremated. This term includes mortuaries and mausoleums, but not crematoriums.

“Certificate of zoning compliance” means an official document issued by the zoning officer confirming that a structure, building, or use for which a zoning permit is required is in compliance with this ordinance. This certificate authorizes the use or occupancy of a structure.

"Certified medical use" means the acquisition, possession, use or transportation of medical marijuana by a patient, or the acquisition, possession, delivery, transportation or administration of medical marijuana by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under the Pennsylvania Medical marijuana Act, Pa Act 16 of 2016, as amended, including enabling the patient to tolerate treatment for the serious medical condition.

“Change of use” means any use, which differs from the previous use of a building, structure or land.

“Check cashing business” means an establishment engaged primarily in the cashing of checks by individuals or the deferred deposit of personal checks whereby the check casher refrains from depositing a personal check written by a customer until a specific date; or the offering of a loan until a paycheck would be received by the person receiving the loan. This term may not include any of the following:

1. A state or federally chartered bank, savings association, credit union, or industrial loan association; or
2. A retail store engaged primarily in selling or leasing items to retail customers and that cashes a check for a fee not routinely exceeding one percent of the check amount as a service to its customers incidental to the retail store principal use.

“Child Care” means a use involving the supervised care of children under age 18 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.

“Child Care Center” means a facility licensed by the Pennsylvania Department of Human Services (DHS) in which seven or more children under the age of 16 unrelated to the operator receive child care services outside of their homes primarily for periods of less than 18 hours per child during the average day. This use may also include educational programs such as “Head Start”. The following three types of child care uses shall not be considered a child care center and are permitted by right without regulation under this ordinance:

1. Care of up to six children by their own “relatives”,
2. Care of children within a place of worship during regularly scheduled religious services.
3. Care of up to three children within any dwelling unit, in addition to children who are “relatives” of the care giver.

“Family child care homes” means a type of day care facility registered with the Pennsylvania Department of Human Services (DHS) in which four to six children who are unrelated to the operator receive child care services within a dwelling unit as an accessory use.

“Group child care home” means a facility licensed by the Pennsylvania Department of Human Services (DHS) in which between seven to 12 children unrelated to the operator receive child care services within a dwelling unit.

“City” means the City of Hazleton, County of Luzerne, Commonwealth of Pennsylvania.

“City council” means the elected officials of the City of Hazleton consisting of five elected council members.

“City engineer” means the person appointed by the Mayor to provide engineering and professional consulting services.

“City planning commission” means the board responsible for among other things reviewing and recommending on:

1. Repairs and demolition of Historical buildings in the Historical Overlay District.
2. Construction and improvements to buildings and uses in the Downtown Overlay District.
3. Special exception, conditional use and use variance applications when requested by the zoning Board.

“City solicitor” means the person or firm appointed by the Mayor to provide legal services and advice to City Council and the Mayor.

“Clear sight triangle” means an area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the “corner” so as not to interfere with traffic visibility across the corner.

“Club” means a building primarily used for non-profit social, educational, or recreational purposes. A club does not include any use where services or goods are sold primarily as a business or for a profit such as a night club or bottle club.

“Co-location” means the mounting of wireless communications antennas used by two or more providers on the same antenna support structure, monopole, antenna tower, or other mounting structure.

“Commercial use” means a use that is carried on for profit by the owner, lessee, or licensee. The use includes, but is not limited to, retail sales, offices, personal services, and the sale of goods or services from a building, structure or automobile.

“Common open space” means a parcel or parcels of land, or a combination of land and water, located within a development and designed and intended for the use or enjoyment of residents of that development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

“Communications antenna” means a device used for transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation, omni-

directional or whip antennas, directional and panel antennas owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition does not include private residence-mounted satellite dishes, or television antennas or amateur radio equipment including, without limitation, citizen band radio antennas.

“Communications equipment building” means an unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 250 square feet.

“Communication facility, small wireless” means any equipment for the receiving or transmitting of wireless signals for commercial purposes, such as cellular telephone services, personal communications services (PCS), fleet communications systems and similar commercial facilities, whether operated in support of another business activity or available for the transmission of signals on a sale or rental basis; and all equipment required for the operation and maintenance of so-called "small cell" radio-frequency microwave communications systems that transmit and/or receive signals. This term does not include communication tower.

“Communications tower” means a structure other than a building, such as a monopole, self-supporting, or guyed tower, designed and used to support communication antennas.

“Communications tower, height” means the vertical distance measured from the ground level to the highest point on a communication tower, including antennas mounted on the tower.

“Community center” means a use existing solely to provide religious, fraternal, social and recreational programs and activities to the public or a designated group of persons in a community. This use shall not include a residential use or group home.

“Compost” means the conversion of organic matter, such as yard waste, into fertilizer.

“Conditional use” means a use only permitted in a particular zoning district by approval of the governing body in accordance with the applicable provisions of this ordinance. The use will find classification under the heading Conditional Use for the zoning district in which the property is located.

“Condominium” means a set of individual dwelling units or other areas of buildings, each owned by a person in fee simple, with such owner assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which is created under the Pennsylvania Uniform

Condominium Act of 1980 or the Pennsylvania Planned Community Act of 1996, as amended. The term is considered a multi-family dwelling unit or use for purposes of this ordinance.

“Conspicuous” means posting a notice or permit so as to place the public on notice of the issuance of a permit, the intended work or use to be conducted on a property, or the date, time, place, and purpose of a hearing in a manner in which a reasonable person would not believe they were trespassing while viewing it.

“Construction” means the placement of materials and equipment in a defined area to be assembled, built, applied, or demolished in a temporary or permanent manner.

“Contractor storage yard” includes any lot or structure, or part thereof, used to store materials used by a contractor in a construction trade such as the building, construction or installation of a street, or structure or the parts of a structure (electrical, plumbing etc.). This term includes construction contractors, excavators, paving contractors, landscapers, and other similar construction trades.

“Convenience store” means any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with a convenience store. The accessory retail sales of gasoline or fuel products is permitted when specified in this ordinance.

“Conversion” or “Converted” means to change or adapt improved property to a use, occupancy, or purpose other than what was intended at its time of construction.

“County” means Luzerne County, Pennsylvania.

“County planning commission” means the Luzerne County Planning Commission.

“Crematorium” means a facility equipped with a furnace where corpses are burned and reduced to ashes. The term also includes a cremation chamber or crematory furnace, which is an enclosed chamber in which heat is produced to heat buildings, destroy refuse, smelt or refine ores.

“Decision” means a final adjudication of any board or other body granted jurisdiction under any land use ordinance or the Pennsylvania Municipalities Planning Code, Act 247, as amended, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions are appealable to the Court of Common Pleas of Luzerne County.

“Density” means the total number of dwelling units permitted on a lot typically measured per acre.

“Department of health (DOH)” means the Pennsylvania Department of Health.

“Destroy” means the complete killing of noxious weeds or noxious weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, or any combination, in a manner that will effectually prevent the noxious weed from maturing to bloom or flower stage.

“Determination” means a final action by the zoning officer charged with the administration of this ordinance, except City Council; the zoning hearing board; and City Planning Commission, only if and to the extent the City Planning Commission is charged with final decision on preliminary or final plans under the SALDO. Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

“Developer” includes a person who buys or develops buildings and land in order to make a profit.

“Development” means any man-made change to improved or unimproved land, including but not limited to buildings or other structures.

“Domestic pets” means a dog, cat, rabbit, gerbil, lizard, parrot or other animal normally or ordinarily kept in the dwelling of its owner or under the control of its owner. This term does not include agricultural animals such as cows, goats, horses, chickens, hens, roosters, hogs, or sheep, and exotic or wild animals including wolves, wolf-dog hybrids, tigers, lions, bears and venomous or constrictor snakes.

“Domestic compost” means a portable structure used and properly maintained by on-site residents to convert household organic waste into materials useful for gardening and lawn care.

“Dormitory” means a building used as living quarters for the exclusive use of bona-fide-full-time faculty or students of an accredited college or university or primary or secondary school, and which is owned by and on the same lot as such college, university or school.

“Drive-in or thru facility” means an establishment which by design, physical facilities or service encourages or permits customers to receive or purchase services or goods while remaining in their vehicles.

“Driveways” means every entrance or exit used by vehicular traffic to or from properties abutting a road. The term includes existing and proposed streets, lanes, alleys, courts and ways.



“Dwelling” means a building or structure used for residential purposes. This term does not include hotels, motels, boarding houses, rooming houses, group homes, personal care or nursing home, or other uses intended for transient occupancy.

“Dwelling types” includes the following types of dwelling units:

1. Single-Family: means a residential building containing one dwelling unit to accommodate one family.
2. Two Family: means a residential building containing two dwelling units each accommodating one family, and entirely separated from each other by vertical walls or horizontal floors, excluding possible common access to enter or exit the building or for access to a common cellar or basement. The term two-family includes twins or duplexes. Dwelling types for purposes of this ordinance includes modular homes, but shall not include manufactured homes or manufactured home communities.
3. Multi-Family: means a residential building containing three or more dwelling units each accommodating one family. The term includes apartments, condominiums, townhouses, and row houses.

“Dwelling unit” means a building or portion thereof arranged or designed so as to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein. The term excludes manufactured homes but includes modular homes.

“Earth disturbance” means a construction or other human activity which disturbs the surface of the land, including, but not limited to: grubbing; grading; excavations; embankments; road maintenance; building construction; and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials. The clearing of vegetation without disturbance of the land shall not be considered an earth disturbance activity.

“Easement” means a right of use over property of another, or an interest which one has in the land of another. This right may be limited or unlimited depending on the grant. For purposes of this ordinance, an easement should be commonly referred to as and considered a “street” for use of the owners of the burden and benefitted properties unless the easement agreement provides otherwise.

“Emergency services” means a building used for the housing of fire, emergency medical or police equipment and related activities.

"Essential public utility services" means utility or municipal uses that are necessary for the preservation of the public health and safety and that are routine, customary and appropriate to the character of the area in which they are to be

located. Essential services include the following and closely similar facilities: sanitary sewage lines, streets, water lines, electric distribution lines, stormwater management facilities, cable television lines, natural gas distribution lines, fire hydrants, street lights and traffic signals. Essential services does not include a central sewage treatment plant, a solid waste facility, communications towers and antennas, a power generating station, septic or sludge disposal, offices, storage of trucks or equipment or bulk storage of materials.

“Establishment” means a place where a business is carried on.

“Explicit sexual activities” includes the fondling or erotic touching of human genitals, private parts, buttocks, anus, or breasts and simulated or actual sexual acts, such as intercourse, oral copulation, sodomy and masturbation.

“Fairgrounds” means a place where vendors display and sell retail merchandise and food; and offer amusements to the general public on an occasional basis.

“Family” means one or more of the following:

1. Persons related by blood, marriage or adoption;
2. Children placed into or receiving foster care; and
3. Unrelated persons not in excess of four, who are living together, sharing household expenses, and occupying a single dwelling unit as a common housekeeping unit.

“Fence” means a structure constructed as a line of demarcation or barrier made of materials to enclose or screen areas of land.

“Financial institution” means an establishment primarily involved with loans and monetary transactions with routine public interaction such as a bank or lending institution regulated by FIDC.

“Fitness club” means a building in which facilities are provided for recreational athletic activities including but not limited to body-building and exercise classes, and shall include associated facilities such as a sauna and solarium.

"Floor area, total" means the total floor space within a building measured from the exterior faces of exterior walls and from the center lines of walls separating buildings. Floor area shall specifically include, but not be limited to fully enclosed porches and basement and cellar or attic space that is potentially habitable and has a minimum head clearance of at least 6.5 feet. Floor area shall not include unenclosed porches, decks, or breezeways.

“Forestry and timber harvesting” means the cultivation, cutting, or removal of trees for sale or for processing into wood products such as lumber. The term includes, but is not limited to, the planting, cultivating, harvesting, transporting and selling of trees or other forest products for commercial purposes. The term includes logging but excludes sawmills.

“Flea market” means retail sale uses where more than one vendor displays and sells general merchandise that is new or used on a regularly occurring basis, including indoor and outdoor displays of merchandise.

“Frontage” means a property line the length of which abuts a street or proposed street; the front lot line.

“Funeral home” means a building or part thereof used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in the preparation of the dead for burial, the performance of autopsies and other surgical procedures, the storage of caskets and other related funeral supplies and the storage of funeral vehicles. This term does not include crematorium.

“Garage, private” means a building or structure for the private use of the owner or occupant of a principal building situated on the same lot for the storage of motor vehicles used or owned by the owner or occupant with no commercial facilities for mechanical service or repair.

“Garage sale” means the accessory and temporary use of a lot upon which a dwelling unit is located for the occasional sale or auction of common household goods, furniture and items generated from the dwelling unit located on the lot. Any sale occurring more than six times in any given year shall be considered a retail sales establishment.

“Garden center” means the use of land, buildings or structures or part thereof for the purpose of buying or selling lawn and garden equipment, furnishing and supplies. The term includes a floral shop.

“Glare” means a sensation of brightness within the visual field which causes annoyance, discomfort or loss in visual performance, visibility or ability to focus, or direct or indirect light from a use greater than one-half (1/2) foot candle at habitable levels.

“Governing body” means Hazleton City Council, Luzerne County, Pennsylvania.

“Gravel” means a surface that is considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement;

landscaping stone is not considered as impervious area. The term consists of and is sometimes referred to as crushed stone.

“Grower and processor facility” means any building or structure used to grow medical marijuana by a licensed grower and processor of medical marijuana that has a current and valid license from the DOH under the Pennsylvania Medical Marijuana Act, Pa Act 16 of 2016, as amended.

“Grower and processor of medical marijuana” means a person, which holds a permit from the Pennsylvania Department of Health to grow and process medical marijuana. The term includes a research center administering a medical marijuana research program.

“Greenhouse” means a building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

“Grocery store” means a retail establishment offering for sale prepackaged food products, household items, and other goods with a sale area in excess of 12,000 square feet with or without the accessory retail sale of gasoline or fuel products.

“Group home” means a dwelling unit occupied by unrelated persons who function as a common household unit operated by a responsible individual, family or organization with a program to provide supportive living arrangements to persons with special needs due to age, infirmity, emotional, mental, developmental or physical disability or handicap. This definition includes facilities for the supervised care of persons with disabilities subject to protection under the Federal Fair Housing act as amended. This definition also includes Recovery Houses. The term does not include a treatment facility.

“Halfway house” means a residential facility housing a maximum of 15 persons who receive therapy and counseling under the supervision and constraints of alternatives to imprisonment, including pre-release, work release, restitution, or probationary programs or a non-residential facility involving similar types of programs.

“Handicap” means a physical or mental impairment which substantially limits one or more of such person's major life activities, and a record of having such an impairment, but does not include current, illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

“Hazardous substances or materials” includes any material or substance that is stored or used in quantities that may cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health

or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. This term also includes the list of extremely hazardous substances set forth in 29 Code of Federal Regulations Part 355 or any successor provisions.

“Health care campus” means the use of a property for a combination of health care related uses such as a hospital, hospice, health care outpatient facility, health care educational facility, health care office, wellness and fitness center, health care residential facility, adult and child care centers intended to serve family members of patients, staff, physicians, students and visitors to the health care campus, and health care commercial facilities, and health care accessory related facilities. The term excludes drug and alcohol rehabilitation and treatment facilities.

“Health care commercial facility and uses” means facilities and/or uses intended for patients, staff, physicians, students and visitors and their family members limited to the following: gift and card shops, flower and plant shops, sale of common health care-related items, personal care items, the sale of convenience items and/or novelties, sale of items for fundraising, sale of food and beverages, cafeterias/cafes/food courts/restaurants or similar uses, coffee shop, vendor carts or kiosks for the sale of items listed above, bookstore, pharmacies/drug stores, stores for medical devices, medical uniforms, clothing, apparel and accessories, health food stores, convenience stores, florist, banks, financial institutions, automatic transaction machines, and personal care services such as barber shops or beautician shops, and laundry and/or dry cleaning as well as drive-through facilities for the above.

“Health care education facility” means a facility which provides education and/or research related to health care, health maintenance, wellness, and/or the business of health care. The use includes a college, university, or trade school affiliated with an accredited medical or nursing school.

“Health care office” means offices for health care related professionals, administrative and support staff, and offices and laboratories for drawing and testing of specimens, diagnosis, or health care research.

“Health care outpatient facility” means a medical facility, separate from or in conjunction with a hospital, which provides, on an outpatient basis, services such as medical testing, diagnostic testing, (including overnight observation or diagnostic testing), and may include drawing and/or testing of laboratory specimens, urgent or express care, surgery, treatment, rehabilitation, alternative medicine, and/or other health care-related services. A health care outpatient facility may include overnight stays by patients. The term excludes drug and alcohol rehabilitation and treatment facilities.

“Health care residential facility” means a hospice, nursing home, personal care center, skilled nursing facility, assisted living facility, life care facility memory care facility, transitional care facility or similar living facilities, family lodging center, residence hall for students studying a health care field, accessory housing facilities for on-site medical staff, and independent living facility. A stand-alone nursing home, personal care center, skilled nursing facility, assisted living facility, life care facility memory care facility, transitional care facility or similar living facility shall include an area of no less than 70 percent of the building footprint area, proximate to the building suitable and developed for passive recreation use such as walkways and benches.

“Heavy industrial” means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. The term includes asphalt, concrete and batch plants, commercial hog farms, fur farms, or fertilizer plants. The term does not include any industrial use that is designated as a separate use under the Use Table in Chapter 5 of this ordinance.

“Heliport” means an area, either at ground level or elevated on a structure, licensed and approved for the loading, takeoff and landing of helicopters, and including accessory facilities such as parking, waiting or stand-by areas, fueling and maintenance.

“Hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry-weight basis. The term includes industrial hemp.

“Highway occupancy permit” means a State, County or City permit depending on the ownership of the street, which, when issued, authorizes access from a lot to that street.

“Home occupation” means an occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit, which, when permitted, does not alter the residential characteristics of the neighborhood.

“Hospice” means a special concept of care designed to provide comfort and support to patients and their families when a life limiting illness no longer responds to cure- oriented treatments.

“Hookah” includes a tobacco pipe with a long, flexible tube that draws the smoke through water contained in a bowl.

“Hookah lounge” means an establishment where patrons share from a communal hookah which is placed at each table. The term also includes a place where vapes or smoking occurs on premises for a business purpose.

“Hospital” means a use involving the diagnosis, treatment or other medical care of humans that may include providing 24 hour emergency service; overnight care of patients; medical research and training; and rehabilitation to patients. A hospital may involve observation, diagnosis, treatment, rehabilitation or other care for medical, dental or mental health, but shall not include housing of the criminally insane. A hospital may also involve medical research and training for health care professions. A hospital shall meet all relevant licensing requirements of the Commonwealth of Pennsylvania. This term does not include a medical use basically comprised of professional offices for the examination and treatment of persons as outpatients by physicians, dentists or other licensed medical specialists, as it is considered a professional office for purposes of this ordinance. The term also excludes drug and alcohol rehabilitation and treatment facilities.

“Hotel” means a building offering transient lodging accommodations on a daily rate to the general public. The building may provide additional services, such as restaurants, meeting rooms, and recreational facilities. See also “Motel”.

“IBC” means the International Building Code, which addresses fire prevention in regard to construction and design.

“Impervious surface or coverage” means a permanent surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, parking lots, driveways, roofs, and stone patios. See definition of “Gravel (Crushed Stone)” for when gravel classifies as impervious area.

“Improvement” means any structure or paving placed upon land, including the provision of underground or above-ground utilities, as well as any physical change to the surface of the land, including but not necessarily limited to grading, paving, the placement of stormwater management facilities, sidewalks, street signs, traffic control devices, and monuments. This definition excludes grading or tilling of soil.

“Industrial hemp production” means the making or manufacturing of hemp into a product, including food (such as oil, supplement, birdseed, protein flour etc.), fibers (such as textiles, clothes, shoes), fuel, industrial textiles and products (such as rope, nets, carpet, tarps, paper, building materials etc.), and personal care products (such as soap, beauty products etc.). The term includes the grinding of hemp into flour; the pressing of hemp into seed oil for the manufacturing of products such as personal care products; the taking of the fiber strings running the length of the hemp stalk for the manufacturing of such things as clothing, paper, and other applications; and the taking of the core of the

stalk, the inner hurd, a soft cellulose vein running the length of the plant to manufacture such things as insulation and paper. This term does not include the growing, harvesting and processing (cutting, drying, shredding or packaging) of the hemp plant.

“Institutional group home” means a use that meets the definition of a group home but that includes a higher number of residents than is permitted as a group home.

“Invasive plant species of Pennsylvania” means plants that displace naturally occurring native vegetation and, in the process, upset nature’s balance and diversity. Invasive plants are characterized by rapid growth and prolific reproductive capabilities, highly successful seed dispersal, germination and colonization processes, rampant spreading that takes over native species and are very costly to control. In general, aggressive, non-native plants have no enemies or controls to limit their spread. These invasive plant species are:

1. Trees: *Acer platanoides*, commonly known as Norway Maple; *Acer pseudoplatanus* commonly known as Sycamore Maple; *Allanhus alltissima* commonly known as Tree-of-Heaven; *Elaegnus angustifolia* commonly known as Russian Olive; *Populus Alba* commonly known as White Poplar; *Ulmus pumila* commonly known as Siberian Elm; *Viburnum lantana* commonly known as Wayfaring Tree.
2. Shrubs, Vines and Groundcovers: *Alliaria petiolata* commonly known as Garlic Mustard; *Berberis thunbergii*, commonly known as Japanese Barberry; *Cannabis sativa* commonly known as Marijuana; *Carduus nutans* commonly known as Nodding Thistle; *Cirsium arvense* commonly known as Canadian Thistle; *Cirsium vulgare* commonly known as Bull Thistle; *Datura stramonium* commonly known as Jimsonweed; *Elaegnus umbellaa*, Autumn Olive; *Euonymus alatus*, commonly known as Winged Euonymus; *Galega officinalis* commonly known as Goatsrue; *Heracleum mantegazzianum* commonly known as Giant Hogweed; *Ligustrum vulgare*, commonly known as European Privet; *Lonicera japonica*, commonly known as Japanese Honeysuckle; *Lonicera maacki*, commonly known as Amur Honeysuckle; *Lonicera morrowil*, commonly known as Morrow’s Honeysuckle; *Lonicera tatarica*, commonly known as Tartarian Honeysuckle; *Lonicera x-bella*, commonly known as Hybrid Honeysuckle; *Lythrum salicaria*, commonly known as Purple Loosestrife (herbaceous); *Microstegium vimineum* commonly known as Japanese Stiltgrass; *Morus Alba*, commonly known as White Mulberry; *Morus rubra*, commonly known as Red Mulberry; *Phylostachys*, commonly known as aubea Bamboo; *Polygonum perfoliatum* commonly known as Mile-A-Minute Vine; *Pueraria lobata* commonly known



as Kudzu-vine; *Rhamnus cathartica*, commonly known as Common Buckthorn; *Rhamnus franguia*, commonly known as Glossy Buckthorn; *Rosa multiflora*, commonly known as Multiflora Rose; *Sorghum bicolor* commonly known as Shattercane; *Sorghum halepense* commonly known as Johnson Grass; and *Viburnum opulus*, commonly known as European Highbush Cranberry.

“IRC” means the International Residential Code, which addresses the design and construction of one- and two-family dwellings and is designed to meet those needs to safeguard public health and safety.

“Junk” any discarded or salvageable material or article, including scrap metal, paper, machinery, equipment, rags, glass, appliances, furniture, rubber, motor vehicles, and any parts of motor vehicles.

“Junk vehicle” includes any vehicle unable to move under its own power or is unlicensed or unregistered, and contains one or more physical defects or characteristics such as a broken windshield, missing or flat tires, missing body parts, body parts that are rusted or have sharp edges, exposed battery acid, leaking gasoline or fluids, and other defects or characteristics which could threaten the public health, safety and welfare.

“Junk or salvage yards” the term includes the dismantling or wrecking of automobiles, motor vehicles, trailers, or parts thereof. The term also includes the storage or accumulation of any junk or the storage of four or more junk vehicles, or four or more motor vehicles from which parts have been or are to be removed for reuse or sale. The term includes automobile wrecking yards and automobile salvage yards, but does not include the shredding of vehicles.

“Land” includes lot, plot, parcel, and property.

“Landowner”, “property owner”, or “owner” means the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee authorized under a lease to exercise the rights of the landowner, an authorized officer or member of a partnership, corporation or company, or any other person having a propriety or equitable interest in land or a building.

“Laundry” means a use at which articles of clothing, uniforms, linens, sheets, blankets, table cloths, draperies, towels, diapers and other fabric items are delivered to be cleaned with the use of agents that are generally water soluble.

“Laundromat” means a self-service business in which patrons clean, or dry clean dry articles of clothing, uniforms, linens, sheets, blankets, table cloths, draperies, towels, diapers and other fabric items.

“Light industrial” means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. The term includes the manufacture of small machine parts, small electronic equipment, and motors. The term does not include any industrial use that is designated as a separate use under the Use Table in Chapter 5 of this ordinance.

“Loading space” means an off-street space or area having direct usable access to a street or alley suitable for the loading or unloading of goods for shipment.

“Lot” means a designated parcel, premises, tract, or area of land established by a plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit. The area and depth of a lot shall be measured to the legal right-of-way line of the street, and all lots shall front on a public or private street. The word lot includes plot, parcel, land and property.

“Lot area” means the area contained within the lot lines of a lot, excluding any street right-of-way.

“Lot, corner” means a lot abutting on and at the intersection of two or more streets.

“Lot coverage” means the percentage multiplied by the lot area that will determine the permitted building coverage area.

“Lot depth” means the average horizontal distance between the front and rear lot lines.

“Lot, flag” means a lot that relies upon a thin strip of land for street access whose frontage does not satisfy the minimum width requirements for the respective zoning district, but has the required lot width away from the street frontage.

“Lot, interior” means a lot with only one street frontage.

“Lot line” means a line dividing one lot from another lot or from a street or alley.

“Lot line, front” means a property line the length of which abuts a street or proposed street.

“Lot line, rear” means a line dividing one lot from another lot or from a street or alley.

“Lot line, side” means any lot other than a front or rear lot line.

“Lot of record” means any lot which exists as shown or described upon a plat or deed and recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania.

“Lot, through / reverse frontage” means an interior lot having frontage on two parallel or approximately parallel streets with vehicular access solely from the street of lesser functional classification.

“Lot width” means the horizontal distance between the side lot lines measured at the minimum prescribed front yard setback line, unless otherwise stated or as may be specified in this ordinance. In the event of a curved lot line, such lot width at the minimum prescribed front yard setback line shall be measured along the curve. Where buildings are permitted to be attached, the lot width shall be measured from the center of the party wall. Where a pie-shaped lot fronts upon a cul-de-sac, the minimum lot width may be reduced to two-thirds (2/3) of the width that would otherwise be required (except where minimum lot width allowed is less than 100 feet then no reduction is allowed). In the case of flag lots, the width measurement shall not include the access corridor but shall be made on the main portion of the lot.

“Machine shop” means any facility that uses machine tools, including but not limited to, lathes, milling machines, shapers, planers, hoppers, drill presses, and jig borers for working with metals or other relatively hard materials, such as some polymers. Typically machine shops make and repair all types of metal objects, from machine tools, dies, and molds to mass-produced parts such as screws, pistons, or gears.

“Manufactured home” means a structure, transportable in one or more sections, which is built upon a chassis and is designed for permanent occupancy when placed on a foundation and connected to the required utilities. The term includes mobile homes and trailers, but does not include modular homes or recreational vehicles.

“Manufactured home community” means a parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes or mobile homes.

“Manure” means the fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding or litter.

“Manure storage facility” means a detached structure or other improvement built to store manure for future use, or awaiting disposal.

“Massage” means the performance of manipulative exercises using the hands, or a mechanical or bathing device on a person's skin other than the face or neck by another person that is related to certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.

“Massage services” means an establishment that meets all of the following criteria:

1. Massages are conducted.
2. The person conducting the massage is not licensed as a health care professional or physical therapist by the Commonwealth of Pa.
3. The massages are not conducted by a licensed medical doctor, chiropractor or physical therapist.
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 wellness and fitness center or athletic program.

A use that involves State-licensed massage therapists is listed as a separate use in the Use Table of Chapter 5 under this ordinance.

“Medical facility” means a use involving the diagnosis, treatment and examination of patients by State-licensed members of the medical profession, dentists, chiropractors, osteopaths, physicians or occupational therapists without overnight accommodations and may include reception areas, offices, waiting room, x-ray and minor operating rooms and a dispensary of medication other than medical marijuana and providing that all such uses have access only from the interior of the building. The use does not include a treatment facility or hospital.

"Medical marijuana" means marijuana for certified medical use under the Pennsylvania medical marijuana Act, Pa Act 16 of 2016. For purposes of this ordinance the term includes hemp.

“Medical marijuana academic clinical research Center” means an accredited medical school within this Commonwealth that operates or partners with an acute care hospital licensed within this Commonwealth under Pennsylvania Medical marijuana Act, Pa Act 16 of 2016, as amended.

“Medical marijuana delivery vehicle office” means any facility used to store delivery vehicles for supplying marijuana plants or seeds to a Grower and Processor Facility or a medical marijuana dispensary.

"Medical marijuana dispensary" means a person, which holds a permit issued by the Department of Health to dispense medical marijuana.

“Medical marijuana facility” means a medical marijuana dispensary or a grower and processor of medical marijuana. The term includes a structure, building or land used to store trucks or delivery vehicles for transporting marijuana plants, seeds or other raw materials, or transporting waste generated from a medical marijuana facility for disposal to a facility authorized in the Commonwealth of Pennsylvania to accept such waste. Incidental storage, management and disposal of solid and liquid waste byproducts or remnants generated during the growing and processing of medical marijuana, but not part of the final product, is permitted as part of the facility.

“Membership club” means 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 indoor recreation that are limited to members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public. This use may not include outdoor recreation, boarding or rooming houses, tavern, bar, night club, restaurant or auditoriums unless that particular use is permitted in that district and the requirements of that use are met. The term includes a social hall.

“Micro-brewery” means a facility where more than 250 barrels and less than 15,000 barrels (a barrel is approximately 31 gallons) of malt or brewed beverages are produced on the premises and then sold or distributed for off premises consumption. A microbrewery may also contain a brewery pub. The production of more than 15,000 barrels or its equivalent of malt or brewed beverages shall be considered a heavy industrial use.

“Mineral extraction” means the removal from the surface or beneath the surface of land bulk mineral resources such as sand, gravel, topsoil, limestone, sandstone, coal, shale and iron ore using machinery. This use includes stockpiling, but not the movement of and replacement of topsoil, as part of construction activities. The use does not include oil or gas operations. The backfilling of the site with material other than with material from the site shall be considered a solid waste facility when the operator is being paid to accept the material or the site is being reclaimed with off-site material such as Re-crete.

“Modular homes” mean structures constructed entirely in factories and transported to their sites on flatbed trucks. They are built under controlled conditions and must meet strict quality-controlled requirements before they are

delivered. They arrive as block segments and are neatly assembled, using cranes, into dwelling units that are almost indistinguishable from comparable ones built on-site.

“Moral” means of, pertaining to, or concerned with the principles or rules of right conduct or the distinction between right and wrong; ethical.

“Motel” means a building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended, or used primarily for the accommodations of automobile travelers for gain or profit and provides automobile parking conveniently located on the premises. See also “Hotel”.

“Motor vehicle” means an automobile, recreational vehicle, truck, bus, motorcycle, all-terrain vehicle or similar means of transportation powered by an engine or other mechanized means and designed to operate and carry persons or cargo on public streets.

“Municipality” means the City of Hazleton, County of Luzerne, and Commonwealth of Pennsylvania.

“Municipalities planning code” means the Pennsylvania Municipalities Planning Code Act of 1968, P.L. 805, No. 247, as reenacted and amended. The term is sometimes referred to as the Pa MPC.

“Nature preserve” means a noncommercial preservation of land for providing wildlife habitats, forests or scenic natural features that involves no buildings other than a nature education or study center and customary maintenance buildings.

“Night club” means a commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and live music are permitted, including the term “cabaret”. This term does not include any adult use.

“Nonconforming lot” means a lot which does not conform with the minimum lot width or area dimensions specified for the zoning district where the lot is located, but was lawfully in existence prior to the effective date of this ordinance, or any amendments thereto.

“Nonconforming structure” means a structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance

or amendment to its location by reason of annexation. Such nonconforming structures include nonconforming signs.

“Nonconforming use” means a use, whether of land or a structure, which does not comply with the applicable use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

“No-impact home based business” means a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with the residential use.

“Noxious weeds” means any plant listed in the Pennsylvania Noxious Weed Control Law (3 P.S. Section 255(3)(b)), including:

1. Cannabis sativa, commonly known as marijuana.
2. The lythrum salicaria Complex: Any nonnative lythrum including, lythrum salicaria and lythrum virgatum, their cultivars and any combination thereof.
3. Cirsium arvense, commonly known as canadian thistle.
4. Rosa multiflora, commonly known as multiflora rose.
5. Sorghum halepense, commonly known as Johnson grass.
6. Carduus nutans, commonly known as musk thistle.
7. Cirsium vulgare, commonly known as bull thistle.
8. Datura stramonium, commonly known as jimson weed.
9. Polygonum perfoliatum, commonly known as mile-a-minute.
10. Puerria lobata, commonly known as kudzuvine.
11. Sorghum bicolor cv. drummondii, commonly known as shattercane.
12. Heracleum mantegazzianum, commonly known as giant hogweed.

13. Galega officinalis, commonly known as goatsrue; and poison ivy.

“Nursery” means land used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock and their related accessory supplies for wholesale or retail sale.

“Nursing home” means a place for older adults who do not need hospital care but cannot be cared for at home. Residents require supervision or assistance to complete daily activities and need skilled nursing and certain medical treatments with medical supervision available 24/7. A nursing home provides a higher level of care than a personal care home. Nursing homes are licensed and inspected by Department of Human Services, but under a different set of standards than a personal care home.

“Office” or “general office” means a building or portion of a building, wherein services are performed involving administrative, professional, clerical or similar type operations.

“Occupied” includes a building, structure or land being used or intended, arranged, or designed to be used by a person.

“Open space” means any area of land or water, or a combination of land and water, within a development or lot that is free of improvement and impervious surfaces. Open spaces shall not include, among other things, areas devoted to buildings, structures, driveways, access drives, parking lots, street rights-of-way, and storm water detention basins, but can include required yard setbacks.

“Ordinance” means the City of Hazleton Zoning Ordinance of 2020 and the official zoning map, as may be amended from time to time.

“Overlay district” means a specific geographic area upon which additional land use requirements are applied, on top of the underlying zoning regulations, in order to promote a specified goal. An overlay zoning district may encompass one or more underlying zoning districts and imposes additional requirements above that required by the underlying zone.

“Outdoor storage” includes the placing, storing or keeping, in an unenclosed area, goods, materials, merchandise, equipment or vehicles which are related to the operation of a commercial use, excluding the storage of solid waste, hazardous substances, refuse, junk and junked vehicles.

“Outdoor wood fired burner” means a fuel burning device:

1. Designed to burn wood or other approved solid fuels;



2. That the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and
3. Heats building space or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

“Outparcel” means a building lot separated or separable from another building lot.

“Overlay district” means a type of zoning district that is superimposed over the underlying base zoning district in order to protect a particular resource or guide development within a special area. The City also has the following overlay districts; DOD (Downtown Overlay District), HOD (Historical Overlay District) and EOD (Energy Overlay District).

“Parking space, off-street” means an unobstructed space or area other than a street or alley that is located completely within the property lines of a property and permanently reserved and maintained for the parking of a motor vehicle.

“Parking space, on-street” means the parking of a vehicle on the street, along a sidewalk or anywhere on the street whether by permit or under and subject to certain restrictions.

"Patient" means an individual who:

1. Has a serious medical condition;
2. Has met the requirements for certification under the Pennsylvania Medical Marijuana Act; and
3. Is a resident of this Commonwealth.

“Paved” means a condition of surface in which man-made materials (asphalt, bituminous concrete, or masonry materials) are applied resulting in a durable, smooth, stable and dust free surface over which vehicles and pedestrians may pass. This definition shall require that the permitted materials be applied with sufficient depth and base to achieve the required durable, smooth, stable and dust free surface.

“Pawn shop” means a commercial use that is regulated as a Pawn Shop by the Pennsylvania Department of Banking.

“Permit” means the official document issued by the zoning officer authorizing someone to undertake certain activities under this ordinance.

“Permitted by right use” means an allowed use permitted with or without the issuance of a permit (depending on the use and the requirements of this ordinance) by the zoning officer provided the application meets the requirements of this ordinance.

“Person” includes a corporation, firm, company, partnership, trust, organization, association, sole proprietorship or individual.

“Personal care home” means a premise in which food, shelter and personal assistance or supervision are provided for a period exceeding 24 hours, for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility, but who do require assistance or supervision in activities of daily living or instrumental activities of daily living. The term includes a premise that has held or presently holds itself out as a personal care home and provides food and shelter to four or more adults who need personal care services, but who are not receiving the services. A personal care home is a residence that provides seniors support with instrumental activities of daily living and activities of daily living. Assistance with instrumental activities of daily living can include help with housekeeping and laundry, medication management, shopping and meal preparation, using the telephone, and making appointments. Examples of activities of daily living that personal care homes may provide assistance with including but not limited to; eating, toileting, personal hygiene, and bathing. Although a nursing home provides assistance with many of the same activities as a personal care home, seniors needs in a personal care home do not meet the higher level of services provided in a nursing home. Personal care homes are licensed by the Department of Human Services. There is staff available at personal care homes at all times in case of emergency, but not necessarily medical staff.

“Personal service establishments” means an establishment or business where professional or personal services are provided for profit or gain and where the sale of retail goods, wares, merchandise, articles or things is only accessory to the provisions of such services such as barber shops or beauty salons; tailor shops; laundry or dry-cleaning shops; laundromats; printing, photocopying, mail, fax or courier services; and shoe or watch repair shops; animal grooming; tanning salons; beauty spas; manicure and pedicure services; and similar services. The term does not include any service use that is designated specifically as a separate use in the Use Table under Chapter 5 of this ordinance.

“Petroleum product” means oil or petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

“Physical therapy” means a health care profession primarily concerned with the remediation of impairments and disabilities and the promotion of mobility, functional ability, quality of life and movement potential through

examination, evaluation, diagnosis and physical intervention carried out by physical therapists.

“Place of worship” means a building used for religious services, including churches, synagogues, mosques, monasteries, meeting houses, temples, parish halls, seminaries and shrines. The term also includes accessory uses such as a residence for a caretaker or the head of congregation, assembly hall used for community events, nursery school, a school of religious education, convent, and rectory.

“Playground” or “park” means an outdoor area providing a place for recreation where children typically play.

“Portable storage containers” or “POD containers” includes portable containers that are used for temporary storage of personal property of occupants on the site during times of transition (e.g. remodeling, moving, construction, emergency).

“Premises” means any tract, lot, or parcel of land and the buildings, fixtures, and appurtenances located thereon. The word includes lot, plot, parcel, and premises.

“Private garage” means a building or structure for the private use of the owner or occupant of a principal building situated on the same lot for the storage of motor vehicles used or owned by the owner or occupant with no commercial facilities for mechanical service or repair.

“Property” means land and the buildings, fixtures, and appurtenances located thereon. The word includes lot, plot, parcel, and premises.

“Principal use, Structure or Building” means the main or primary use of land or structures, as distinguished from or opposed to a secondary or accessory use or structure.

“Private” means something owned, operated and supported by private persons rather than by government, and not available for public use.

“Professional consultant” means someone who provides expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

“Property” means any tract, lot, or parcel of land and the buildings, fixtures, and appurtenances located thereon.

“Public” means something owned, operated and supported by government for the use and benefit of the general public.

“Public communications transmission tower” means a structure, owned and operated by a public utility electrical company regulated by the Pennsylvania Public Utility Commission (PUC), designed and used to support overhead electricity transmission lines.

“Public hearing” means a formal meeting held pursuant to public notice by the governing body or zoning hearing board, which is intended to inform and obtain public comment prior to taking action in accordance with this ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

“Public meeting” means a forum held pursuant to public notice under the Sunshine Act.

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

“Public sewer” means a municipal sanitary sewer or a comparable common or package sanitary facility capable of serving multiple users and approved and permitted by the Pennsylvania Department of Environmental Protection.

“Public utilities” means a use which is operated, owned or maintained by a municipality or municipal authority or which is privately owned and requires a Certificate of Convenience approved by the Pennsylvania Public Utility Commission for the purpose of providing public sewage disposal or treatment; public water supply, storage or treatment; or for the purpose of providing the transmission of energy or telephone service. Public Utilities includes: water, electrical, natural gas, telephone services, and other essentials. See also Essential Public Utility Services.

“Public governmental use” means a public building or land owned or operated by local, state or federal government for such uses as a library, courthouse, employment office, post office, administrative, cultural or service buildings or other use for governmental administration excluding public land, buildings and structures primarily devoted to the storage and maintenance of equipment and materials.

“Public water” means a municipal water supply system, or a comparable common water facility approved capable of serving multiple users and permitted by the Pennsylvania Department of Environmental Protection.

“Quasi-public” means entities that operate like (and are sometimes organized as) private organizations and are run by a board of directors or similar arrangement whose members are appointed by government entities.

“Recreation” means the offering of leisure-time activities to unrelated persons.

“Recreation, indoor” means a building or structure used principally for recreational activities, such as a bowling alley, billiard hall, roller skating or ice skating rink or similar facilities. This term does not include outdoor recreational activities, adult uses or restaurants/taverns. Outdoor recreation activities conducted completely within a building shall be considered indoor recreation for purposes of this ordinance.

“Recreation, outdoor” means the use of land or structures for recreational activities such as golf, amusement parks, shooting ranges, campgrounds, race tracks and similar activities. The term does not include a playground or park.

"Recreational vehicle (RV)" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections.
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use. The term includes motor homes, pop-up trailers, and campers.

"Recycling collection center" means an area for collection and temporary storage of more than 500 pounds of common household materials for recycling, but that does not involve processing or recycling other than routine sorting, baling and weighing of materials. This term shall not include the indoor storage of less than 50 pounds of household recyclables and their customary collection, which is a permitted by right accessory use in all zoning districts, without additional regulations. A recycling collection center is also a permitted accessory use to a public or private primary or secondary school, a place of worship, or a City owned use.

"Related" or "relative" means persons who are related by blood, marriage, adoption, civil union or formal foster relationship to result in one of the following relationships: husband, wife, brother, sister, parent, child, grandparent, great grandparent, grandchild, great grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law or

first cousin. The term does not include relationships such as second, third or more cousins.

“Repair” means to fix or rehabilitate an object or structure to its intended condition or function.

“Retail sale establishments” means an establishment selling products as opposed to services or entertainment to the general public, such as antique shop; appliance store; artist, music, and automotive parts store; beverage packaging store; building or plumbing supplies; crafts and hobby supplies; clothing store; dairy products store; dry goods and variety stores; florist; garden supplies; hardware store; newspapers, books and stationary products; office furniture, equipment and supplies; paintings and photography store; pet store; pharmacy; specialty gifts; sporting goods store; and other establishments selling related products. The term does not include any retail use that is specifically designated as a separate use in the Use Table under Chapter 5 of this ordinance such as an adult use, secondhand store, pawn shop, and wholesale establishments.

“Residentially zoned lot” means for purposes of this ordinance a lot zoned R-1, R-2, or R-3.

“Restaurant” means an establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in indispensable containers, and where the customer consumes these foods while seated at tables or counters located on premises. A restaurant may include the sale of alcoholic beverages for consumption on premises as an accessory use. This use may include drive through facilities where permitted by this ordinance.

“Restaurant, take-out” means any establishment that primarily serves ready to eat food and beverages for consumption off the premises.

“Retaining wall” means a structure designed to restrain soil or used to stably contain land at a location with an elevation change.

“Right-of-way” means an area or strip of land secured for public use whether improved or unimproved and reserved for use as a street, railroad, public utility, private utility or other special uses such as sidewalks, stormwater management facilities, traffic control facilities, curbs, sidewalks, bicycle lanes or paths, streetlights, and similar public improvements.

“Road” or “street” means that portion of a road improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder.

“Rooming house” means a building or structure or any portion thereof containing residential rooming units rented or leased for a specified time period of more than seven days, or on a week to week, month to month or year to year basis, with the

occupants of said units being non-transient, and utilizing the location as their domicile.

“Sale” includes the business or activity of selling or renting goods or services.

“Satellite dish antenna, noncommercial” means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. The device is intended to be used to transmit or receive radio or electromagnetic waves between terrestrial and orbital based uses. This term includes satellite earth stations, television reception antenna, satellite microwave antennas and the like. This term does not apply to any antenna used for reception of regular AM-FM signals.

“Sawmill” means a principal use devoted to the processing of natural wood products into semi-finished products for wholesale distribution.

“School” means any facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, middle schools, junior high schools, charter schools, special education facilities, high schools, colleges and universities. This term does not include child care centers and adult care centers.

“Screening” means the method by which a view of one lot from another adjacent lot is shielded, concealed, or hidden. Screening techniques include fences, walls, non-invasive species of hedges, shrubs, trees or natural forest, berms and other features, as provided for and required in this ordinance. The planting or maintaining of invasive plant species of Pennsylvania or noxious weeds are strictly prohibited.

“Second hand store” means an establishment selling used products as opposed to new products to the general public whether acquired by consignment or otherwise.

“Self-storage facility” means a building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to persons for the storage of the person’s personal property.

"Serious medical condition" means any of the following (which may be changed from time to time by State law, rule or regulation):

1. Amyotrophic Lateral Sclerosis
2. Anxiety disorders
3. Autism
4. Cancer
5. Crohn's Disease

6. Dyskinetic Disorders
7. Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity
8. Epilepsy
9. Glaucoma
10. HIV / AIDS
11. Huntington's Disease
12. Inflammatory Bowel Disease
13. Intractable Seizures
14. Multiple Sclerosis
15. Neurodegenerative Disorders
16. Neuropathies
17. Opioid Use Disorder
18. Parkinson's Disease
19. Post-traumatic Stress Disorder
20. Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or ineffective
21. Sickle Cell Anemia
22. Terminal Illness
23. Tourette syndrome

“Setback” means the required minimum horizontal distance between the building line and the related front, side or rear property line.

“Shed” or “Storage Shed” means an enclosed accessory structure used to store residential materials, furniture, tools, or equipment which supports the principal use of the site and cannot be used as a separate residential structure or unit.

“Shopping center” means a building or group of two or more units within a single building, which is comprised of commercial, retail or service oriented businesses and designed to function as a unit with shared vehicular access, off-street parking and signage. The term includes a strip mall type building where stores front on both sides of a pedestrian way which may be either enclosed or open.

“Short term home rental” means any dwelling unit rented for the purpose of overnight lodging for a period of not less than one day and not more than 30 days on more than one occasion to someone other than a family member of the landowner where the landowner resides in the dwelling unit during the rental, or more than a total of 183 days per year. The term does not include a hotel, motel or short term transient rental.

“Short term transient rental” means any dwelling unit rented for the purpose of overnight lodging for a period of not less than one day and not more than 30 days where the landowner does not reside in the dwelling unit during any rental, or



resides in the dwelling unit less than a total of 183 days per year. The term does not include a hotel, motel or short term home rental.

“Shredding, industrial” means a facility consisting of a heavy duty machine or piece of equipment used as a high volume system to reduce the size of a given material for recycling, re-use, or re-introduction into the manufacturing process.

“Site” means a lot or any part of a lot devoted to a specific use regulated under this ordinance.

“Slaughterhouse” means a use that routinely involves the killing and butchering of animals for use as meat, and which is not a customary accessory use to the on-site raising of animals.

“Smoke shop” means a store predominately or principally selling tobacco products such as cigars, cigarettes, and chewing tobacco and accessory tobacco products. The term includes vapes but does not include permitting smoking or vaping on premises.

“Social hall” means a building or portion thereof used for social gatherings, which is usually operated by a nonprofit or civic organization or association.

“Solid waste” means any garbage, refuse, sewage sludge or other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, public, household, commercial or mining activities. The following materials are not considered solid waste:

1. Portions of trees or shrubs, leaves, mulch and rocks;
2. Substances legally disposed of into the air or water through a federal or State pollution discharge permit;
3. Customary residual wastes from a permitted mineral extraction use; or
4. Materials of a character such as paper, plastic, aluminum and metal that have been separated from the waste stream for recycling.

“Solid waste facility” means a facility operated under the laws of the Commonwealth of Pennsylvania governing the management, processing, incinerating, treatment, storage, transfer, or disposal of solid waste. Back filling or reclaiming of the site with off-site material such as Re-crete shall constitute a Solid Waste Facility for purposes of this ordinance. This term includes Solid Waste Landfills, Solid Waste Transfer Facility, and Solid Waste Energy Facility.

“Solid waste energy facility” means a type of solid waste disposal facility that

utilizes waste (such as trash, sludge or any other nonhazardous commercial, residential or industrial materials) as a fuel to produce usable energy (such as steam or electricity) in bulk to be marketed for reuse to offset disposal costs. Also see the definitions of each of these terms in Title 25 of Pennsylvania Department of Environmental Protection regulations.

“Solid waste transfer facility” means a type of solid waste disposal facility which receives and temporarily stores solid waste at a location other than the generation site, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal, and which may or may not involve the separation of recyclables from solid waste. Also see the definitions of each of these terms in Title 25 of Pennsylvania Department of Environmental Protection regulations.

“Spa” or “hot tub” means a structure intended for the immersion of persons in temperature controlled water circulated in a closed system, and not intended to be drained and filled with each use. A spa usually includes a filter, a heater (electric, solar, or gas), a pump or pumps, and a control, and may also include other equipment, such as lights, blowers, and water sanitizing equipment. For purposes of this ordinance the spa is intended for use that is accessory to a residential setting and available to the household and its guests and where the water heating and water circulating equipment is not an integral part of the principal structure on the property. The spa is intended as a permanent plumbing fixture and not intended to be moved.

“Special exception” means a use only permitted in a particular zoning district by approval of the zoning hearing board in accordance with the applicable provisions of this ordinance. The use will find classification under the heading Special Exception Use for the zoning district in which the property is located.

“Specified anatomical areas” includes less than completely and opaquely covered human genitals, private parts, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Stable” means the housing of horses, including a commercial or private riding academy.

“State” means the Commonwealth of Pennsylvania.

“Storage” means the temporary placement of products and materials for preservation, later use or disposal.

“Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be counted as a story

if the ceiling equals or exceeds six and one half (6.5) feet of the finished ground surface adjoining the exterior walls of such story.

“Stream” means any natural or man-made conveyance of surface water with an annual or intermittent flow within a defined bed and bank.

“Street” includes any right-of-way, avenue, court, boulevard, road, highway, alley, freeway, lane, viaduct and any other ways used or intended to be used by vehicular or pedestrian traffic whether public or private or dedicated or undedicated.

“Street line” or “Right-of-way line” means the line defining the limit of a street right-of-way and separating the street from abutting property or lots. The street line shall be the same as the legal right-of-way line currently in existence.

“Structural alterations” includes any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

“Structure” means any man-made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

“Student” means a person who is registered to be enrolled or who is enrolled and matriculating at an accredited college or university or primary or secondary school, or who is on a semester or summer break from studies at a college or university.

“Student housing” means a building which contains a dwelling unit occupied by two or more students who are not related to each other by adoption or marriage or are not the great-grandparent, great-grandchild, grandparent, grandchild, parent, child, brother, sister, aunt, uncle, niece, nephew, great uncle, great aunt, great nephew, or great niece of each other.

“Subdivision and land development ordinance” means the Hazleton City Subdivision and Land Development Ordinance, as amended. The Subdivision and Land Development Ordinance is sometimes referred to in this ordinance by the acronym (SALDO).

“Subsurface sewage disposal areas” means underground systems that treat and disperse wastewater from individual or small numbers of homes.

“Swimming pool” means an accessory use involving any structure and inflatable device used for swimming, not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than 24 inches. Hot tubs and spas shall be considered a swimming pool for the purposes of this ordinance; however, ponds, stormwater basins, or lakes

are not included provided that swimming is not the primary purpose of the construction and use.

“Swimming pool, above-ground” means a pool situated on the ground which can be disassembled for storage or transport. This includes portable pools with flexible/nonrigid walls that achieve their structural integrity by means of uniform shape, support frame or a combination thereof, and can be disassembled for storage or relocation.

“Swimming pool barrier” means a permanent wall that completely surrounds an above-ground swimming pool and obstructs the access to the swimming pool. The wall may include the wall of the swimming pool or the wall of a building. Permanent for purposes of this definition means that it is not able to be removed, lifted, or relocated without the use of a tool.

“Tavern” means an establishment used primarily for serving alcoholic, malt or brewed beverages to the general public where food or prepackaged liquors may be sold or served as an accessory use. The term does not include a bar but includes a brewery pub.

“Temporary structure” means a structure without any foundation or footings which is removed when the designated time period, activity or use for which the structure was placed or constructed has ceased. The time period for a temporary structure shall be not more than 180 days.

“Temporary use” means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period. The time period for a temporary use shall not be more than 180 days unless extended by the zoning officer when permitted under this ordinance. Any use for less than 180 days, but resuming on an annual basis shall be considered a permanent use.

“Theatre” means a building or part of a building devoted to showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theatre or adult use.

“Townhouse” or “rowhouse” means one dwelling unit that is attached to two or more dwelling units, and with each dwelling unit being completely separated from and attached to each other by unpierced vertical fire-resistant walls and each having their own outside access with sidewalls being adjacent to each end unit.

“Twin” or “two-family dwelling unit” or “duplex” means one dwelling unit accommodating one family that is attached to and completely separated by a vertical or horizontal unpierced fire-resistant wall to only one additional dwelling unit with each unit being on the same or a separate lot from the attached dwelling unit.

“Treatment facility” means a use offering facilities for persons who need specialized housing, treatment or counseling and who need such facilities because of:

1. Criminal rehabilitation, such as criminal halfway house or a treatment or housing center for persons convicted of driving under the influence of alcohol;
2. Addiction to alcohol and/or a controlled substance; or
3. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

The residentially based facility may include room and board, personal care, and intensive supervision and case work for no more than 30 patients.

“Treatment center, out-patient” means a use that primarily exists to provide medication (such as methadone) or repetitive counseling to multiple persons with addictions to illegal use of controlled substances as a principal use, and which does not include on-site residential facilities, and which is not licensed by the Commonwealth of Pennsylvania as a hospital.

“Tree farm” means an area used for a type of farming involving the raising or harvesting of trees for commercial purposes.

“Tree house” means a structure or building above ground level and not designated for continuous habitation, using a tree for part of its support.

“Trucking terminal” means the use of a structure, building, or land, which consists of a storage area, management and dispatch office, and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

“Truck service center, repair and storage” means a use that primarily involves providing fuel and repairs to tractor-trailers, including incidental storage of tractor-trailers.

“Uniform construction code” means the version of the statewide building code adopted by City Council, applicable to new construction in all municipalities whether administered by the City, a third party of the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted by the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

“Use” means the purpose, activity, occupation, business or operation for which land, structures or buildings are designed, arranged, intended, occupied or

maintained. Uses specifically include, but are not limited to, activities within or outside of a structure.

“Variance” means a waiver or modification of this ordinance that may only be granted by the zoning hearing board.

“Veterinarian clinic” or “animal hospital” means a building or structure used for the treatment of domesticated animals by a veterinarian or other medical practitioner licensed by the state, with short-term boarding incidental to the treatment.

“Wall” means a structure constructed as a line of demarcation or barrier made of materials to enclose or screen areas of land. When referring to the walls of a building, the term shall mean the vertical exterior surface of a building, or the vertical interior surfaces which divide a building’s space into rooms. The term does not include a retaining wall.

“Warehouse and distribution” means one or more buildings or structures used primarily for storage, transfer and distribution of products, goods and materials. This term does not include trucking facilities.

“Welding” means the use of land, or building, or structure where pieces of metal are welded.

“Wellness and fitness centers” means facilities that may be indoor and/or outdoor that offer educational and/or interactive programs for health care, health maintenance, wellness, and/or other health-related subjects, and/or facilities that may include health spa, weight rooms, exercise rooms, exercise equipment, exercise pools, and/or other similar exercise club or fitness center facilities, and may offer rehabilitation, therapy, and/or health maintenance, sports, or physical performance related training programs. The term excludes drug and alcohol rehabilitation and treatment facilities.

“Wetlands” means those areas that are inundated or saturated by the surface or ground water at frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes wetland areas listed in the State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The National Wetland Inventory, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.

“Wholesale establishment” means an establishment that offers products to other businesses to resell rather than selling directly to retail customers. Wholesalers can be small-scale producers who choose to distribute their products through

other businesses or they can be multi-state distributors with fleets of trucks and massive warehouses.

“Winery” means a premise in which wine is produced. The wine produced at said winery may be sold, stored and consumed on premises if all required state licensing is obtained.

“Yard” means a prescribed open and unobstructed space or area on a lot that is located between a building or structure and the nearest lot line. A yard is also referred to as a setback.

“Yard, front” means a space or area extending the full width of the lot between a principal or accessory building or structure and the front lot line and measured perpendicular to the building or structure at the closest point to the front lot line. This area is bounded by the street line, front setback line and side property lines.

“Yard, rear” means a space or area extending the full width of the lot between the structure or building and the rear lot line and measured perpendicular to the building or structure at the closest point to the rear lot line. This area is bounded by the rear property line, rear setback line and side lot lines.

“Yard sale” means the accessory and temporary use of a lot upon which a dwelling unit is located for the occasional sale or auction of common household goods, furniture and items generated from the dwelling unit located on the lot. Any sale occurring more than six times in any given year shall be considered a retail sales establishment. The term includes a moving sale.

“Yard, sides” means a space or area extending from the front yard to the rear yard between a building or structure and the side lot line measured perpendicular from the side lot line to the closest point of the building or structure. This area is bounded by side property lines, and side, front and rear setback lines.

“Zoning district” or “zone” means those portions of the City of Hazleton depicted upon the official zoning map, within which certain uniform regulations and requirements apply under the provisions of this ordinance. The City has the following zoning districts or zones: R-1 (Single Family Residential), R-2 (Two-Family Residential), R-3 (Multi-Family Residential), CC (Central Commercial), CH (Commercial Highway), OS (Open Space Recreation), PI (Public Institutional), LI (Light Industrial), and GI (General Industrial).

“Zoning hearing board” means the City of Hazleton Zoning Hearing Board.

“Zoning map” means the map containing the zoning districts of the City of Hazleton, County of Luzerne, and Commonwealth of Pennsylvania. This map is also referred to as the official zoning map of the City of Hazleton.

“Zoning officer” means the person appointed to administer and enforce the provisions of this zoning ordinance, and any amendments thereto.

“Zoning ordinance” means the City of Hazleton Zoning Ordinance of 2020, as amended from time to time.

b. Specific definitions. When used in the specified Section of this ordinance:

1. Downtown overlay district. The following definitions specifically apply to certain word and terms in the Downtown Overlay District:

“Awning” means secondary covering attached to the exterior wall of a building.

“Canopy” means an overhead roof or structure that provides shade or other shelter.

“Day-glo colors” means paints that may not be colorful under ordinary light. Ink that glows under a black light. A source of light whose wave lengths are primarily in the ultraviolet. Also known as fluorescent paints.

“Color palette” means listing of acceptable color uses.

“Façade” means the front exterior of a building, typically facing the primary street unless otherwise noted as a side or rear facade.

“Fiber optic signs” means fibers used instead of metal wires. Light is kept in the “core” of the optical fiber.

“Flood light” means an artificial light providing even illumination across a wide area.

“Franchise architecture” means a building design that is trademarked or identified with a particular franchise chain or corporation, and is generic or standard in nature. Franchises or national chains must follow the standards of this ordinance to create a building that enhances the urban character to downtown Hazleton.

“Historic building” means a building that is listed or eligible for listing on the National Register of Historic Places.

“Infill development” means new construction on previously developed land, such as on a parking lot or a vacant lot where a former building has been demolished.

“LED lights” (Light Emitting Diode)- means a small area light source often with optics added to the chip to shape its radiation pattern and assist in reflection.



“Marquee sign” means a structure placed over the entrance to a hotel or theatre. It has signage on the sides either stating the name of the location, or, in the case of theatres, the movie or artist appearing at that location.

“Neon sign” means luminous tube signs that contain neon or other inert gases at a low pressure.

“Projecting sign” means a sign attached to a wall, which projects at a 90 degree angle.

“Property owner” means the person owning such property as shown on Luzerne County Tax Assessors List.

“Sandwich sign” means an “A” frame type sign that can be moved from place to place and which announces “specials.”

“Strobe light” means a device used to produce regular flashes of light. Popular in clubs where they are used to give an illusion of slow motion.

2. Energy overlay district. The following definitions specifically apply to certain word and terms in the Energy Overlay District

A. Solar energy facilities.

“Accessory solar energy system (ASES)” means an area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one or more free-standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

“Glare” means the effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

“Operator” means a person responsible for the day-to-day operation and maintenance of a solar energy system.

“Owner” means a person having a legal or equitable interest in a solar energy system.

“Principal solar energy system (PSES)” means an area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more free-standing ground, or roof

mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

“Solar array” means a grouping of multiple solar modules with the purpose of harvesting solar energy.

“Solar cell” means the smallest basic solar electric device which generates electricity when exposed to light.

“Solar easement” means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

“Solar energy” means radiant energy (direct, diffuse and/or reflective) received from the sun.

“Solar energy development area” means the total area of a Major Energy System that encompasses all of the principal and accessory structures that are part of the solar energy system, as well as all substations, inverters and any other supporting equipment. This area shall also include all access drives providing access to a public road, buffer yards/screening, utilities and stormwater management facilities.

“Solar energy fenced area” means the total area of the Solar Energy Development Area that encompasses all of the principal and accessory structures that are part of the solar energy system, as well as all substations, inverters and any other supporting equipment that are enclosed by the required fencing. This area shall not include any access drives providing access to a public road, buffer yards/screening, utilities or stormwater management facilities located outside of the required fencing.

“Solar module” means a grouping of solar cells with the purpose of harvesting solar energy.

“Solar panel” means that part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

“Solar related equipment” includes items such as a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly

foundations or other structures used for or intended to be used for collection of solar energy.

B. Wind energy facilities.

“Accessory wind energy facility (AWEF)” means a system designed as a secondary use on a lot, wherein the power generated is used primarily for on-site consumption.

“Facility owner” means a person having a legal or equitable interest in a wind energy facility.

“Flicker” means a repeating cycle or changing light intensity.

“Ground clearance” means the minimum distance between the ground and any part of the wind turbine blade, as measured from the lowest point of the arc of the blades.

“Hub height” means the distance measured from the surface of the tower foundation to the highest point of the wind turbine hub, to which the blade is attached.

“Meteorological tower” means a tower used for the measurement of wind speed.

“Non-participating landowners” means any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.

“Occupied building” means a structure where a person lives or works or a place where people publicly gather.

“Operator” means a person responsible for the day-to-day operation and maintenance of a wind energy facility.

“Participating landowner” means a landowner upon whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator. It may also include any landowner having signed a lease, easement or waiver with the owner or operator of a PWEF.

“Principal wind energy facility (“PWEF”)" means a system of one or more wind turbines, which may include other accessory structures and buildings, appurtenant structures and facilities, designed as a principal use on a lot, wherein the power generated is used primarily for off-site consumption.

“Rotor” means that portion of the wind turbine, i.e. blades and associated hub and shaft, which is intended to be moved or activated by the wind.

“Shadow flicker” means alternating changes in light intensity caused by a moving wind rotor blade casting shadows on the ground or stationary objects.

“Tower” means the supporting structure of a wind turbine on which a rotor and accessory equipment are mounted. The basic types of towers include self-supporting (free standing) or guyed.

“Wind energy conversion system (“WECS”)” means a machine designed for the purpose of converting wind energy into electrical energy (commonly known as “wind turbine” or “windmill”). The term WECS shall be used interchangeably with the terms “wind turbine” or “windmill,” with said terms having the same meaning as a Wind Energy Conversion System (“WECS”).

“Wind energy facility” means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, appurtenant structures and facilities.

“Wind turbine” means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

“Wind tower” means the supporting structure of a wind turbine on which a rotor and accessory equipment are mounted.

“Wind turbine height” means the distance measured from the surface of the tower foundation to the highest point of a wind rotor blade when the blade is positioned at angle of 90 degrees to the surface of the ground.

C. Oil, gas and electric facilities.

“Electricity generating plant” means a principal use devoted to the creation, storage, conversion, distribution and transmission of electrical energy for use at another location.

“Natural gas processing plant” means a facility that receives natural gas and associated hydrocarbons from a gathering line system serving one or

more well sites that compresses, condenses, pressurizes or otherwise treats natural gas and which removes or separates materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, including, but not limited to cooling facilities, storage tanks and related equipment and facilities.

“Oil and gas operations” includes an:

1. Ancillary facility of oil or gas development;
2. Oil or gas compressor station;
3. Hydraulic fracturing water withdrawal facility;
4. Hydraulic fracturing water treatment facility;
5. Oil or gas development;
6. Oil or gas metering stations;
7. Oil or gas pipelines not located in a public-right-of-way;
8. Oil or gas processing facility;
9. Oil or gas staging facility;
10. Oil or gas water reuse storage facility;
11. Oil or gas well;
12. Oil or gas well site;
13. Oil or gas well pad;
14. Fresh water impoundment; or
15. Waste water impoundments.

“Oil and gas compressor” means a device used alone or in series to raise the pressure of oil or natural gas and/or by-products to create pressure differential to move or to compress liquid, vapor or gas.

“Oil and gas compressor station” means a facility designed and constructed to compress natural gas that originates from an oil and gas

well or collection of such wells and to operate as an upstream or midstream facility for delivery of oil and gas to transmission pipeline, distribution pipeline, natural gas processing or treatment facility or underground storage field.

3. Historical overlay district. The following definitions specifically apply to certain word and terms in the Historical Overlay District:

“Alteration” means any visual or physical change to a building, including the repair, replacement, or addition of any exterior structural, decorative or accessory element or feature, but excluding demolition, new construction, reconstruction or removal of any character-defining architectural elements of any building or part thereof.

“Appurtenance” means a subordinate component or structural feature, such as a porch, attached and affixed with the intent of permanence to a principal structure.

“Building” includes a structure, object or property.

“Completed application” means an application for demolition of a historic landmark that conforms to submittal requirements for review under the provisions of the Historical Overlay District.

“Demolition” means the dismantling, tearing down or razing of all or part of any building or structure, including the permanent removal of character-defining architectural elements, such as porches and porticos.

“Demolition by neglect” means the absence of routine maintenance and repair which can lead to a building or structure’s structural weakness, decay and deterioration resulting in its demolition.

“Historic integrity” means the authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s prehistoric or historic period.

“Landmark” means an individual site, structure or building that demonstrates historical, architectural, cultural, archaeological, educational or aesthetic significance.

“Maintenance” means work that does not alter the exterior fabric or features of a building or structure and has no material effect on the historic, archaeological, or architectural or cultural significance to a building or structure.

“Reconstruction” means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time but not necessarily of original material.

“Regulated activity” means any activity requiring review and approval by City Council under the provisions of the Historical Overlay District.

“Repair” means the process of rehabilitation which warrants additional work beyond maintenance, including, but not limited to, patching, piecing in, splicing, consolidating or otherwise reinforcing materials.

“Replacement” means to install new materials or components in place of existing materials or components, such as removing existing windows or doors and installing new windows or doors, regardless of whether the same material and design or a different material or design.

“Restoration” means the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from the period.

4. Signs. The following definitions specifically apply to certain word and terms in the Article of this ordinance that regulates Signs:

“Awning” means secondary covering attached to the exterior wall of a building.

“Canopy” means an overhead roof or structure that provides shade or other shelter.

“Neon sign” means luminous tube signs that contain neon or other inert gases at a low pressure.

“Signs” includes any object, structure, display, device, or part thereof, designed or intended to advertise, identify, or convey information to the public by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

“Sign construction types”

“Canopy sign” means a sign that is incorporated into an awning or canopy that is attached to the building.

“Flat roof sign” means a sign that has its longest axis along the same direction as the roof to which it is attached and does not project beyond the outside edges of the roof line in any direction.

“Flat wall sign” means a sign that is attached to the wall of a building and whose face runs parallel to the wall to which it is attached and does not extend beyond the outside of the edges of the wall in any direction.

“Freestanding sign” means a sign that has a separate support structure and is not physically attached to a building.

“Projecting roof sign” means a sign whose support structure is attached to the roof of a building and whose face either runs generally perpendicular to the roof line or its underlying wall, or extends beyond the outside edges of the roof to which it is attached.

“Projecting wall sign” means a sign whose support structure is attached to the wall of a building and whose face either runs generally perpendicular to the wall, or extends beyond the outside edges of the wall to which it is attached.

“Window sign” means a sign that is either located on the inside or outside surface of a window.

“Sign gross surface area” means the entire face of a sign, including the advertising surface and any framing, trim or molding, but not including any structural supports that do not contain lettering, wording, numerals, designs or symbols. Signs may contain several signs provided that they share the same structure or structural supports with the total sign area being the area of a common geometric form that could encompass all signs. The area for a sign either attached or painted on a wall or building is the smallest rectangle that includes all of the letters, words, numbers, designs and symbols.

“Sign height” means the height of a sign and shall be measured from the average ground level beneath the sign to the highest point of the sign. The ground level shall be the lower of the ground level existing at the time of construction or the ground level existing prior to construction and prior to any earth disturbance at the site. This prior ground level may be established by any reliable source, including, without limitation, existing topographic maps, aerial photographs, photographs of the site, or affidavits of people who are personally familiar with the site.

“Sign type classifications” include:

“Billboard” means a sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the lot where the sign is located.

“Business sign” means a sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located, or a permanent sign identifying the name of a subdivision of three or more contiguous lots.



“Construction sign” means a temporary sign erected on property where construction is taking place, indicating the name of the person performing the construction, architectural, engineering, or inspection activities or services.

“Directional or informational sign” means a sign containing no advertising material and limited to information and directions necessary for visitors entering or exiting a property, including signs marking entrances and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas.

“Event sign” means a temporary sign advertising events such as picnics, carnivals, bazaars, game nights, arts and crafts and similar types of funding raising events, as well as, yard sales and political signs.

“Institutional sign” means a sign which identifies a use pertaining to a school, church, hospital, governmental service or other institution of a similar public or semi-public nature.

“Name plate or identification sign” means a sign which communicates the name address of an occupant or a permitted home occupation upon the lot on which the sign is located.

“Real estate sign” means a temporary sign which advertises the sale, rental or development of the premises upon which the sign is located.

“Shopping center or strip mall sign” means a marquee type sign advertising a group of more than three contiguous and different non-residential uses originally planned and developed as a single unit having a total floor area of not less than 12,000 square feet.

### **CHAPTER 3 ZONING DISTRICTS**

#### **SECTION 301. CLASSIFICATION OF ZONING DISTRICTS.**

- a. The City is divided into the following zoning districts:
  - 1. R-1 LOW DENSITY (SINGLE-FAMILY) RESIDENTIAL
  - 2. R-2 MEDIUM DENSITY (TWO-FAMILY) RESIDENTIAL
  - 3. R-3 HIGH DENSITY (MULTI-FAMILY) RESIDENTIAL
  - 4. CC CENTRAL COMMERCIAL

- 5. CH COMMERCIAL HIGHWAY
- 6. OS OPEN SPACE RECREATION
- 7. PI PUBLIC INSTITUTIONAL
- 8. LI LIGHT INDUSTRIAL
- 9. GI GENERAL INDUSTRIAL

b. The City has the following Overlay Districts:

- 1. DOD DOWNTOWN OVERLAY DISTRICT
- 2. EOD ENERGY OVERLAY DISTRICT
- 3. HOD HISTORICAL OVERLAY DISTRICT

**SECTION 302. OFFICIAL ZONING MAP.**

- a. The list of zoning and overlay districts are classified in Section 301 of this ordinance and their boundaries are delineated on the “Hazleton City Zoning Map of 2020”, which is the official zoning map of the City, replacing and repealing the prior zoning map.
- b. The official zoning map is incorporated herein by reference.
- c. The official zoning map shall be located in the zoning office, and shall be the authority on the current zoning status of all land within the City.
- d. If changes are made to zoning boundaries or other matters portrayed on the official zoning map, such changes shall be made in accordance with the provisions of this ordinance and the Pa MPC for amending the zoning map. The changes shall be noted on the Official zoning map promptly after the amendment has been approved by the governing body. No changes of any nature shall be made to the official zoning map, except in conformity with the applicable procedures established in this ordinance. All changes shall be noted by the date of the map amendment along with a brief description of the nature of the change. Once an amendment is approved, the zoning map must be changed to reflect the amendment.

**SECTION 303. PURPOSES OF ZONING DISTRICTS.**

- a. R-1 low density single-family residential zoning district. The purpose of this Zone is to provide predominantly single-family dwelling units in areas already

developed in this manner, where this type of housing is desirable and harmonious with the area. This zoning district is serviced by public water and sewer.

- b. R-2 medium density two-family residential zoning district. The purpose of this zone is to accommodate single-family and two-family dwelling units in areas already developed in this manner. Selected locations provide for the accommodation of detached single-family dwelling units and duplex dwellings acknowledging the location of existing land uses with these areas. Required design standards reflect existing development patterns with long and narrow lots and minimal front and side yard setbacks. This zoning district is serviced by public water and sewer.
- c. R-3 high density multi-family residential zoning district. The purpose of this zone is to provide for various types of residential dwelling units, including single-family, two-family and multi-family dwellings. This zone is intended to promote the availability of diverse and affordable housing types through conversions of existing buildings or the development of new buildings intended to accommodate multi-family dwellings. This zoning district also allows for manufactured homes on permanent foundations, manufactured home communities, and apartments. The areas are serviced by public water and public sewer.
- d. CC central commercial zoning district. The purpose of this zone is to principally provide commercial goods and services to local residents and employees in downtown like business areas where the uses primarily rely upon on-street parking. Uses permitted in this zone include those uses that are likely needed by residents or employees of the City on a daily or regular basis. Sale of retail goods and services in this district are the type of businesses usually found in a downtown business setting where the businesses rely on pedestrian traffic and have no or little off-street parking for vehicular traffic. Requirements have been provided to preserve the character of the neighborhood by allowing a mix of residences and businesses while establishing regulations so that they co-exist. This zoning district is serviced by public water and public sewer.
- e. CH commercial highway zoning district. The purpose of this zone is to provide suitable locations for retail and service business establishments intended to serve local residents as well as motorists traveling through the City. Specific setbacks and design standards are imposed to encourage off-street parking and loading zones in such a manner as to prevent traffic hazards and congestion. The uses permitted in the zone vary widely and are meant to be located in areas where no residences are located. Public sewer and water are available to service this zoning district.
- f. OS open space recreation zoning district. The purpose of this zone is to provide for the preservation and protection of natural areas and resources including, but not limited surface waters, environmentally sensitive soils, steep slopes, woodlands and wildlife, while preserving and allowing for recreation and

public recreational playgrounds in open spaces in an effort to protect the scenic beauty of the City. Public water and sewer are available to service this zoning district.

- g. PI public institutional zoning district. The purpose of this zone is to recognize the public, quasi-public, and institutional nature of particular parcels of land within the City and provide standards and guidelines for their continued use and future development of that land. The types of uses allowed in this zone include cemeteries, hospitals, nursing homes, schools, governmental offices and buildings, libraries, water reserves, and outdoor recreation. The requirements of this zoning district are intended to apply to publicly owned property, property owned by quasi-public or public service entities, and property used or planned to be used for certain institutional uses. Public sewer and water are available to service this zoning district.
- h. LI light industrial zoning district. The purpose of this zone is to provide locations for light industries to diversify the region's economy and offer valuable employment opportunities. This zone principally permits light and small-scale industries as permitted uses while requiring special exception approval for certain types of industries that are small, but have the potential for impacting residences given their close proximity to residences within the zone. Required lot sizes have been kept small to accommodate the start-up industries that are likely to emerge. Design standards have been imposed to create attractive site designs and moderate the objectionable impacts associated with light industrial uses. Public sewer and water services this zoning district.
- i. GI general industrial zoning district. The purpose of this zoning district is to provide for heavy industrial uses in locations which are suitable and appropriate, taking into consideration the land uses on adjacent or nearby properties, access to major streets, highways, air or other means of transportation, and the availability of public utilities. Principal uses include light manufacturing, warehousing and distribution of goods; and other uses that will not be detrimental to adjacent commercial or residential properties by reason of, but not limited to, excessive noise, dust, odor, smoke, vibrations, fumes or glare. Certain commercial uses are also allowed within this zone, however, industrial uses are principally preferred. Heavy industrial uses are permitted by special exception because of the nature of their operation, appearance, traffic generation, emission, and compatibility with other zoning districts, although the uses are necessary. This zone also allows for agricultural uses to the extent possible. Public sewer and water services this zoning district.
- j. DOD downtown overlay district. The purpose of this zoning district is to:
  - 1. Preserve and reinforce the historic commercial architecture and urban character of the core downtown business district while allowing innovative and creative infill development, site design and architecture

that continuously evolves over time while promoting a vibrant downtown that supports commercial and cultural activities.

2. Enhance pedestrian safety and orientation of the downtown and encourage walkability.
3. Enhance the City's attractiveness to residents and visitors alike.
4. Promote downtown investment, stimulate business, and attract new business.
5. Communicate the City's vision for the future downtown district.

Landowners within this zone must comply with the provisions of the overlay district, as well as the provisions of the underlying zoning district.

- k. EOD energy overlay district. The purpose of this zoning district is to allow for uses that generate clean energy through renewable sources such as wind and solar in areas of the City most suitable for these types of uses. Wind and solar energy are an abundant, renewable, and nonpolluting energy resource that when harnessed to create electricity will reduce dependency on nonrenewable energy resources while decreasing pollution that results from the use of conventional energy sources. This district is located in areas of the City capable of producing such energy while posing minimal impacts upon residences and noncompatible nonresidential uses. Landowners intending to develop property within this zone for energy related uses must comply with the provisions of the overlay district, as well as the provisions of the underlying zoning district.
- l. HOD historical overlay district. The purpose of this zoning district is to protect historic resources, including, but not limited to, identifying and preserving through regulations historic structures, buildings, objects, and sites. Landowners of structures in this zone must comply with the provisions of the overlay district, as well as the provisions of the underlying zoning district.

#### **SECTION 304. INTERPRETATION OF ZONING DISTRICT BOUNDARY LINES.**

The boundary lines for the zoning districts are as shown on the official zoning map. If uncertainty exists as to the boundary of any zoning district shown on the official zoning map, the location of the boundary shall be determined based on following guidelines:

- a. Zoning district boundary lines are intended to follow or parallel the center line or right-of-way lines of streets, streams, creeks, City boundary lines, and lot lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deed's Office at the time of adoption of this ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the official zoning map.

- b. Where zoning district boundaries are referenced by a distance or measurement from a specific feature, such distance shall be measured in feet and the district boundaries shall follow the specified setback.
- c. Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines and does not scale more than 10 feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

**SECTION 305. LOTS DIVIDED BY ZONING DISTRICT BOUNDARIES.** When a lot is contained within more than one zoning district, any use is required to comply with all applicable design standards upon that portion of the lot within the zoning district in which the use is permitted. However, if a zoning district boundary line divides a lot placing at least 80 percent of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining 20 percent or less of the lot so divided.

**SECTION 306. MANNER OF DETERMINING A ZONING DISTRICT BOUNDARY LOCATION.**

- a. When the zoning officer is unable to determine the location of a zoning district, a person must appeal to the zoning hearing board for a decision on the location of the zoning district.
- b. If the zoning officer determines the location of a zoning district applying the guidelines under Section 304, any aggrieved person may file an appeal with the zoning hearing board for a decision on whether the zoning officer’s determination of the location of a zoning district is correct. In doing so, the zoning hearing shall either affirm the determination of the zoning officer, or reverse the determination of the zoning officer and decide the proper location of the zoning district at issue.

**CHAPTER 4  
GENERAL REGULATIONS**

**SECTION 401. ATTACHED ACCESSORY BUILDINGS.** An accessory building attached to a principal building shall be considered part of the principal building and shall comply with the dimensional requirements including setbacks, lot coverage, and height as applicable to the principal building for the zoning district in which the lot is located.

**SECTION 402. UNATTACHED ACCESSORY BUILDINGS.** Unattached accessory roofed buildings intended for shelter, housing, or enclosure of persons, animals, or property shall only be permitted in a side or rear yard of a lot subject to the following requirements:

Type of Accessory Building	Minimum Side Yard Setback	Minimum Rear Yard Setback	Minimum Front Yard	Maximum Height	Maximum Number Per Lot	Maximum Floor Area
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			<b>Setback</b>			
Residential	10 feet	10 feet	20 feet	15 feet	2	1600 sq. ft.
Non-residential	10 feet	15 feet	25 feet	24 feet	2	2400 sq. ft.

**SECTION 403. ATTACHED ACCESSORY STRUCTURES.** Accessory structures attached to existing structures shall be considered part of those existing structures and shall comply with the requirements of this ordinance governing the type of existing structure for the zoning district in which it is located.

**SECTION 404. UNATTACHED ACCESSORY STRUCTURES.** An accessory structure shall not be permitted on a lot without a principal structure.

**SECTION 405. RESIDENTIAL ACCESSORY USES IN NON-RESIDENTIAL ZONING DISTRICTS.** In cases where a residential dwelling unit is a nonconforming use located in a commercial or industrial zoning district, the construction of an accessory residential structure or building shall be a permitted use provided that it complies with the applicable requirements of this ordinance for accessory buildings and structures.

**SECTION 406. THE SUBDIVISION OF TWO-FAMILY OR MULTI-FAMILY DWELLING UNITS.**

- a. When a landowner proposes to subdivide a two-family or multi-family dwelling unit so that each unit is on its own lot, the internal side yard lot lines between the units may be zero without having to obtain a variance from the zoning hearing board. However, the landowner must meet all of the other dimensional requirements for the zoning district in which the property is located.
- b. A subdivision under this section shall require the landowner to file with the zoning officer:
  - 1. An affidavit that there are no encroaching walls on any of the floors of the units.
  - 2. A recorded party wall agreement that binds the landowner and all future owners and contains a provision that binds the landowners on each side of the wall allowing for necessary repairs, maintenance, and replacement, including excavating below the foundation level of the wall when required.

**SECTION 407. FENCES AND WALLS.** A fence or wall shall be permitted in any yard subject to the following requirements:

- a. Location. The posts or structural supports of a fence or wall shall at a minimum be located within the interior yard line to be enclosed so that the edge of the fence

or wall is situated within or on the property line where it is being constructed. Walls and fences shall not be subject to any setback requirements.

- b. Height-residential. Residential fences or walls shall have a maximum height of three feet in a front yard and six feet in the sides and rear yards.
- c. Height-non-residential. Non-residential fences or walls shall have a maximum height of four feet in a front yard and eight feet in the sides and rear yards.
- d. Materials. Fences shall be constructed with industry recognized materials designed to provide a permanent enclosure. Fences and walls shall be constructed of durable materials suited for its purpose and the use of discarded materials, vehicles, and appliances is prohibited. No wall or fence shall be constructed of corrugated metal, corrugated fiberglass, or sheet metal. No barbed wire, electric, or other potentially injurious or hazardous material shall be used as fencing or attached to any wall or fence, except for an invisible pet fence. An open type of fence (such as picket or split rail) may not be erected when required by this Ordinance to provide enclosure.
- e. Retaining walls. Retaining walls must be designed by a professional engineer registered in the Commonwealth of Pennsylvania and must contain adequate provisions for drainage. Any retaining wall must exceed three feet in height as set forth in the UCC. Any retaining wall exceeding six feet in height shall provide a continuous four foot high protective fence within one foot of the retaining wall edge and must comply with all requirements of the Uniform Construction Code. The use of retaining walls higher than six feet shall be permitted up to a maximum of 12 feet in height provided that:
  - 1. The proposed height of the retaining wall is necessary to facilitate an efficient use of the lot and to protect an important or sensitive natural or cultural feature on the lot.
  - 2. The applicant has submitted a written expert report from a professional engineer registered to practice within the Commonwealth of Pennsylvania. The expert report must conclude that the proposed retaining wall is designed and will be constructed to assure structural integrity and will in no way adversely affect any drainage pattern or underground utility lines nor interfere with any public rights-of-way.
  - 3. The applicant has provided sufficient separation and physical barriers between the proposed retaining wall and any pedestrian and vehicle movement areas to ensure adequate vehicle and pedestrian safety.
  - 4. That the base of the retaining wall is setback a horizontal distance at least equal to its height from each lot line.



5. The property owner or permittee must agree to reasonably maintain the retaining wall.

**SECTION 408. STRUCTURES ALLOWED IN YARD AREAS.**

- a. The following structures are permitted in required yards provided that they are located within the lot lines:
  1. Light posts.
  2. Fences or walls.
  3. Open fire escapes.
  4. Retaining walls.
- b. The following structures are permitted in yards and right of ways:
  1. Sidewalks and walkways.
  2. Landscaping, trees, shrubs, and hedges.
  3. Mailboxes.
- c. The following structures are permitted in required yards provided that they are no less than two feet from all lot lines:
  1. Projecting architectural features such as bay windows, cornices, eaves, chimneys, flues, gutters, window sills, or other similar architectural features.
  2. Outdoor furniture or playground equipment.
  3. Patios that are not attached to principal buildings and do not have roofs, walls, or other enclosures.
  4. Terraces, stairways, landings, balconies, canopies, handicap ramps, and stormwater inlets, or outlets.
  5. Porches, patios, decks, loading docks and attached carports, whether enclosed or unenclosed, when attached to a principal building shall be considered part of the principal building and shall not project into any yard.

6. A roofed patio not attached to a principal building that has walls or is enclosed shall be considered an accessory structure and shall meet the minimum setback requirements for an unattached accessory building under Section 402.
7. Sheds located in the side or rear yard shall have five (5) foot side and rear yard setbacks. Attached sheds shall have the same setbacks as required for principal structures. Sheds shall be prohibited in any front yard and may not exceed a gross floor area of 100 square feet.

#### **SECTION 409. EXCEPTIONS TO MINIMUM YARD SETBACKS.**

- a. Front yards for principal buildings. When an unimproved lot is situated between two improved lots with front yard dimensions less than those required for the zoning district in which the lot is located, the front yard required may be reduced to a depth equal to the average of the principal buildings on the two adjoining lots.
- b. Front, side and rear yards for additions to principal residential structures. Where an addition is proposed for an existing principal residential building which extends into the required front yard, side yard or rear yard, the addition may extend into the required front yard, side yard, or rear yard no further than the existing building provided that it:
  1. Does not obstruct the clear sight triangle of an intersection.
  2. Is not more than 1,000 square feet in total floor area.
  3. Is no closer than 10 feet to a property line or adjoining street right-of-way line.
- c. Side yard setbacks when subdividing a building. Any building or lot proposed to be subdivided, containing or intended to contain two or more units, residential or nonresidential, shall be exempted from side yard setback requirements under this Ordinance relative only to the interior side yards. When a side yard of a proposed subdivision is directly attached to another unit within the building, subdivision approval shall exempt the property from the necessity of obtaining a side yard variance from the zoning hearing board for the creation of a zero side yard setback.

#### **SECTION 410. EXCEPTIONS TO HEIGHT LIMITATIONS.**

- a. The maximum height requirements of this ordinance shall not apply to the following structures:
  1. Chimneys, flagpoles and other similar structures.

2. Structures located on buildings above the roof level such as smoke stacks, dormers, monuments, satellite dishes, electrical transmission lines and structures, solar energy collectors, steeples, water tanks, cupolas, skylights, ventilating fans, and other accessory mechanical appurtenances provided that such structures do not cover more than 50 percent of the roof on which they are located.
3. Parapet walls or cornices used solely for ornamental purposes if not in excess of five feet above the roofline.
4. Ornamental, equipment and other necessary mechanical equipment normally associated with a church or school.
5. Agricultural or industrial structures, such as barns, silos, grain elevators, water storage or cooling tanks, discharge stacks, cold storage, or similar types of structures provided that they are only constructed to the maximum height necessary to accomplish their intended purpose. In the case of industrial structures, the structure must be setback distances equal to the height of the structure from all property lines.
6. In no case shall any freestanding or roof-top structure above the maximum permitted height be intended or human occupancy or used for the purpose of providing additional floor space for any use.

**SECTION 411. MINIMUM HABITABLE FLOOR AREA FOR RESIDENTIAL DWELLINGS.** A dwelling unit must comply with the following minimum habitable floor area:

Type of Dwelling Unit	Maximum Size Per Dwelling Unit
Single-family and Two-family Dwelling Unit	900 square feet
Multi-family Dwelling Unit	750 square feet

**SECTION 412. NUMBER OF PRINCIPAL BUILDINGS AND USES ON A LOT.**

- a. Except as permitted in Section 412(b) and (c) below, there shall be no more than one principal building and its permitted accessory structures located on each lot in any zoning district.
- b. For multiple family dwellings, commercial and industrial developments, land and buildings may be considered a principal use collectively by special exception approval of the zoning hearing board and if the development meets the following conditions:
  1. The land and buildings are planned and designed as a single integral development consisting of shared parking, access drives, signs and similar features.

2. All uses, if not the same, are similar in function and operation.
  3. Each building will have compatible architectural features.
  4. Each building shall meet the dimensional requirements of the zoning district upon which it is to be located.
- c. The use of a separate residential dwelling unit within or attached to a single-family dwelling unit shall not be considered a two-family dwelling unit, but shall be a permitted accessory use provided that:
1. No more than two persons are occupying the separate accessory residential dwelling unit who are family members related to the persons occupying the principal residential dwelling unit.
  2. At least one additional off-street parking space is available exclusively for the separate accessory residential dwelling unit.

**SECTION 413. CORNER LOT RESTRICTION.** On a corner lot there shall be provided on each side adjacent to a street a yard setback equal in depth to the required front yard setback of the zoning district in which the lot is located.

**SECTION 414. CLEAR VISION REQUIREMENTS.**

- a. On any corner lot, no structure or planting shall obstruct the visibility between the heights of three feet and 10 feet above the street grade level in an area measuring 30 feet from the point of intersection of the road right-of-way lines and the tangent connecting the 30 foot extremities of the intersecting right-of-way lines.
- b. On any interior lot, no structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of three feet and 10 feet, measured a distance of 20 feet back from the point where the driveway intersects the street.

**CHAPTER 5  
ZONING DISTRICT REGULATIONS**

**SECTION 501. ZONING DISTRICT USES AND DIMENSIONAL REGULATIONS.** Each building, structure, and use shall be governed by the use and dimensional regulations listed in the Use and Dimensional Tables in this Chapter.

**SECTION 502. TYPES OF USES.**

- a. Permitted uses. The letter “P” designated in the Use Table indicates a permitted use in that district, which use is permitted by right not requiring zoning hearing

board approval, but only the issuance of a zoning permit by the zoning officer provided all of the other provisions of the ordinance are met.

- b. Special exception uses. The letters “S” designated in the Use Table indicates a special exception use in that district, which use requires zoning hearing board approval. The zoning hearing board will either approve or deny a special exception use in accordance with the provisions of this ordinance. The zoning officer has no discretion to approve any permit where the use is classified as requiring special exception approval. The zoning officer must deny a zoning permit when the use requires special exception approval.
- c. Conditional uses. The letters “C” designated in the Use Table indicates a conditional use in that district, which use requires governing body approval. The Governing body will either approve or deny a conditional use in accordance with the provisions of this ordinance. The zoning officer has no discretion to approve any permit where the use is classified as requiring conditional use approval. The zoning officer must deny a zoning permit when the use requires conditional use approval.
- d. Symbol key for each type of use. The following symbols are used in the Use Table under Section 503 to indicate whether a use is permitted (by right, special exception, or conditional use) in a particular zoning district:
  - 1. P Permitted use.
  - 2. S Special exception use.
  - 3. C Conditional use.
  - 4. N Not permitted.

**SECTION 503. ZONING DISTRICT USE REGULATIONS.** The following table classifies all of the uses within the zoning districts listed below:

<b>Residential Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Single-Family Dwelling Unit	P	P	P	P	N	N	N	N	N	
Two-Family Dwelling Unit	N	P	P	P	N	N	N	N	N	
Multi-Family Dwelling Unit	P	P	P	S	N	N	N	N	N	§610(f)
Conversion to Multi-Family	N	N	S	N	N	N	N	N	N	§610(a)

Dwelling Above Business	N	N	N	P	P	N	N	N	N	
Home Occupation	P	P	P	N	N	N	N	N	N	§610(b)
No Impact Home Based Business	P	P	P	N	N	N	N	N	N	§610(c)
Manufactured Home	N	N	P	N	N	N	N	N	N	§610(d)
Manufactured Home Community	N	N	S	N	S	N	N	N	N	§610(e)
Short Term Home Rental	N	S	P	P	N	N	N	N	N	§610(i)
Short Term Transient Home Rental	N	N	S	P	P	N	N	N	N	§610(i)
Student Housing	N	N	S	N	N	N	N	N	N	§610(j)
<b>Accessory Residential Uses</b> (see also Chapter 4)	P	P	P	P	P	P	P	P	P	§603(f) Pets, §610(l) Tree Houses, and §610(m) Garage Sales.
Private Garage	P	P	P	P	N	N	N	N	N	
Satellite Dishes	P	P	P	P	P	P	P	P	P	§610(g)
Storage and Parking	P	P	P	P	N	N	N	N	N	§610(h)(1)-(4)
Pools and Ponds	P	P	P	P	N	N	N	N	N	§610(k)
<b>Commercial Residential Related Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Assisted Living Residence	N	N	S	N	S	N	P	N	N	§604(d)(1)
Bed and Breakfast	N	N	S	S	P	N	N	N	N	§604(d)(2)
Boarding or Rooming House	N	N	S	N	N	N	N	N	N	§604(d)(3)
<b>Commercial Residential Related Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Community Center	N	S	S	N	P	N	N	N	N	
Group Home	N	N	P	N	N	N	N	N	N	§604(d)(5)
Family Child Care Home	N	S	P	N	N	N	N	N	N	
Group Child Care Home	N	N	S	N	N	N	N	N	N	
Half-Way House	N	N	S	N	N	N	N	N	N	

<b>Commercial Residential Related Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Nursing Home	N	N	S	N	P	N	P	N	N	
Personal Care Home	N	N	P	N	P	N	P	N	N	§604(d)(1)
Playground/Park	P	P	P	P	P	P	P	P	P	

<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Adult Care Center	N	N	N	P	P	N	P	N	N	
Adult Use (Subject to Public Nudity Prohibitions of Ordinance 2015-4)	N	N	N	N	N	N	N	S	S	§604(a)
After Hours Club (Prohibited By Act 219 of 1990)	N	N	N	N	N	N	N	N	N	
Airport or Heliport	N	N	N	N	N	N	S	N	N	§604(b)
Auditorium, Arena, Performing Arts Center or Exhibition and Trade Show	N	N	N	N	N	N	P	P	P	
Automobile, Boat, Equipment, Home, and Recreational Vehicle Sales	N	N	N	N	S	N	N	S	P	§604(c)(2)
Automobile Detailing Shop	N	N	N	N	P	N	N	N	N	
Automobile Sales and Supplies	N	N	N	N	P	N	N	N	N	
Automobile Storage Compound	N	N	N	N	N	N	N	S	P	
Automobile Service Station	N	N	N	P	P	N	N	N	N	
Automobile Repair Garage	N	N	N	N	P	N	N	P	P	§604(c)(1)
Bank or Financial Institution	N	N	N	P	P	N	N	N	N	
Banquet Hall	N	N	N	P	P	N	N	P	P	

Bar	N	N	N	S	P	N	N	N	N	
Betting Use	N	N	N	S	P	N	N	N	N	
Bus or Transportation Terminal	N	N	N	P	P	N	P	N	N	
BYOB Club or Night Club	N	N	N	N	S	N	N	N	N	§604(g)
Car Wash	N	N	N	N	S	N	N	P	P	§604(c)(3)
Catering for Off- Site Consumption	N	N	N	P	P	N	N	N	N	
Child Care Center or Day Care	N	N	N	P	P	N	N	N	N	604(d)(4)
<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Check Cashing Business	N	N	N	N	P	N	N	N	N	
Construction Company or Tradesperson's Principal Office	N	N	N	N	P	N	N	P	P	
Contractor Storage Yard	N	N	N	N	S	N	N	P	P	
Convenience Store	N	N	N	P	P	N	N	N	N	
Convenience Store (with gas)	N	N	N	N	P	N	N	N	N	
Drive-In/Thru Use	N	N	N	N	S	N	N	N	N	
Family Child Care Home	N	S	P	N	N	N	N	N	N	
Fitness Club or Health Spa	N	N	N	P	P	N	N	N	N	
Flea Market, Auction House, Fairground, or Outdoor Theatre	N	N	N	N	S	N	N	N	P	
Funeral Home	N	N	N	S	P	N	N	N	N	
Garden Center	N	N	N	S	P	N	N	N	P	
Grocery Store	N	N	N	S	P	N	N	N	N	
Group Child Care Home	N	N	S	N	N	N	N	N	N	
Hookah Lounge	N	N	N	N	S	N	N	N	N	
Hotel or Motel	N	N	N	N	S	N	N	N	N	§604(d)(6)
Laundromat	N	N	N	N	P	N	N	N	N	
Lumber Yard	N	N	N	N	S	N	N	N	P	



Massage Services with Licensed Health Care Professional	N	N	N	P	P	N	N	N	N	
Massage Services without Health Care Professional	N	N	N	N	S	N	N	N	N	
Medical marijuana Dispensary	N	N	N	S	P	N	N	N	N	
Medical Facility	N	N	N	P	P	N	N	N	N	
Membership Club or Social Hall	N	N	N	P	P	N	N	N	N	
Pawn Shop	N	N	N	N	P	N	N	N	N	
Personal Service Establishments	N	N	N	P	P	N	N	N	N	
Professional or General Office	N	N	N	P	P	N	N	N	N	
Radio or Television Studio	N	N	N	P	P	N	N	N	N	
Restaurant Take-Out	N	N	N	P	P	N	N	N	N	
<b>Commercial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Restaurant with Drive Thru Facilities	N	N	N	N	P	N	N	N	N	
Restaurant without Drive-In or Drive Thru Facilities	N	N	N	P	P	N	N	N	N	
Retail Sales Establishments	N	N	N	P	P	N	N	P	P	
Second Hand Store	N	N	N	N	P	N	N	N	N	
Self-Storage Facility	N	N	N	N	S	N	N	P	P	§604(i)
Service Office	N	N	N	P	P	N	N	P	P	
Shopping Center	N	N	N	N	S	N	N	N	N	
Smoke Shop (Sales Only No Smoke Room)	N	N	N	P	P	N	N	N	N	
Smoke Shop (Sales with Smoke Room)	N	N	N	S	S	N	N	N	N	

Tattoo Parlor/Body-Piercing Studio	N	N	N	N	S	N	N	N	N	
Tavern or Brewery Pub and Micro- Brewery	N	N	N	S	P	N	N	N	N	
Theatre (Indoor Movie or Live-No Adult Use)	N	N	N	P	P	N	N	N	N	
Theatre (Outdoor-No Adult Use)	N	N	N	N	N	N	S	N	S	
Treatment Center, Out-Patient	N	N	N	N	S	N	N	N	S	§604(f)(5)
Treatment Facility	N	N	N	N	N	N	N	N	S	§604(f)(5)
Trucking Sales and Services	N	N	N	N	S	N	N	P	P	
<b>Accessory Commercial Uses</b>	N	N	N	P	P	N	N	N	N	
Containers for Personal Property and Donated Items	N	N	N	N	P	N	P	P	P	
Dumpsters	N	N	P	P	P	P	P	P	P	§611(b)
<b>Energy Accessory Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
ASES	S	S	S	S	S	S	S	S	S	§605(a)
AWEF	S	S	S	S	S	S	S	S	S	§605(b)
Outdoor Wood Fired Burner	S	S	S	N	N	N	N	N	N	§605(c)
<b>Institutional Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Auditorium	N	N	N	N	N	N	P	N	N	
Emergency Services	P	P	P	P	P	P	P	P	P	
Health Care Campus	N	N	N	N	S	N	P	N	N	
Hospital	N	N	N	N	S	N	P	N	N	
<b>Institutional Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Institutional Group Home	N	N	N	N	N	N	S	N	N	
Prison or Correctional Facility	N	N	N	N	N	N	S	N	S	

Public Governmental Use	N	N	N	N	N	N	P	N	N	
School	N	N	N	N	S	N	P	N	N	§607(c)
School with Dormitory	N	N	N	N	N	N	S	N	N	§607(c)
Stadium	N	N	N	N	N	P	P	N	N	
Wellness and Fitness Center	N	N	N	N	S	N	P	N	N	
<b>Recreational Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Playground/Park	P	P	P	P	P	P	P	P	P	
Recreational Facility (Outdoor)	N	N	N	N	N	P	P	N	N	§608(a)
Recreational Facility (Indoor)	N	N	N	S	P	P	P	N	N	
<b>Religious Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Cemetery, Mortuary and Mausoleum	N	N	N	N	N	N	P	N	N	§609(a)
Funeral Home	N	N	N	S	P	N	N	N	N	§609(b)
Place of Worship or Church	S	S	S	N	N	N	P	N	N	§609(c)

<b>Industrial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Asphalt, Batch and Concrete Plant	N	N	N	N	N	N	N	S	P	
Bulk Fuel Storage	N	N	N	N	N	N	N	S	P	§606(a)
Bulk Recycling Center	N	N	N	N	N	N	N	S	P	
Crematorium	N	N	N	N	N	N	N	S	P	
Shredding, Industrial	N	N	N	N	N	N	N	S	S	
Heavy Industrial	N	N	N	N	N	N	N	S	P	§606(b)
Industrial Hemp Production	N	N	N	N	N	N	N	S	P	
Junk or Salvage Yard	N	N	N	N	N	N	N	S	P	§606(d)
Light Industrial	N	N	N	N	N	N	N	P	P	§606(b)
Machine Shop	N	N	N	N	N	N	N	P	P	§606(e)
Medical marijuana Delivery Office	N	N	N	N	S	N	N	P	P	
Mineral Extraction	N	N	N	N	N	N	N	S	S	§606(f)
Outdoor Storage	N	N	N	S	N	N	N	S	S	§606(g)
Packaging Plant	N	N	N	N	N	N	N	P	P	

Recycling Collection Center	N	N	N	N	N	N	S	P	P	§606(h)
Shredding, Industrial	N	N	N	N	N	N	N	N	P	
Slaughterhouse	N	N	N	N	N	N	N	N	P	
Solid Waste Facility	N	N	N	N	N	N	N	N	S	§606(i)
<b>Industrial Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Truck Service Center, Repair and Storage	N	N	N	N	N	N	N	S	P	
Trucking Terminal	N	N	N	N	N	N	N	S	P	§606(j)
Warehouse and Distribution	N	N	N	N	S	N	N	P	P	§606(k)
Wholesale Establishment	N	N	N	N	N	N	N	P	P	
Accessory Industrial Uses	N	N	N	N	N	N	N	P	P	§606(g) Outdoor Storage

<b>Agricultural Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Agribusiness	N	N	N	N	N	N	N	N	S	§602(b)
Agricultural Equipment Sales and Rentals	N	N	N	N	P	N	N	P	P	
Agricultural Operation	N	N	N	N	N	N	N	N	S	§602(a)
Agricultural Product Marketing and Sales	N	N	N	N	N	N	N	N	P	
Agricultural Related Business	N	N	N	N	N	P	N	N	S	
Agricultural Support Occupation	N	N	N	N	N	P	N	N	S	
Agritourism	N	N	N	N	N	N	N	N	P	
Forestry or Timber Harvesting	P	P	P	P	P	P	P	P	P	§602(c)
Greenhouse and Nursery	N	N	N	N	S	N	N	N	P	
Growing or Processing of Hemp	N	N	N	N	N	N	N	N	S	§602(d)
Keeping of Agricultural Animals and Livestock	N	N	N	N	N	N	N	N	S	§603(e)
Keeping of Bees	N	N	N	N	N	N	N	N	P	§603(c)
Keeping of Chickens	N	N	N	N	N	N	N	N	P	§603(d)
Medical marijuana Grower and Processor	N	N	N	N	N	N	N	S	P	§602(e)

Sawmill	N	N	N	N	N	N	N	S	P	§602(f)
Tree Farm	N	N	N	N	N	N	N	P	P	
Water Withdrawal	N	N	N	N	N	N	N	S	S	§602(g)
Winery	N	N	N	N	N	N	N	P	P	
Accessory Agricultural Uses (see also Animal Related Uses)										
<b>Animal Related Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Animal Day Care	N	N	N	N	P	N	N	N	P	
Animal Hospital or Veterinary Clinic	N	N	N	N	S	N	N	P	P	§603(a)
Animal Kennel or Horse Stable	N	N	N	N	S	N	N	N	P	§603(b)
<b>Animal Related Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Nature Preserve	N	N	N	N	N	N	N	N	S	
<b>Utilities</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>CC</b>	<b>CH</b>	<b>OS</b>	<b>PI</b>	<b>LI</b>	<b>GI</b>	<b>Supplemental Regulations</b>
Communication Facility, Small Wireless or Small Cell Installation	N	N	N	N	S	N	N	S	S	§612(c)
Communication Tower on Building or Structure	N	N	N	N	S	N	S	P	P	§612(a)
Communication Tower Stand Alone	N	N	N	N	N	N	P	S	P	§612(b)
Essential Public Utility Services	P	P	P	P	P	P	P	P	P	§612(d)
Sewage Treatment Plant	N	N	N	N	N	N	N	P	P	

**SECTION 505. ZONING OVERLAY DISTRICT USE REGULATIONS.** The following table classifies all of the uses within the zoning overlay districts listed below:

<b>Uses or Activities</b>	<b>DOD</b>	<b>EOD</b>	<b>HOD</b>	<b>DISTRICT REGULATIONS</b>
Alteration or Repair	C	N	C	§505 DOD and §507 HOD
Demolition	C	N	C	§505 DOD and §507 HOD
New Construction	C	N	C	§505 DOD and §507 HOD
Moving or Relocation	C	N	C	§505 DOD and §507 HOD
PSES	N	C	N	§506(a)
PWEF	N	C	N	§506(b)

Oil and Gas Compressor Stations	N	C	N	§506(c)
Oil and Gas Operations	N	C	N	§506(d)
Natural gas processing plant or electricity generating plant	N	C	N	§506(e)

**SECTION 504. ZONING DISTRICT DIMENSIONAL REGULATIONS.** The following table governs the minimum dimensional requirements for each building, structure and use:

Zoning District	Minimum Lot Size*	Minimum Lot Depth	Minimum Lot Width	Minimum Front Yard	Minimum Rear Yard	Each Minimum Side Yard	Maximum Building Height	Maximum Building Coverage
<b>R-1</b>	10,000 sq. ft.	150 ft.	100 ft.	30 ft.	30 ft.	10 ft.	35 ft.	35percent
<b>R-2</b>	6,400 sq. ft.	100 ft.	75 ft.	20 ft.	25 ft.	10 ft.	35 ft.	40percent
<b>R-3</b>	6,400 sq. ft.	50 ft.	65 ft.	15 ft.	20 ft.	10 ft.	35 ft.	40percent
<b>CC</b>	4,500 sq. ft.	75 ft.	20 ft.	10 ft.	10 ft.	5 ft.	45 ft.	75percent
<b>CH</b>	20,000 sq. ft.	200 ft.	80 ft.	30 ft.	30 ft.	10 ft.	35 ft.	50percent
<b>OS</b>	43,560 sq. ft.	200 ft.	150 ft.	40 ft.	40 ft.	20 ft.	35 ft.	5percent
<b>PI</b>	43,560 sq. ft.	200 ft.	150 ft.	50 ft.	50 ft.	50 ft.	35 ft.	30percent
<b>LI</b>	43,560 sq. ft.	200 ft.	100 ft.	30 ft.	30 ft.	30 ft.	40 ft.	75percent
<b>GI</b>	No minimum tract size	200 ft.	200 ft.	50 ft.	40 ft.	50 ft.	45 ft.	75percent

\*Minimum lot size when the lot is serviced by public water and on lot sewage disposal is 43,560 sq. ft.

\*Minimum lot size when the lot is serviced by on lot well water and on lot sewage disposal is 87,120 sq. ft.

**SECTION 505. DOWNTOWN OVERLAY DISTRICT.**

- a. Development standards. Except as otherwise provided, buildings and improvements within the Downtown Overlay District shall comply with the SALDO.
- b. Powers and duties of the City Planning Commission.
  1. The City Planning Commission shall meet as required to carry out the review of applications for Certificates of Appropriateness (COA) and such other related work as may be accepted through request of City Council. The City Planning Commission shall review all plans for new construction and the alteration, repair, or moving of existing structures located within the Downtown Overlay District. Only City Council is empowered to issue a COA after conditional use approval.
  2. A meeting shall be held at least once each month when there are applications to be considered and not less than once a year. Special meetings may be held at the call of the chairperson of the City Planning Commission.
  3. The City Planning Commission may review formal site plan applications submitted in the Downtown Overlay District in an advisory capacity to City Council.
  4. The City Planning Commission may review informal site plan applications submitted in the Downtown Overlay District in an advisory capacity to the zoning officer.
  5. The City Planning Commission shall advise the Mayor and City Council on matters related to downtown development, and the Downtown Overlay District regulations.
  6. The City Planning Commission will conduct and/or encourage members to attend educational sessions, visit other downtowns with successful downtown revitalization programs, or seek in-depth consultation on matters of historic preservation and/or downtown development guidelines. Such training should pertain to the work and functions of the City Planning Commission.
  7. The City Planning Commission may recommend to City Council the establishment of additional policies, application requirements, rules, and regulations as it deems necessary to administer its duties.
- c. Applications.
  1. Commencing the date of the adoption of this ordinance, the Overlay District standards will apply to the following:

- A. All new construction of buildings or structures.
  - B. All exterior building improvements requiring a building permit.
  - C. All sign changes for which a conditional use permit is not required but which requires a building permit (Overlay District standards are applicable only to the changed element or improvement).
  - D. Renovations for which a conditional use permit is required under the provisions of the Pennsylvania Uniform Construction Code (UCC), as in effect at the time of the renovation (all applicable standards apply).
  - E. All new or reconstructed parking areas with five or more spaces.
- d. Pre-existing nonconformity. Any building, structure, parking area, or sign that lawfully exists at the time this ordinance is enacted, which would not otherwise be permitted under this ordinance, may be continued in the same manner as it existed before the effective date of the ordinance. Any future construction, additions, reconstruction, renovation, or sign erection shall be subject to the requirements of this Section of the ordinance.
  - e. Compliance. At the time of application for any building permit, the applicant shall demonstrate the proposed building, structure, improvement, renovation, or sign complies with the requirements of this ordinance. No building permit shall be issued until the requirements of this Section of the ordinance have been met. It is the applicant's responsibility to provide the necessary information so that City Council could decide whether an application is in compliance with this Section of this ordinance.
  - f. Conflict. Where the provisions of the Downtown Overlay District conflict with other requirements of this ordinance, the requirements of this Section of this ordinance shall be reviewed and acted upon by City Council.
  - g. New construction.
    - 1. New infill development shall be designed to be compatible with the historic architecture of the downtown in its massing and external treatment.
    - 2. New infill development shall attempt to maintain the horizontal rhythm of primary street facades by using a similar alignment of windows, floor spacing, cornices, awnings, and other architectural elements.
  - h. Rehabilitation of historic buildings.



1. The following buildings within the Overlay District have been listed or considered eligible for listing on the National Register of Historic Places by the Pennsylvania Historical and Museum Commission (PHMC), and can be considered historic buildings:
  - A. Hazleton Industrial Supply (formerly Wagner Brothers Hardware), ca. 1915, 1928; 354 West Broad Street, eligible.
  - B. American Legion Post #76, ca. 1928; 328 West Broad Street, eligible.
  - C. First Presbyterian Church, ca. 1869; 201 West Broad Street, eligible.
  - D. The Altamont, ca. 1924; corner of Broad and Church Streets, eligible.
  - E. Hazleton National Bank Building, ca. 1924; 101 West Broad Street, eligible.
  - F. American Bank & Trust Company, ca. 1924; 2-8 East Broad Street, eligible.
  - G. Former U.S. Post Office, 145 East Broad Street (now Lackawanna Community College), ca. 1908, 1933, eligible.
  - H. The Markle Bank & Trust Building, ca. 1910, 1923; 8 West Broad Street, listed.
  - I. Hazleton City Hall, 40 North Church Street, eligible.
  - J. Pioneer Fire Company, 55 North Wyoming Street, eligible.
2. Distinctive stylistic features or examples of skilled craftsmanship that characterize these historic buildings shall, whenever possible, be preserved. Removal or alteration of any historic material or distinctive architectural features shall be avoided. Deteriorated architectural features are recommended to be repaired or replaced in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In the event that replacement is necessary, the new material shall match the material being replaced in arrangement, design, color, texture, and other visual qualities.
3. The original finish of masonry facades must be maintained. No unpainted masonry shall be painted, unless the painting shall be approved by City

Council, upon review and recommendation of the City Planning Commission.

i. Area and bulk requirements.

1. Setbacks. No minimum front or side yard setbacks are required within the Overlay District.
2. Build-to Line. The primary facade of each building shall maintain the established build-to line of the block(s) on which it is located. Where there is no established build-to line, the primary facade of each building shall be set back not less than 12 feet from the face of the curb on a primary street, and 8 feet from the face of the curb on a side street. For the purposes of providing a plaza, square, courtyard, recessed entrance, or outdoor dining area, the front facade of a building may be set back up to 15 feet from the front lot line.
3. Height. Minimum two stories; and maximum 45 feet.

j. Building orientation and entrances.

1. In the case of properties located along Broad Street, the front facade of buildings shall be oriented towards Broad Street with the main public pedestrian entrance on this front facade. On corner properties, a secondary entrance along the side street is encouraged but not required. However, facade treatments, such as those listed in clause l of this Section, shall be required for both facades.
2. In the case of properties located along Church, Laurel, or Wyoming Streets within the Overlay District, the front facade of buildings shall be oriented towards these streets.
3. When buildings are located on corners, the entrance may be located on the corner with an appropriate building articulation, such as a chamfered corner, turret, canopy, or other similar architectural feature to distinguish the entry.
4. All primary building entrances shall be accentuated through architectural treatments that enhance pedestrian orientation, such as recessed entrances, protruding entrances, canopies, porticos, overhangs, etc.

k. Windows.

1. It is recommended that at least 40 percent of the length of the ground floor front facade between an elevation of three feet and seven feet above grade shall consist of windows, glass doors, or other transparent building

surfaces providing for an visual connection from the outside to the inside of the building.

2. It is recommended that upper story windows of front facades shall not be boarded or covered, and shall comprise a minimum of 30 percent of the facade above the ground floor.
3. Reflective, black glass and glass tinted more than 40 percent in windows and doors is prohibited on the ground floor facade.

l. Facades.

1. Blank facades shall not be permitted along any exterior wall facing Broad, Church, Laurel, or Wyoming Streets within the Overlay District, where such wall abuts a public sidewalk.
2. Any portion of a building facade along Broad, Church, Laurel, or Wyoming Streets within the Overlay District that exceeds 25 feet in length shall incorporate windows or architectural design elements to break up the expanse of wall and add visual diversity for pedestrian interest at ground level. Example elements include, but are not limited to windows, doors, lighting, material changes, articulated or sculptured wall surfaces or shadow lines, vertical accents, texture changes or color changes, commissioned murals by professional artists, or other architectural features approved by City Council upon recommendation of the City Planning Commission.

m. Building materials and colors.

1. The following materials are not allowed on the building's facade or sides adjacent to public right of ways:
  - A. Painted concrete block;
  - B. Aluminum, vinyl, or fiberglass siding; and
  - C. Asphalt shingles.
2. Exterior building colors are recommended to be compatible with the colors on adjacent buildings, subject to review by the City Planning Commission and approval by City Council.
3. Recommended color palettes for signs, facades, and awnings maintained by the City Planning Commission shall be reviewed by each applicant prior to beginning work.

4. Proposed colors shall be specified for any building exterior treatment prior to the painting of any structure, windows, awnings, or other facade feature.

n. Franchise architecture.

1. To maintain and reinforce a unique urban character, buildings within the Overlay District will not be constructed or renovated using franchise architecture.
2. Franchise architecture is defined as building design that is trademarked or identified with a particular franchise chain or corporation and is generic or standard in nature. Franchises or national chains must follow the standards of this Section to create a building that enhances the urban character to downtown Hazleton.

o. Off-street surface parking.

1. There shall be no minimum off-street parking requirement in the Downtown Overlay District.
2. No parking area or access drive shall be located between the curb of Broad Street and the property's front set back line. In conformance with the City's Comprehensive Plan, no vacant lots will be approved for parking. All fronts of lots will be buildings.
3. Service and loading areas must be located to the side or rear of the building.
4. Vehicular access to surface parking shall be from the alley or side street. Entry/egress along Broad Street is prohibited.
5. Safe provisions for pedestrian access to and through a parking lot shall be provided, to include night lighting, in accordance with clause q of this Section.

p. Parking structures.

1. Parking structures shall meet all other applicable building and site design standards of this ordinance.
2. Non-Public Parking structures that are located along Broad, Church, Laurel, or Wyoming Streets within the Overlay District shall be designed with active commercial or retail uses on the ground floor.

3. Ground floor parking located along intersecting streets shall be screened through any combination of walls, decorative grilles, or trellis work with landscaping.
4. Entrances and exits shall be located and grouped to minimize curb cuts and other interruptions of pedestrian movement on sidewalks.
5. Where possible, entrances and exits shall not open directly onto Broad Street but shall be accessed via intersecting streets and alleys.
6. The exterior facade should maintain a horizontal line along the primary street. The sloping nature of the interior structure, necessary in the design of parking structures, should not be visible along the primary building facade.

q. Lighting.

1. Lighting within the Overlay District should serve to illuminate facade entrances and signage to provide an adequate level of pedestrian safety while enhancing the aesthetic appeal of the buildings.
2. Building and signage lighting must be indirect with the light sources hidden from direct pedestrian and motorist view.
3. All exterior lighting shall be designed to prevent glare onto adjacent properties and shall be designed so that the illumination is a minimum of 0.6 foot candles and a maximum of 1.0 foot candles.
4. The maximum height of lighting fixtures shall be a maximum of 30 feet for parking area illumination and 15 feet for pedestrian walkways.
5. New lighting added to parking areas or along pedestrian walkways shall compliment the early 20<sup>th</sup> century period style of teardrop lighting installed along Broad Street. Luminaries shall be mounted on cast metal fluted poles painted black to match.

r. Streetscape and pedestrian amenities.

1. The streetscape shall be uniform so that it acts to provide continuity throughout the downtown.
2. When a redevelopment project disturbs existing streetscape elements (street lighting, sidewalks, street trees, parking meters, electrical utilities,

etc.), those items must be replaced in-kind with streetscape elements that match the character and design details of existing features.

3. The Hazleton Shade Tree Commission shall be contacted and approve any tree replacement within the Overlay District.
4. Tree pits may be planted with flowers and bulbs and maintained by adjacent or local businesses. Recommended species for tree pit plantings include annuals that are drought tolerant with shallow roots and will not overlay compete with the tree for water and nutrients. The tree pit shall be re-mulched after planting to retain soil moisture.

Recommended Spring Bulbs	Recommended Annuals for Sun (Appropriate for North Side of Broad Street)	Recommended Annuals for Shade (Appropriate for South Side of Broad Street)
Crocus Chinodoxa Daffodil Winter Aconite (Eranthis hyemalis) Snow Drops (Galanthus nivalis) Spanish Bluebells Lily of-the-Valley (Convallaria magilis) Grape Hyacinth (Muscari) Tulips	Sweet Alyssum Marigold Nasturtium Moss Rose Verbena Geranium Salvia Heliotrope Ageratum Blue Marguerite Daisy	Begonia Coleus Pansy Viola Impatiens

s. Screening.

1. Any outdoor refuse area shall be located to the rear of the building, and be entirely screened from views along Broad Street by an opaque fence or enclosure.
2. All mechanical, electrical, communication, and service equipment, including satellite dishes, air conditioning units, large vents and vent pipes, heat pumps and mechanical equipment, and other appurtenances shall be concealed by or integrated within the roof form or screened from view at ground level of nearby streets by parapets, walls, fences, landscaping, or other approved means.

t. Awnings.

1. Awnings are encouraged to provide sun protection for display windows, shelter for pedestrians, visual interest, and an exterior sign panel for businesses.
2. All awnings shall support the development of a unified urban character within the Overlay District.
3. Awnings must be constructed of durable, protective, and water repellent materials, such as canvas or vinyl or architectural materials that are intended to complement the design of the building. Plastic or fiberglass awnings are not allowed.
4. Awnings must project a minimum of 36 inches from the building.
5. Recommended color palettes for awnings that are maintained by the City Planning Commission and approved by City Council should be reviewed prior to beginning work.
6. Awnings may display only the name of the business conducted or products or services sold therein, which may appear on the vertical face only.
7. Awnings existing at the time of passage of this ordinance, which do not conform to the requirements of this Section of the ordinance, shall be considered nonconforming awnings. Nonconforming awnings shall not be rebuilt, enlarged, changed, or altered in size, location, text or appearance. Nonconforming awnings may be replaced only with awnings that conform to provisions of this Section of the ordinance.

u. Signage.

1. Sign dimensions and projections shall be in accordance with sign regulations of Chapter 9 of this ordinance, as applicable to the Commercial Center (CC) District. In the case of a conflict between Chapter 9 of this ordinance and the DOD, the requirements of this Section shall prevail.
2. Signs shall be architecturally compatible with the style, materials, colors, and details of the building to which they are affixed and with other nearby signs and buildings while providing for adequate identification of the business.
3. Neon signs shall be permitted with the following exceptions:
  - A. No exterior neon lighting shall be permitted.

- B. No neon lighting shall be permitted that outlines windows or architectural features, such as doors, roof, cornices, and the like.
  - C. Neon signs shall be permitted only in a window display.
  - D. No neon sign shall be permitted above the first floor.
  - E. All neon signs shall comply with all standards established by the National Electrical Safety Code.
4. No exterior signs shall block windows or door openings. Where windows and doors are trimmed in decorative moldings, the moldings shall not be covered.
  5. Actual produce and merchandise displayed for sale in store windows are not considered to be signs.
  6. Signs may be illuminated by direct lighting but shall have such lighting shielded so no direct light will shine on abutting properties or in the normal line of vision of the public using the streets or sidewalks. For exterior sign illumination, shaded gooseneck lamps are encouraged. No flood or spot lights shall be mounted higher than five feet above the sign that it is illuminating.
  7. No sign shall be so located or arranged that it interferes with traffic through glare; through blocking of reasonable sight lines or streets, sidewalks, or drive-ways; through confusion with a traffic control device (by reason of color, location, shape, or other characteristic); or through any other means.
  8. All signs, except temporary signs, shall be constructed of durable material and kept in good condition and repair. Electrical signs shall be subject to the performance criteria of Underwriters Laboratory, Inc. and to periodic inspection by the City's Code Inspection Officer.
  9. Temporary poster advertisements shall be displayed on the inside of business storefronts rather than on the outside.
  10. Signs existing at the time of passage of this ordinance that do not conform to the requirements of the ordinance shall be considered nonconforming signs. No nonconforming signs shall be rebuilt; enlarged; changed; or altered in size, location, text, or appearance. Nonconforming signs may be replaced only with signs that conform to provisions of this ordinance.
  11. Signs pertaining to businesses or occupants, which are no longer using the building or property to which the sign relates, shall be removed from the



premises within 30 days after the business or occupant has vacated the premises. The property owner is responsible for removing outdated signage.

12. A temporary sign stating that a business has relocated will be permitted for no more than 30 days after the business or occupancy has been vacated. Such signs shall be no larger than 12 square feet.
13. Any vehicle to which a sign is affixed in such a manner that the carrying of such sign or signs no longer is incidental to the vehicle's primary purpose, but becomes a primary purpose in itself, shall be considered a free standing sign; and, as such, will be subject to the provisions regarding free standing signs in the districts in which such vehicle is located.
14. Twirling flags, balloons or other air or gas-filled devices and special promotional devices shall only be permitted for a new business for a period of not more than 15 days before or 30 days after the opening of such a new business.
15. Where an overall sign plan has been approved for any structure, or as part of any site plan, any subsequent sign for the structure or site shall take into consideration the previously approved plan in terms of location, letter style, lighting, color, construction and material, height, and dimension.
16. Signs shall be of professional quality and, at all times, be legible and in good repair.
17. A sandwich board is a temporary "A" frame sign, which may be readily moved from place to place. Sandwich board sign design and display requirements are as follows:
  - A. Number of signs. One sign per establishment shall be permitted.
  - B. Area and height. The maximum area shall be eight square feet per side of sign. The width of the sign shall not exceed two linear feet. The maximum height shall be four feet.
  - C. Location. Signs may be placed on a sidewalk directly in front of the applicant's business establishment and may only advertise as to the applicant's business. No off-premises advertising shall be permitted. The sign shall be placed on that part of the sidewalk closest to the associated use. The sign must be placed so as not to interfere with or obstruct pedestrian or vehicular traffic. Signs may not be anchored to the sidewalk or attached or chained to poles, newspaper vending boxes, or other structures or appurtenances.

- D. Design. The sign frame shall be painted or stained wood or anodized aluminum or metal. Spray-painted signs are prohibited.
  - E. Maintenance. The owner of the property and the proprietor of the business premises shall be jointly and severally responsible for keeping the area surrounding ground signs neat, clean, and well maintained.
18. Prohibited Signs. The following signs are prohibited, unless City Council agrees with the recommendation of the City Planning Commission that such signs complement the intended use and architectural character of the building upon which it will be displayed:
- A. Permanent banners, streamers, inflatable objects, twirlers, and like objects.
  - B. Signs painted directly on structures, except signs painted directly on unpainted brick, where City Council agrees with the recommendation of the City Planning Commission that such signs have historical value or where such signs successfully evoke the Downtown Business District era. A sign painted directly on a structure cannot be the primary sign for any business located within. The bottom of any sign painted directly on a structure must be located at least 10 feet above ground level.
  - C. Flashing, intermittent, or changing color light, including LED, fiber optic signs, strobe light, or highway flashers.
19. Temporary signs. Temporary signs for special events and sales shall be permitted by City Council upon recommendation from the City Planning Commission, as set forth in this Section and in accordance with Chapter 9 of this ordinance.
20. Window lettering and window signs.
- A. All permitted window lettering and window signs shall be of professional quality and applied to the interior of the window.
  - B. Window lettering or signs shall pertain only to the establishment occupying that portion of the premises in which the window is located.
  - C. Sign, size, number, height, location and area requirements.
21. Number of Signs. Signs may be erected only in accordance with the following requirements:

- A. No commercial establishment shall be permitted a total of more than two signs.
  - B. Where there is a business or office floor above the first floor in a two-story building that is not the same business as is located on the first floor, each such business shall be permitted one sign not more than 18 inches high or more than three feet wide, such sign to be placed or painted on the window of the business or office or projected on suitable ornamental bracket from the building facade.
22. Projecting signs. Projecting signs shall be permitted provided that:
- A. Projecting signs must be attached to the building by an ornamental bracket.
  - B. No projecting sign, including brackets, may project more than 42 inches from the building to which it is attached.
  - C. A projecting sign shall not be larger than five percent of the area of the facade to which it is attached. Ornamental brackets to which a projecting sign may be attached are not included in such five percent calculation.
  - D. No more than one projecting sign is permitted for each entrance door.
  - E. The bottom of any projecting sign must be at least seven and one-half feet above ground level, and its top may not extend higher than whichever of the following is lowest: 25 feet above grade or the top of the sills of the first level of windows above the ground floor.
23. Window displays.
- A. The storage of materials, stock, or inventory shall not be permitted in any window display area ordinarily exposed to public view is discouraged.
  - B. Obstructing ground floor windows from the interior of a building with shelving, display cases, signs, or other objects is discouraged.
  - C. All commercial window treatments, including blinds, shades, or curtains, shall be maintained in a clean and attractive manner.

D. Window display areas of vacant store fronts shall be maintained in good condition and in accordance with the regulations in this ordinance.

v. Certificate of appropriateness required.

1. Alterations and new construction. No alteration or site improvement of any property located in the Downtown Overlay District (DOD), as defined under the Specific Definitions for the DOD in Section 202 of this ordinance, shall be undertaken prior to obtaining a Certificate of Appropriateness (COA) from City Council, nor shall a Building Permit be issued by the City for the construction, reconstruction, relocation, alteration, or demolition of any area, place, site, building, structure, object, or work of art within the DOD unless the application for such permit is approved by City Council through the issuance of a COA in the manner prescribed herein.
2. Repairs, informal approval. In order to expedite and encourage timely maintenance and repair work in the designated DOD, the City's Building Code Official (BCO) shall review and approve repair and maintenance work that does not change the design, materials, or general appearance of a structure within the DOD. The BCO may solicit comments and recommendations from the City Planning Commission in order to make a determination if the proposed repair does not change the design, materials, or general appearance of the structure. Staff may forward the application to the City Planning Commission for recommendation of COA approval to City Council when a determination regarding the proposed repair cannot be made. Examples of repair/maintenance work that does not change the design, materials, or general appearance of the structure are as follows:
  - A. Replacement of missing bricks, repointing with same color and type of mortar, and reconstruction with brick matching in color, size, and shape.
  - B. Replacement of conforming siding, moldings, fascia boards, gutters, railing units, shutters, awnings, canopies, shingles, and other exterior surfaces when there is no change in design, materials, or general appearance. Any replacement or alteration of non-conforming siding, moldings, fascia boards, awnings, canopies, signs, or other exterior surfaces is required to be reviewed by the City Planning Commission.
  - C. Replacement of windows when they are of like material, in size, shape, and appearance. A change from wooden to metal or vinyl

storm windows (particularly on historic structures) is required to be reviewed by the City Planning Commission.

w. Certificate of appropriateness application procedures.

1. Except for the exceptions and additions below, the COA Application shall be submitted, in writing, and accompanied by a sketch plan, as required by City SALDO.
2. Scale. The sketch plan shall be drawn at a scale of not more than 20 feet to the inch and include representation of adjacent lots, existing buildings, and adjacent streets.
3. Elevation. An architectural rendering or line drawing, to scale, of all building elevations showing all proposed improvements, to include the location of proposed signs and awnings. The elevation shall be drawn at the same scale of the sketch plan and include the following:
  - A. The natural color of materials to be applied, including the colors of any paint or manufactured product on the exterior buildings, walls, or addition.
  - B. The type and finish of all materials to be applied to the exterior surface of the building, walls or addition, sign placement, and awning placement.
  - C. Current photographs of the subject building and adjacent buildings.
  - D. Separate renderings of any and all proposed signs and/or awnings, including:
    - i. The location and dimensions of the sign and/or awning.
    - ii. The size and style of all lettering.
    - iii. Colors with paint chips and/or color charts attached.
    - iv. Fabric with fabric sample attached.
    - v. Construction materials.
    - vi. Height above grade and below roofline.
    - vii. Exterior lighting details proposed to be used for walkways, drives, and parking lot, including signs and light cast from

the building's interior, which is or will be visible from surrounding properties.

- viii Existing or proposed streetscape amenities, such as art work, sculptures, lighting, benches, fountains, and other ornamental or decorative features.

x. Certificate of appropriateness review procedures.

1. Pre-application meeting. The developer is encouraged to meet with the City Planning Commission prior to submission of a COA Application. The intent of this meeting is to discuss early and informally the purpose and effect of the ordinance and the criteria and standards contained herein. It will also give the applicant the opportunity to become familiar with zoning regulations and procedures as well as the benefit of any comments on the specific proposal by the City Staff.
2. When the owner of a property within the DOD proposes new construction or alteration to any portion of a structure, the owner shall first apply for and secure a COA from City Council. The application for a COA shall be forwarded to the City Planning Commission, together with such plans, specifications, renderings, and other material as required for recommendation by the City Planning Commission for approval by City Council.
3. After a COA Application is received, the zoning officer shall determine whether the application is complete. If incomplete, the zoning officer shall advise the applicant within 10 business days of any additional information that is necessary or required. The applicant shall have five business days to submit the missing information. Failure to submit the missing information will result in the application not being placed on the City Planning Commission meeting agenda.
4. After determining that the COA application is complete, the zoning officer shall forward the COA application to the City Planning Commission at least 14 days before the next City Planning Commission Meeting.
5. The applicant shall receive notification of the time and place set for review of the COA application by the City Planning Commission and shall appear at such stated time and place and shall bring information, witnesses and evidence as requested by the City Planning Commission or which the applicant deems necessary to be helpful to a speedy and thorough review. The applicant, the applicant's agent, or any witnesses called by the applicant may be heard at the City Planning Commission public meeting.

6. The City Planning Commission shall review the application and evaluate whether or not the buildings and structures to be constructed, altered, repaired or relocated, comply with the requirements of this Section of the ordinance. The City Planning Commission will make a recommendation based on this review and forward the results to City Council for action on the COA. The recommendation choices of the City Planning Commission are as follows:
  - A. Approval. If the proposed alteration or new construction is determined to have no adverse impacts by the City Planning Commission on the DOD and does not violate the spirit and purpose of the ordinance, then the City Planning Commission shall recommend to City Council that it issue the COA.
  - B. Approval subject to conditions. Upon determination that a COA is in compliance, except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct minor deficiencies. The applicant may resubmit the COA to the City Planning Commission for final review after conditions have been met. The City Planning Commission shall review and recommend approval of the resubmitted application materials to City Council, if all required conditions have been addressed.
  - C. Denial. Upon determination that a COA Application does not comply with the standards and regulations set forth in this ordinance, or that the proposed alteration will have an adverse effect on the DOD, or the COA Application requires extensive revision in order to comply with said standards and regulations, the City Planning Commission shall recommend that City Council deny the requested COA.
7. The decision made by City Council being an approval, approval subject to conditions, or disapproval of a COA, respectively, shall be endorsed on the plans, including the date of such action and all contingencies and findings of fact supporting the City Council's decision. A copy of the decision shall be forwarded to the applicant.
8. City Council shall hold a public hearing on the application within 60 days of the date of the application and shall grant or deny approval of the application within 45 days of the date of final hearing on the application or within such further time as may be consented to by the applicant. If City Council shall not have held a hearing within 60 days of the application or granted or denied the application within 45 days from the date of the final hearing, the application shall be deemed to have been approved.

9. Approval of the Certificate of Appropriateness shall expire five years after the date of approval by City Council or the approval of the final site development plan by the Planning Commission, whichever is later, if the applicant fails to obtain a building permit, use and occupancy permit, or other applicable permit, unless an extension of time has been agreed, in writing or on the record.

## **SECTION 506. ENERGY OVERLAY DISTRICT.**

- a. Principal solar energy systems (PSES).
  1. Application and permit requirements. All conditional use applications for a PSES shall meet the requirements of this Subsection of this ordinance. No zoning permit shall be issued for a PSES unless conditional use approval and land development approval have first been obtained.
  2. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved.
    - A. Compliance with industry standards. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.
    - B. Installers. PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's ("DEP") approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:
      - i. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for solar thermal installation.
      - ii. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ)



accredited solar thermal training program or a solar collector's manufacturer's training program and successfully installed a minimum of three solar thermal systems.

- C. Maintain good working order. Upon completion of installation, the PSES shall be maintained in good working order in accordance with manufacturer's standards and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for enforcement action by the zoning officer under this ordinance.
- D. Underground requirements. All on-site transmission and plumbing lines shall be placed underground.
- E. Utility notification. The owner of a PSES shall provide written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.
- F. Signage. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided it complies with the nameplate and identification sign requirements of Chapter 9 of this ordinance.
- G. Glare. All PSES shall be placed so that concentrated solar radiation or glare does not project onto nearby properties, structures, buildings, and roadways. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- H. Noise study. A noise study shall be performed and included with the zoning permit application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed 50dBA, as measured at the property line.
- I. Buffer and screening requirements. A PSES shall comply with the buffer and screening requirements of Chapter 10 of this ordinance when adjoining a residential use or zone. When not adjoining a residential use or zone, a planted or screened buffer of 75 feet along all property lines shall be created. In lieu of installing the buffer along the property lines, the screening shall be permitted to

be located immediately outside of the perimeter of the Solar Energy Fenced Area. Except for access drives, utilities and stormwater management facilities, the required buffer shall include preservation of existing mature vegetation or newly installed vegetation, walls or fences, or topography, or other screening treatment, so as to achieve a minimum of 50 percent opacity throughout the year as viewed from any adjoining property line that is located outside of the Solar Energy Development Area and not subject to the application, at a minimum height of six feet, measured at the time of the major energy system commencing operation. No trees or other landscaping required as a condition of approval may be removed during the installation or operation of a PSES. Existing vegetation on the property shall be preserved to the greatest extent possible to meet the buffer or screening requirements of this subparagraph without restricting solar access.

- J. Contact information. The PSES owner and operator shall provide current contact information which includes a phone number and identifies a responsible person for the City and public to contact regarding emergencies, inquiries and complaints for the duration of the project. The contact information shall be conspicuously posted on the property so that a person would not believe they were trespassing while viewing it.
- K. Emergency preparedness plan. The owner and operator shall furnish a written emergency preparedness plan providing details about any fire suppression systems proposed and outlining the procedures on how emergencies will be handled. The plan shall include the manner in which the owner and/or operator will coordinate with local emergency service providers in the event of an emergency.
- L. Solar easements. Where a solar easement is proposed for a PSES, a written agreement in recordable form constituting a covenant running with the land shall be provided as part of subdivision and land development approval. The City shall not be a party to any agreement, nor an intended third-party beneficiary and shall not be responsible for enforcement or maintenance of any solar easement. The owner or operator shall be responsible for negotiating with other property owners needed for the PSES for any necessary solar easements.
- M. Performance standards. Where a performance standard under this Subsection is more restrictive or contradicts a performance standard under Chapter 10 of this ordinance, the performance standard under this Subsection shall control.

- N. Land development. All PSES shall require land development approval.
- O. Decommissioning. The PSES owner is required to notify the zoning officer immediately upon cessation or abandonment of the use, or if no electricity is generated by the system for a continuous period of 12 months. The PSES owner shall then have six months in which to dismantle and remove the PSES including all solar related equipment and appurtenances, including but not limited to buildings, cabling, electrical components, transmission and plumbing lines, roads, foundations and other associated facilities from the property. The PSES owner shall restore the land upon which the PSES was located to its original pre-construction condition. If the PSES owner fails to dismantle and remove the PSES and restore the land within six months, the City may, but shall not be required to do so at the PSES owner's expense.
- P. Financial security. Before the zoning officer issues a zoning permit for the construction of the PSES, the owner shall provide financial security to the City to secure the expense of dismantling and removing the PSES and restoring the land to its original condition. The financial security shall be in the amount of 110 percent of the costs of decommissioning. The decommissioning funds shall be posted and maintained during the life of the project in the form of a performance bond, irrevocable letter of credit or other financial form of security acceptable to City Council. An independent and certified professional engineer shall be retained by the City at the owner's cost to estimate the total cost of decommissioning without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment. Thereafter, the owner shall retain an engineer to provide the City with cost estimates of decommissioning after the first year of operation and every fifth year thereafter.
- Q. Setbacks. The Solar Energy Fenced Area must be set back from all adjoining property lines located outside of the Solar Energy Development Area a minimum of 100 feet, or 150 feet when adjoining a residential use that is located on an adjoining property that is located outside of the Solar Energy Development Area. The minimum setback from a public or private road or private right of way or easement shall be 75 feet. The required setbacks do not apply to interior lot lines where the Solar Energy Development Area includes multiple lots and crosses over interior lot lines

- R. Maximum impervious coverage. For purposes of this Section of the ordinance, the lot coverage limitations of the underlying zoning district are not applicable. Maximum percent of impervious coverage shall comply with the City SALDO. While the area beneath the solar panel arrays is considered pervious cover, the following components of a PSES shall be considered impervious coverage:
- i. Supporting foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars;
  - ii. All batteries, storage cells and all other mechanical equipment;
  - iii. All buildings; and
  - iv. Gravel access drives.
- S. Site disturbance. Site disturbance, including but not limited to, grading, soil removal, excavation, soil compaction, and tree removal in connection with installation of the PSES shall be minimized to the extent practicable.
- T. Access. A minimum 10 feet wide gravel access drive shall be provided within a 20 feet access easement connecting the Solar Energy Fenced Area to a public or private road so as to assure adequate emergency and service access is provided. Gravel access drives shall not be required to be installed within the property for onsite circulation between the rows of solar panel arrays.
- U. Liability insurance. The PSES owner shall maintain a general liability insurance coverage in the minimum amount of at least \$2,000,000.00 per occurrence and property damage coverage in the minimum amount of \$2,000,000.00 per occurrence naming the City as a certificate holder. An umbrella liability insurance coverage shall also be maintained with coverage to be not less \$5,000,000.00 for each occurrence and in the aggregate. Certificates of insurance for the above required coverage shall be provided to the zoning officer annually.
- V. Minimum lot size. The Major Energy System Development Area shall be 10 acres, which may be the combination of land area located on multiple adjacent lots.

- W. Parking. If the PSES is fully automated, adequate parking shall be required for maintenance workers. If the PSES is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to 20 percent of the required spaces based on the number of employees, but not less than three parking spaces.
  
- X. Safety requirements.
  - i. If the PSES is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation set forth in the public utility's then current service regulations applicable to solar power generation facilities, and the connection shall be inspected by the appropriate public utility.
  
  - ii. Security measures need to be in place to prevent unauthorized trespass and access. At a minimum all of the principal and accessory structures that are part of the solar energy system, as well as all substations, inverters and any other supporting equipment must be enclosed by fencing at least six feet in height. All access gates shall be locked as appropriate when authorized persons are not on site, to prevent entry by non-authorized persons.
  
  - iii. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner, and disposed of in accordance with current DEP regulations.
  
- Y. Other regulations. The applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection, the Pennsylvania Public Utility Commission, and other agencies have been obtained. The applicant shall also document compliance with all applicable state and federal regulations by providing to the City copies of all required documents, studies, and responses (e.g., National Environmental Policy Act, Pennsylvania Natural Diversity Inventory submission, Pennsylvania Historical and Museum Commission compliance, U.S. Fish and Wildlife Service, the Department of Conservation and Natural Resources and the PA Game Commission).

b. Principal wind energy facilities (PWEF).

1. Application and permit requirements. All conditional use applications for a PWEF shall meet the requirements of this Subsection of this ordinance. No zoning permit shall be issued for a PSES unless conditional use approval and land development approval have first been obtained.
2. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved.
  - A. Design Standards. The design of the PWEF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL) Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with all applicable building and electrical codes of the City. The applicant shall submit certificate of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations. The manufacturer specifications shall be submitted with the zoning permit application.
  - B. Noise. The audible sound from the wind turbine shall not exceed 45 A-weighted decibels, and shall also not exceed 55 C-weighted decibels, as each is measured at the lot line of a property of a non-participating landowner within one mile or less from the nearest property line on which a wind turbine is located unless a written waiver is provided by the owner of such property. This requirement shall be a maximum noise level using a Lmax standard, and not based upon an average. Audible tones from electrical or mechanical components are prohibited. Measurements shall comply with ANSI/ASA S12.9 Part 3, Short Term Measurements with an Observer Present; S 12.100, Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas; and Computer Modeling shall comply with ANSI/ASA S12.6 (ISO9613-2) Attenuation of sound during propagation outdoors- Part 2 General Method of Calculation. The maximum noise limits shall be reduced to 42 A-weighted and 52 C-weighted decibels between the hours of 10 pm and 7 am. However, the noise limits shall not be reduced below 45 A-weighted decibels where the applicant provides evidence that the current continuous background sound level without the wind turbines would be higher than 42 A-weighted decibels. The continuous background sound level shall be determined per the methods of ANSI/ASA S12.9 Part 3 and ANSI/ASA S12.100.

- C. Vibrations. A Wind turbine shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located. Wind turbines shall not cause airborne vibrations which are perceptible to people or structures.
- D. Accessory buildings, structures & mechanical equipment. When an accessory building or structure is necessary, it shall comply with the principal building requirements of the underlying zoning district. Accessory buildings, structures and equipment associated with PWEF shall be screened from any adjacent property that is residentially zoned or used for residential purposes under Chapter 10 of this ordinance. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the zoning ordinance may be used. The design of accessory buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
- E. Underground requirements. On-site transmission and power lines between wind turbines shall be placed underground.
- F. Utility notification. The owner of a PWEF shall provide written confirmation that the public utility to which the PWEF will be connected has been informed of the intent to install a grid connected system and approved of such connection.
- G. Signage. PWEF shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner or operator.
- H. Lighting. PWEF shall not be artificially lighted, except to the extent required by the Federal Aviation Administration, the Pennsylvania Department of Transportation Bureau of Aviation (BOA) or other applicable authority that regulates air safety.
- I. Color. PWEF shall be painted a non-reflective, flat color such as white, off-grey or grey unless required to be colored differently by FAA or BOA regulations. The design of buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening and landscaping that will blend the PWEF into the natural setting and existing environment.
- J. Braking system. All PWEF shall be equipped with a redundant braking system. This includes both aerodynamic overspeed

controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

- K. Shadow flicker. The applicant shall provide an analysis with a map of the shadow flicker impacts of the project upon any Non-Participating Landowner's property that will be impacted by this effect. The analysis shall be conducted by a qualified professional using generally accepted modeling methods, and shall estimate the number of hours per year that a Non-Participating Landowner's property will be impacted by shadow flickering. No lot line of a Non-participating landowner's property shall be affected by shadow flicker for a total of more than 20 hours per year, and no more than 30 minutes per day. Such analysis shall include recommendations for conditions that may be established by City Council to minimize the number of affected Non-participating landowner's properties, the hours affected and the severity of the impacts from shadow flicker. This provision shall not apply to an affected property if a written and signed waiver is provided by the owner of said property. A PWEF shall be designed in such a manner as to not cause shadow flicker on a roadway.
- L. Location. No part of any PWEF shall extend over parking areas, access drives, driveways or sidewalks. No blade or any component part of a PWEF shall extent beyond the boundaries of the overlay zoning district in which it is located. Wind turbines shall be separated from each other by a minimum distance of five times the diameter of the rotors.
- M. Liability insurance. The PWEF owner shall maintain a general liability insurance coverage in the minimum amount of at least \$2,000,000.00 per occurrence and property damage coverage in the minimum amount of \$2,000,000.00 per occurrence naming the City as a certificate holder. An umbrella liability insurance coverage shall also be maintained with coverage to be not less \$5,000,000.00 for each occurrence and in the aggregate. Certificates of insurance for the above required coverage shall be provided to the zoning officer annually.
- N. Ice throw. The potential ice throws or ice shedding for a PWEF shall not cross the property line on which a PWEF is located nor impinge on any right-of-way or overhead utility line.
- O. Electronic interference. The facility owner and operator shall ensure that the design and operation of any PWEF avoids any



disruption or loss of radio, telephone, television, cell, Internet, VOR signalization for aircraft, or similar signals, and shall mitigate any harm caused by the wind energy facility.

P. Lot size. In order for a tract of land to be eligible for a PWEF, it shall have a minimum lot size of three acres for each wind turbine.

Q. Setbacks Distances.

i. Wind turbines shall be set back from the nearest occupied building or non-occupied Building on the participating landowner's property a distance not less than the setback requirements for the underlying zoning district in which it is located for a principal building or two times the turbine height, whichever is greater. The setback distance shall be measured horizontally from the center of the wind turbine base to the nearest point on the foundation of the occupied building or non-occupied building.

ii. Wind turbines shall be set back from the nearest occupied building or non-occupied Building located on a non-participating landowner's property a distance of not less than five times the turbine height, or 1,500 feet, whichever is greater as measured horizontally from the center of the wind turbine base to the nearest point on the foundation of the occupied or non-occupied building.

iii. All wind turbines shall be set back from the nearest property line a distance of not less than the setback requirements for a principal building in the underlying zoning district in which it is located or two times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.

iv. All wind turbines shall be set back from the nearest public road a distance not less than the setback requirements for a principal building in the underlying zoning district in which it is located or two times the turbine height, whichever is greater, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.

v. Each wind turbine shall be set back from above-ground power lines, public telephone lines and television cable lines a distance no less than two times its total height. The setback distance shall be measured from the center of the Wind turbine base to the nearest point on such lines.

- vi. Wind turbines shall be set back at least 1,500 feet from Important Bird Areas as identified by Pennsylvania Audubon and at least 500 feet from identified wetlands.
  - vii. Each wind turbine shall be set back from any historic structure, district, site or resource listed in the state inventory of historic places maintained by the Pennsylvania Historical and Museum Commission and all airports and heliports a distance no less than 2,500 feet. The distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of an historic building, structure or resource, or the nearest property line of an historic district, site, runway or helipad.
  - viii. The base of any wind turbine shall be setback 500 feet from the centerline of a perennial waterway and 2,000 feet from the average water level of a public water supply reservoir.
- R. Height. The maximum wind turbine height shall not exceed 450 feet and comply with all regulations imposed by the FAA.
- S. Visual impact and analysis.
- i. Where wind characteristics permit, wind turbines shall to the greatest possible extent be set back from the tops of visually prominent ridgelines.
  - ii. Wind energy facilities shall be designed and located to the greatest extent possible to minimize adverse visual impacts to locations throughout the City.
  - iii. The applicant shall provide a visual analysis of the project. The analysis shall include a three-dimensional computer-generated surface model that accurately depicts the wind turbines in proper scale and location in relationship to the surrounding terrain from not less than 10 different locations within the City as selected by City Council. The 10 locations shall include any combination of public roads and public and/or private properties that may experience the greatest visual impacts. The applicant shall also be required to conduct a subsequent balloon test at the 10 selected locations to confirm the visual impact of the aforementioned three-dimensional computer-generated surface model. Public Notice as defined under the Pa Municipalities

Planning Code shall be required regarding the time and dates of balloon test.

- T. Property values. The applicant shall submit an analysis by a qualified appraiser of the actual impacts upon residential property values of a similar set of wind turbines in a mostly rural community within the United States. Such analysis shall compare changes in property values of impacted dwellings to changes in property values of non-impacted dwellings over the same time period. Properties within a one-mile radius of a wind farm shall be considered, as well as properties outside that radius. The study shall be completed by an appraiser who has an active MAI, SRA or SRPA certification from the Appraisal Institute. The appraiser must also have a Pennsylvania appraiser license.
  
- U. Warnings.
  - i. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
  - ii. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 10 feet from the ground.
  
- V. Safety and security.
  - i. All access doors to wind turbines, including electrical equipment outbuildings and all appurtenances thereto shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
  - ii. The minimum distance between the ground and any part of the wind rotor blade shall be 30 feet.
  - iii. To limit climbing access, a six-foot high fence with a locking gate shall be placed around the PWEF.
  - iv. Wind turbines' climbing apparatus shall be limited to no lower than 15 feet from the ground or the wind turbines' climbing apparatus shall be fully contained and locked within the tower structure.
  
- W. Use of public roads.

- i. The applicant shall identify all state, county and local public roads to be used within the City to transport equipment and parts for construction, operation or maintenance of the PWEF.
- ii. The City Engineer or a qualified third-party engineer selected by the City and paid for by the applicant, shall document road conditions prior to construction. The documentation shall include photographs and video recordings of all approved travel routes to substantiate the report. The applicant shall ensure a City Official delegated by City Council is present when photographs and video tapes are taken. Copies of the inspection report, photographs, and video tapes shall be submitted to the City. The City Engineer shall document road conditions again 30 days after construction is complete or as weather permits. The applicant is responsible for all repairs and remediation of any damaged roads resulting from the installation or subsequent maintenance of a Wind Energy Facility. Such repairs and remediation shall be completed within 30 days from the time of damage unless a greater amount of time is approved by City Council.
- iii. Any road damage caused by the applicant or its contractors shall be promptly repaired at the Applicant's expense.
- iv. A bond shall be posted by the applicant to compensate the City for any damage to City streets in compliance with State regulations. An Improvement and Maintenance Agreement shall also be entered into between the operator and the City in a form acceptable to the City Solicitor to ensure that if any roads are damaged the operator shall be responsible for their replacement or repair.
- v. The Applicant shall demonstrate that it has appropriate financial security to ensure the prompt repair or replacement of damaged roads.
- vi. Every effort should be made to use existing streets and logging roads. New deforestation and forest fragmentation must be kept to a minimum. Private entrance roads to PWEF shall be maintained in a mud-free condition.

X. Local emergency services.

- i. The Applicant shall provide a copy of the project summary and site plan to local emergency services, including City designated emergency service providers.
  - ii. The Facility Owner and Operator shall abide by all applicable local, state and federal fire code and emergency guidelines.
  - iii. Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the PWEF.
  - iv. The facility owner and operator shall maintain a phone number and identify a responsible person for emergency contact.
- Y. Performance standards. Where a performance standard under this Subsection is more restrictive or contradicts a performance standard under Chapter 10 of this ordinance, the performance standard under this Subsection shall control.
- Z. Decommissioning
- i. The facility owner and operator shall complete, at their own expense, decommissioning of the PWEF or individual Wind turbines, and all related improvements, within 12 months after the end of the useful life of the facility or individual wind turbines, or when the use has been discontinued or abandoned by the facility owner and operator. The PWEF or individual wind turbines will be presumed to be at the end of its useful life, discontinued or abandoned if no electricity is generated for a continuous period of 12 months.
  - ii. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, transmission lines and any other associated facilities.
  - iii. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing and receives written approval from the City that the access roads, or other land surface areas not be restored.

- iv. An independent and Certified Professional Engineer shall be retained to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). Said estimates shall be submitted to the City after the first year of operation and every fifth year thereafter.
- v. The facility owner or operator shall post and maintain Decommissioning Funds, representing a financial guarantee in an amount equal to Net Decommissioning Costs; provided that at no point shall Decommissioning Funds be less than 110 percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility owner or operator and participating land owner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth of Pennsylvania and is approved by the City.
- vi. Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the City.
- vii. If the facility owner or operator fails to complete decommissioning within the six-month period, then the landowner shall have six months to complete decommissioning.
- viii. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed above, then the City shall have the authority to take such measures as necessary to secure and utilize Decommissioning Funds to complete decommissioning activities. The entry onto and submission of evidence of a participating landowner agreement to the City shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the City may take such action as necessary to implement the decommissioning plan.
- ix. The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and

the City concurs that decommissioning has been satisfactorily completed, or upon written approval of the City in order to implement the decommissioning plan.

c. Oil and gas compressor stations.

1. Application and permit requirements. All conditional use applications for an oil and gas compressor station shall meet the requirements of this Subsection of this ordinance. No zoning permit shall be issued for a compressor station unless conditional use approval and land development have first been obtained.
2. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved.
  - A. The minimum lot size shall be 10 acres.
  - B. A compressor station shall not be located closer than 2,500 feet from another compressor station.
  - C. No compressor station shall be located closer than 1,500 feet from any dwelling or school.
  - D. Compressors shall be located completely within an enclosed building. During periods of normal operations doors, windows and similar operations shall remain closed. Only electric powered compressors may be utilized.
  - E. A compressor station's noise level shall be equal to or less than 60 dBA at the property line for the oil and gas compressor station's site and all adjoining properties.
  - F. The application must provide the ESCGP-2 Plan and a post construction stormwater management plan prepared by a licensed professional engineer licensed in the Commonwealth of Pennsylvania.
  - G. Land development approval is required under the City SALDO.
  - H. The operator shall provide all material safety data sheets (MSDSs) for all materials produced, stored or distributed on site to the City and its Emergency Management Coordinator within 30 days prior to commencement of the use.

- I. The operator shall provide an emergency management plan to the City at the time of approval of the use. The plan shall be completed in coordination with the Fire Department.
- J. The operator shall provide and keep current a prioritized call list with names, emails, addresses and phone numbers for 24-hour emergency contact at the time of its application.
- K. The operator shall take measures to make certain that no mud, dirt and debris is deposited onto public roads.
- L. The site must be secured by a minimum eight foot high chain link fence with a locking gate that shall be kept located when employees are not on site.
- M. Lighting shall be directed downwards and shielded so as to avoid glare on public roads and adjacent properties.
- N. Compressor stations shall have adequate area improved with a dust-free all-weather surface which shall be provided on the site for parking.
- O. Operators shall take all measures necessary to make certain that dust does not emanate from the site.
- P. Where a performance standard under this Subsection is more restrictive or contradicts a performance standard under Chapter 10 of this ordinance, the performance standard under this Subsection shall control.

d. Oil or gas operations.

- 1. Application and permit requirements. All conditional use applications for oil and gas operations shall meet the requirements of this Subsection of this ordinance. No zoning permit shall be issued for an oil or gas operation unless conditional use and land development approvals have first been obtained.
- 2. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved.
  - A. In addition to the requirements for a site plan for a zoning permit under this ordinance, the applicant shall indicate on the site plan all information necessary to show compliance with the supplemental regulations of this Subsection.



- B. Except for a gas or oil pipeline, a minimum lot size of 10 acres is required and a minimum lot depth and width of 500 feet each shall be required for all oil or gas operations.
- C. Except for a gas or oil pipeline which shall be located a minimum of 50 feet to an adjoining property measured from the outermost edge of any easement, a minimum setback of not less than 500 feet shall be maintained to any adjoining property line, residential dwelling unit, occupied building, and public road right-of-way. All land within the required setback shall remain undisturbed and shall not be used for parking, storage or any other purpose associated with the oil or gas development except for permitted access drives.
- D. An oil or gas operation shall be setback a minimum distance of not less than 750 feet from any stream, spring, body of water, or wetland.
- E. Except for a gas or oil pipeline, a buffer yard along all property lines of not less than 100 feet in depth planted with deciduous trees shall be maintained in such a manner as to obstruct the view of the oil or gas operation from adjoining properties and public rights-of-way of not less than 75 feet in depth. The governing body may take into consideration the topographic features and existing natural vegetation which may provide natural buffering to adjoining areas as opposed to requiring the applicant to plant deciduous trees within the buffer yard. It shall be the responsibility of the applicant and property owner to maintain all buffer yards in good condition, replacing any dying or dead plants or deteriorating landscape material.
- F. The height of a drilling rig and other temporary facilities on site shall be exempt from the height limits of this ordinance. Permanent structures, whether principal or accessory, shall comply with the height and other dimensional and bulk limitations applicable to the underlying zoning district.
- G. Multiple wells may be approved on one oil or gas well pad. A separate application and zoning approval shall be required for each well.
- H. A land development plan is required under the City SALDO.
- I. A stormwater management plan is required under the City Stormwater Management Ordinance.

- J. The required amount of off-street parking shall be a minimum of one space for each person working on the property. Off-street parking and loading shall comply with Chapter 8 of this ordinance except all vehicle parking and staging areas shall be setback not less than 150 feet from any property line. In addition, no vehicles shall be parked or staged on any public road right-of-way or be permitted to back into or out of the public right-of-way.
- K. The applicant shall comply with all applicable State and Federal regulations and provide copies of all State or Federal permits and approvals to the zoning officer before the commencement of any work. Notification to the zoning officer shall be given immediately following any suspension or revocation of State or Federal approvals or permits. Any approval by City Council shall be contingent upon compliance with all State and Federal regulations, permits and approvals at all times during the oil or gas operation.
- L. Access to any oil or gas operation shall be arranged to minimize danger to traffic, nuisance to surrounding properties and to maintain the integrity of streets. The following shall apply:
  - i. Any newly established private roads or easements constructed on a property shall be located at least 100 feet from any property line.
  - ii. Any access road beginning with its intersection with a public right-of way shall be paved in accordance with governing design standards under the City SALDO prior to the use of the access road.
  - iii. All roads and access drives shall be constructed and maintained to prevent dust and mud from the surrounding area. A method of dust abatement shall be utilized during dry weather and under no circumstances shall brine water, sulfur water or water in mixture with any type of hydrocarbon be used for dust abatement.
  - iv. The access driveway off any public road shall be gated at the entrance to prevent unauthorized access; and an assigned 911 address shall be clearly visible on the access gate for emergency 911 purposes.
- M. The applicant shall be liable for the full and complete repair and restoration of all damages of whatever nature to all City streets directly caused by trucks associated with the oil or gas operation.

Proposed routes of all trucks and other heavy equipment and the estimated weights of those trucks and heavy equipment shall be disclosed. The City shall have the right to designate alternate routes in the event the proposed route is determined to be inadequate, unsafe, or overlay disruptive to normal vehicular traffic. All City streets used in the oil or gas operation for truck and equipment hauling will be maintained and restored, if damaged. The City and applicant shall enter into an excess roadway maintenance agreement, the terms and conditions of which are acceptable to the City to guarantee the maintenance, repair and the restoration of any City streets. The excess roadway maintenance agreement shall at a minimum require the posting of a bond or other financial security in favor of the City to guarantee maintenance, repair and restoration of all City streets used in the oil or gas operation.

- N. Oil or gas operations shall not clear brush or trees by way of burning, and it shall chip, grind or remove all tree stumps from properties it clears for development purposes.
- O. The applicant shall take the following steps to minimize noise resulting from an oil or gas operation:
  - i. At the time of the zoning application and prior to commencement of the operation, the applicant shall establish the continuous 72 hour ambient noise for all level of frequencies at all boundaries of the property on which an oil or gas operation is located with prior approval of the testing times and dates by City Council.
  - ii. The Applicant shall also show at the time of the application that during the operation and between, the decibel level shall not exceed 55 decibel levels at any point outside the boundaries of the property.
  - iii. All noise level measurements shall be made using a sound level meter meeting the most current American National Standard Specification for Sound Level Meters (ANSI 1.4- not less than Type 2 instruments). The instrument shall have been field calibrated according to the manufacturer's directions within the periodicity required by the manufacturer prior to the measurements. All measurements shall be taken using the FAST response time and A-weighting.

- P. All electrical installations and equipment associated with building shall conform to the City ordinances and the Pennsylvania Uniform Construction Code.
- Q. Except for gas or oil pipelines, during construction of an oil or gas operation there shall be temporary security fencing of at least six feet in height around the perimeter of the site. Upon completion of construction, security fencing consisting of permanent eight feet in height chain link fence equipped with lockable gates at every access point shall be promptly installed to secure the site. Warning signs shall be placed on the fencing providing notice of the potential dangers and the contact information in case of an emergency.
- R. The applicant shall provide at the time of the application an emergency response plan. The plan shall be reviewed and approved by all agencies identified in the plan as being possibly affected by the gas or oil well operation, including, but not limited to City Council, the Police Department, the Fire Department, the zoning and code enforcement officer, the School District, and the Emergency Management Coordinator for the City and Luzerne County.
- S. A lighting plan shall be submitted at the time of the application showing that all exterior lights are diverted so that they do not shine directly on a public street or adjoining properties and in compliance with Chapter 10 of this ordinance.
- T. Except for active drilling operations, construction of an oil or gas operation may only be performed Monday through Saturday (with the exception of federal and state holidays) between the hours of 7 AM and 7 PM, or as otherwise authorized by the City.
- U. The applicant shall submit at the time of the application a copy of a water quality tests on all water wells, developed springs, and surface waters within 3,000 feet of a proposed Oil or Gas Well prior to the commencement of any drilling. The required water testing shall, at minimum, be for the following substances: Methane, Ethane, Barium, Chloride, Total Dissolved Solids, pH, Lead, Arsenic, Iron, Manganese, Strontium, Sodium, Hardness (calcium & magnesium), Sulfate, Nitrate, Oil & Grease, Detergents / Surfactants, Total Coliform Bacteria, Turbidity, Alkalinity, 21 VOCs/MTBE, Radium, Radon, Uranium, Gross Alpha and Beta.
- V. The applicant shall purchase and maintain insurance for environmental pollution liability applicable to bodily injury,

property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least \$5,000,000.00 per loss, with an annual aggregate of at least \$10,000,000.00. In the alternative, the applicant may self-insure such losses upon a showing of financial responsibility and capability, the determination by any state appointed auditor to be deemed conclusive. This coverage shall not operate as a limitation of liability on an applicant. The scope of coverage for such insurance shall be approved by City Council. Coverage shall include coverage for pollution resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants in excess of applicable permits. The applicant shall maintain coverage for a period approved by the City.

- e. Natural gas processing plant or electricity generating plant.
  - 1. Application and permit requirements. All conditional use applications for natural gas processing plants and electricity generating plants shall meet the requirements of this Subsection. No zoning permit shall be issued for a plant unless conditional use and land development approvals have first been obtained.
  - 2. Standards. In addition to the general criteria for a conditional use, the following additional standards must be met before a conditional use application may be approved.
    - A. The minimum lot area is 15 acres.
    - B. All principal buildings and accessory structures shall be set back not less than 100 feet from any property line, and 500 feet from any residential zoning district or property used for residential use.
    - C. The noise levels for the plant shall be equal to or less than 65 dBA at the property line, and 55 dBA noise level at any adjacent residential dwelling.
    - D. The applicant must provide the City with the ESCGP-2 Plan and the post construction stormwater management plan prepared by a licensed professional engineer who is registered in the Commonwealth of Pennsylvania.

- E. A site plan is required under the City SALDO.
- F. The operator shall provide all material safety data sheets (MSDSs) for all materials produced, stored or distributed on the site to the City and the Emergency Management Coordinator at least 30 days prior to commencement of the use.
- G. The operator shall provide an emergency management plan to the City at the time of approval of the use. The plan shall be completed in coordination with the City Fire Department.
- H. The operator shall provide and keep current a prioritized call list with names, emails, addresses and phone numbers for 24-hour emergency contact at the time of its application.
- I. The operator shall take measures to make certain that no mud, dirt and debris is deposited onto public roads.
- J. The site must be secured by a minimum eight foot high chain link fence with a locking gate that shall be kept located when employees are not on site.
- K. Lighting shall be directed downwards and shielded so as to avoid glare on public roads and adjacent properties.
- L. Where a performance standard under this Subsection is more restrictive or contradicts a performance standard under Chapter 10 of this ordinance, the performance standard under this Subsection shall control.

**SECTION 508. HISTORICAL OVERLAY DISTRICT.**

- a. Designation of historical buildings.
  - 1. The buildings and structures located on the properties listed in attachment No. 1 are designated as historical landmarks for the purposes of this Section of this ordinance.
  - 2. The designation of the buildings listed in Section 508(a)(1) do not preclude an owner of any property within the Historical Overlay District from applying for acceptance of the property on the National Register of Historical Places, or for other historic honors or designations.
  - 3. Any property included within the Historical Overlay District that is not designated as having a historical building under Section 508(a)(1) of this

ordinance may have the building designated by City Council as a historical landmark upon application and approval by City Council.

4. Any owner of property not included within the Historical Overlay District may upon application to City Council request that the official zoning map be amended to include the property in the Historical Overlay District. Any amendment to the official zoning map to include additional property in a Historical Overlay District may be approved at the discretion of City Council under the amendment procedures of this ordinance.

b. Criteria for designation of a historical building. The following criteria apply to buildings that possess integrity of location, design, setting, materials, workmanship, feelings, and associations that:

1. Are associated with events that have made a significant contribution to the broad patterns of history within the City;
2. Are associated with the lives of persons significant in the City's past;
3. Embody the distinctive characteristics of a type, period, or method of construction;
4. Represent the work of a master;
5. Possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction; or
6. Have yielded, or may be likely to yield, information important in the history of the City.

c. Evaluation of integrity. In addition to historic significance, the historic integrity of each building is assessed based upon the following qualities:

1. Location;
2. Design;
3. Setting;
4. Materials;
5. Workmanship;
6. Feeling; and
7. Aspects of construction dating from the period when it attained significance.

d. Application procedures.

1. A zoning permit application is required before any demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance.
2. In addition to the site plan required by this ordinance, when the application involves exterior construction, alteration, modification or rehabilitation of an historical building, certified architectural drawings shall be included with the application.
3. Photographs of the building shall accompany an application.
4. This Section shall not apply to the demolition of accessory structures less than 100 square feet in size. However, the permanent removal of character-defining architectural elements of a building listed under Section 508(a)(1), including, but not limited to, porches and porticos shall not be exempt under this Section of this ordinance.

e. Changes to historical buildings.

1. The demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance shall not be approved nor zoning and building permits issued until the application and plan is reviewed by the City Planning Commission and approved by City Council.
2. The Provisions of this Section of this ordinance shall not be construed to prevent the ordinary maintenance or repair of any building or structure where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building or structure and to restore the same to its condition prior to the occurrence of such deterioration, decay, or damage.
3. No new construction of a building or structure on the property listed under Section 508(a)(1) of this ordinance shall be erected, and the zoning officer may not issue any permit for such work, until approval is obtained from City Council. City Council shall pass upon the appropriateness of exterior architectural features only where they can be seen from a public street or public right-of-way, and shall consider the general design, arrangement, texture, material and color of the building or structure and the relation of such factors to similar features of buildings listed under Section 508(a)(1).



f. Rehabilitation standards. The following rehabilitation standards will be considered in the review and approval of an application for a building listed under Section 508(a)(1):

1. The building shall be used for its current purpose or be replaced with a new use permitted in the underlying district. If the new use is permitted by special exception, then any approval by City Council shall be conditioned upon special exception approval by the zoning hearing board.
2. The historic character of the building shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize an historical property shall be avoided.
3. Each historical property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. New materials, exterior alterations, or related construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
9. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

- g. Consideration for design review. Among the criteria used in evaluating any proposed new construction, reconstruction, alteration, or restoration of any historical building listed under Section 508(a)(1) of this ordinance, City Council shall consider the following, where relevant:
1. Mass (height, bulk, nature of roof line).
  2. Proportions (height to width).
  3. Consistency with architectural style with nearby structures within the Historical Overlay District.
  4. Nature of yard space.
  5. Extent of landscaped areas versus paved areas.
  6. The nature of façade openings (doors and windows), including size, locations, and proportions.
  7. Type of roof (flat, gabled, hip, gambrel, mansard, etc.).
  8. Nature of projections (porches, etc.).
  9. Nature of the architectural details and style.
  10. Nature of the materials.
  11. Color.
  12. Texture.
  13. Ornamentation.
  14. Signs.
- h. Standards for demolition. All historical buildings listed under Section 508(a)(1) of this ordinance shall be:
1. Moved as an alternative to demolition if there is no other way to preserve the building. Any matter of immediate threat to health and safety shall override any postponement of demolition.
  2. Maintained in good repair, structurally sound and reasonably protected against decay and deterioration.

3. Meet the minimum requirements of the most recently adopted edition of the International Property Maintenance Code. Any condition of an existing building that does not meet the minimum requirement of the International Property Maintenance Code shall be considered a violation of both the International Property Maintenance Code and this ordinance.
- i. Powers and duties of the City Planning Commission.
    1. The City Planning Commission shall:
      - A. Review applications for proposed demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance.
      - B. Consider the financial feasibility of its recommendations based on cost estimates and other financial documentation provided by the applicant when necessary.
      - C. Submit written recommendations to City Council regarding the advisability of the zoning officer issuing a zoning permit and the building code official issuing a building permit for a historical building. The Planning Commission shall base its recommendations of approval, conditional approval, or denial to City Council on the following:
        - i. The integrity of exterior architectural features which can be seen from a public street or way, including the general design, arrangement, texture, and materials of the building and the relation of such factors to similar features of surrounding buildings of the period of significance.
        - ii. The effect which the proposed change will have upon the general historic and architectural nature of the building.
        - iii. The written determination of appropriateness by the zoning officer.
        - iv. The applicant's justification for the proposed activity, including financial feasibility and cost estimates.
      - D. A recommendations to council may include conditions of approval that modify an applicant's initial application. If the City Planning Commission decides to recommend against the granting of zoning and building permits for a historical building, it shall indicate to the applicant those changes, if any, which would result in a favorable recommendation. The City Planning Commission may

withhold its recommendation to City Council if the applicant agrees to return to the City Planning Commission at a future regularly scheduled meeting with revised plans for its consideration.

2. The City Planning Commission may review the Historical Overlay District from time to time and make recommendations to City Council on proposed amendments to the Historical Overlay District.

j. Powers and duties of City Council.

1. City Council shall:
  - A. Certify to the appropriateness of the proposed demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance.
  - B. Consider the recommendations of the City Planning Commission for all applications for the demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance.
  - C. Approve, approve with conditions, or deny any applications for demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance.
  - D. Consider the effect which the proposed demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance will have upon the general historic and architectural nature of the surrounding area, the Historical Overlay District, and the City.
2. Upon conditional use approval of any proposed demolition, construction, alteration, modification, or rehabilitation of the exterior of any historical building listed under Section 508(a)(1) of this ordinance, City Council shall issue a decision authorizing the issuance of a zoning permit. The building code official shall not issue a building permit without such an approval and then only if the work complies with the applicable building codes.
3. A denial of any proposal under this Section of this ordinance by City Council shall be in writing and include the reasons for the denial. A copy of the decision shall be provided to the applicant, the zoning officer, the building code official, and the City Planning Commission.

## **CHAPTER 6 SUPPLEMENTAL REGULATIONS**

### **SECTION 601. APPLICABILITY.**

- a. This Chapter applies to particular uses or types of uses whether permitted by right, special exception, or conditional use under the zoning districts established by this ordinance. All uses must comply with the standards under the applicable zoning district and all other applicable sections of this ordinance, unless those standards under this Chapter differ, in which case, the specific standards listed within this Chapter shall apply.
- b. For uses permitted by right, these supplemental regulations must be satisfied prior to the issuance of a zoning permit by the zoning officer. The applicant shall be required to demonstrate compliance with the supplemental regulations for a specific use, including furnishing whatever evidence is necessary to demonstrate such compliance at the time of the application for a zoning permit.
- c. For uses permitted by variance, special exception and conditional use, these regulations must be satisfied prior to approval of any application for a variance or special exception by the zoning hearing board or conditional use by City Council. The applicant shall be required to demonstrate compliance with the supplemental regulations for a specific use, including furnishing whatever evidence is necessary to demonstrate such compliance at the time of the hearing on the request.

### **SECTION 602. AGRICULTURAL, GROWING AND TIMBER RELATED USES.**

- a. Agricultural operations.
  1. All structures associated with the agricultural operation shall be setback a minimum of 150 feet from all lot lines.
  2. Any manure storage facility shall be located in accordance with the yard and setback requirements established by Act 38 of 2005 known as ACRE and the Commonwealth of Pennsylvania Nutrient Management Act, as amended. All applications for manure storage facilities shall include evidence indicating compliance with Act 38 of 2005 known as ACRE and Commonwealth of Pennsylvania Nutrient Management Act.
  3. All agricultural operations shall be designed and maintained so that water and fertilizer will not drain onto adjacent lots.

4. All agricultural operations shall comply with applicable standards of the most recent version of the Pennsylvania Manure Management Manual, as amended.
- b. Agribusinesses. The following supplemental regulations shall be applicable for the proposed use of an agricultural property for an agribusiness:
1. Minimum lot size and width.
    - A. Lot Size: 10 acres
    - B. Lot Width: 400 feet
  2. Setback distances. Activities (including parking areas) or structures shall comply with the following minimum setback distances:
    - A. Front Yard is 50 feet.
    - B. Side Yard is 100 feet.
    - C. Rear Yard is 100 feet.
  3. Ancillary features of a property may include:
    - A. The use of a portion of the property for the temporary placement of campers, horse trailers and recreational vehicles as related to planned events upon the property.
    - B. The sale of both prepared food products and fresh farm produce and accessory products that support the specific agribusiness such as leather tack products, saddles, boots and western wear.
  4. Maximum lot coverage.
    - A. Maximum building coverage is 20 percent.
    - B. Maximum impervious surface is 30 percent.
  5. Off-street parking. The applicant must provide for sufficient off-street parking spaces and off-street loading spaces for all uses and activities proposed to be operated as part of the Agribusiness. If at any time after opening the facility, the City determines that parking, loading or traffic backups are occurring on adjoining roads, and such are directly related to the lack of sufficient on-site facilities on the property, the City may require the applicant to revise and provide additional on-site parking and/or loading spaces to meet the off-street parking or off-street loading

needs within 90 days of notification. This shall be a condition of any permit or approval and the City shall have discretion to require additional parking and loading during the operation of the agribusiness, if the need arises.

c. Forestry or timber harvesting.

1. This Subsection applies to all timber harvesting and land clearing within the City where the value of the trees, logs and/or other forest products removed exceeds \$1,000.00. It does not cover the cutting of trees for the personal use of the landowner, or for pre-commercial timber stand improvement.
2. It shall be unlawful for any operator or landowner to conduct timber harvesting except as provided in an approved logging plan which is available at the harvest site at all time during the operation.
3. At least 30 business days before the operation is scheduled to begin, a landowner on whose land timber harvesting is to occur shall prepare and submit to the zoning officer a written plan, which includes the following:
  - A. Design, construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails, and log landings;
  - B. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars;
  - C. Design, construction and maintenance of stream and wetland crossings;
  - D. A stand prescription for each stand located in the proposed harvest area;
  - E. The general location of the proposed operation in relationship to streets and highways; and
  - F. A site map based upon a survey showing the site and its location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within that property; significant topographic features related to potential environmental problems; location of all earth disturbance activities such as roads, landings, and water control measures and structures; location of all crossings of waters of the Commonwealth; and the location of the proposed operation

to streets and highways, including any access to those highways. The plan shall address and comply with the requirements of all applicable State and local laws and regulations including, but not limited to erosion and sedimentation control; stream crossing and wetland protection; and storm water management. Any permits required by state and local agencies shall be attached to and become a part of the logging plan.

- G. The following timber harvesting practices shall be observed:
- i. Felling or skidding on or across any public thoroughfares is prohibited without the express written consent of the City, County or Pennsylvania Department of Transportation; whichever is responsible for the maintenance of the thoroughfare.
  - ii. No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining property.
  - iii. All tops and slash between 25 feet and 50 feet from a public roadway or private roadway providing access to any adjoining property or within 25 feet of any adjoining property line shall be lopped to a maximum height of four feet above the ground level.
  - iv. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner.
  - v. Litter resulting from a timber harvesting operation shall be removed from the site before the operator vacates it.
  - vi. A buffer strip of at least 50 feet must be maintained along any road, stream, or recognized recreational trail.
  - vii. Timber operations and related activities shall be conducted only between the hours of 7:00 AM and 7:00 PM
  - viii. Soil carried or washed onto public streets during the operation shall be removed daily.
- H. The landowner and the operator shall be responsible for repairing any damage to the streets caused by traffic associated with the timber harvesting operation to the extent of the damage that is in excess of that caused by normal traffic. Pursuant to 67



Pennsylvania Code, Chapter 189, the City may require the landowner or operator to furnish a bond to guarantee the repair of damages to any street.

d. Growing and processing of hemp

1. A field or planting site for hemp may not be located within 1,000 feet of a school or public recreational area; 200 feet of a structure used as a residential dwelling; three miles of a Medical marijuana Grower or Processor Facility; and must be physically separated from other crops.
2. Any growing of hemp located within 1,000 feet of a residential zoning district (R-1, R-2 and R-3) or residential use shall be conducted inside a building.
3. Growing and processing of hemp shall comply with the requirements of the General Permit issued or approved by the Pennsylvania Department of Agricultural.
4. Industrial Hemp Production shall not occur on the same property where the growing and processing of hemp occurs.

e. Medical marijuana grower and processor.

1. A Grower and Processor of Medical marijuana shall meet the same requirements as other manufacturing, processing and production uses located in the same zoning district, including minimum lot size (area and width), minimum yard dimensions (front, each side and rear), and maximum building coverage and height so as to comply with Section 2107(1) of the Pennsylvania Medical Marijuana Act, Act 16 of 2016.
2. Medical marijuana may only be grown and processed in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH.
3. Solid or liquid waste byproduct or remnants generated from the operation shall be stored in the enclosed secured principal building until picked up for transportation to a facility authorized to accept such waste.
4. Storage of medical marijuana waste remnants in an accessory building or waste refuse container located outside of the principal building is prohibited.
5. Growing and processing of medical marijuana shall be limited to wholesale products for sale to another medical marijuana facility. Retail

sales of medical marijuana, including the operation of a Medical Marijuana Dispensary on the same property as the growing and processing operation is prohibited.

6. A grower and processor facility may not be located within 1,000 feet of the property line of a public, private, or parochial school or day-care center (“Protected use”) unless a waiver is granted by the DOH. This distance shall be measured in a straight line from the closest exterior wall of the building in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located. A grower and processor facility lawfully operating under the Medical Marijuana Act, Act 16 of 2016, shall not be considered in violation of this provision as a result of a later location of a protected use.
7. All outdoor lighting shall be directed away from public right of ways and adjoining properties so that the lighting does not present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring uses or properties (nuisance glare). An outdoor lighting plan shall be required as part of the application for conditional use.
8. The required number of off-street parking spaces shall be one space for every 2,000 square feet of gross floor area, plus one space for every two employees on the maximum working shift.
9. The required number of loading spaces shall be one space for every 7,500 square feet of gross floor area. Loading areas shall be located within the principal building.
10. A screened buffer is required where a grower and processor facility adjoins a residential zoning district (R-1, R-2 and R-3) or a residential use of a property. The screened buffer shall consist of a visually solid, tight fence not less than six feet in height and a natural wooded buffer or planting strip along the nonresidential use or zone that is at least six feet in height and five feet in width when planted so as to shield the residential use or zone from the proposed grower and processor facility. A landscape plan shall be required as part of the application for conditional use.
11. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from a grower and processor facility.
12. A grower and processor of medical marijuana must be legally registered with the Commonwealth of Pennsylvania and possess a current and valid permit from DOH.

f. Sawmill or lumber yard.

1. The processing of cut trees from a property other than the property where the trees are being cut shall be conducted within a completely enclosed building that shall not exceed 5,000 square feet in total floor area.
2. The building must be located not less than 150 feet from a lot line.
3. Timber storage areas shall be completely screened and enclosed by a chain link fence and properly locked gate not less than six feet in height, which fence and gate must consist of screening material that has openings or gaps no greater than four inches in any dimension.

g. Water withdrawal.

1. The applicant shall provide the documentation submitted to the Pennsylvania Department of Environmental Protection (DEP) for a permit to withdraw or allocate water along with the River Basin Commission. All permits shall be filed with the City.
2. Loading and unloading areas shall be setback a minimum of 150 feet from any adjacent residential use or zone.
3. Minimum lot area: 10 acres.
4. Any bottling plant shall be considered a separate industrial use and shall only be permitted as a heavy industrial use.

**SECTION 603. ANIMAL RELATED USES.**

a. Animal hospital.

1. An animal clinic or hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building.
2. All buildings shall be located not less than 35 feet from any property line unless the setback is greater for the zoning district in which the building is to be located in which case the greater setback distance shall apply.

b. Animal kennel.

1. Animals must be kept within an enclosed building, except for runways that must be fenced.

2. All buildings, runways, fenced enclosures, and similar structures shall be located not less than 150 feet from all lot lines. Where the property abuts a zoning district having residences as a principal permitted use, all buildings, runways, fenced enclosures, and similar structures shall be located not less than 200 feet from such lot lines.
- c. Keeping of bees.
1. Bee keeping facilities shall be setback a minimum of 40 feet from any lot line and must be fenced within 100 feet of a lot line.
  2. Signs shall be erected to warn the public of the presence of bees.
  3. The facility must be operated in such a manner as to prevent bees from entering streets, sidewalks or other properties.
  4. Bee keeping facilities are only permitted in the GI Zone with a zoning permit.
- d. Keeping of chickens.
1. No more than six chickens are permitted on a property.
  2. No roosters are permitted on a property.
  3. All chickens must be housed in a predator resistant structure with access to outdoor spaces secured to prevent them from leaving the property.
  4. All structures and runs shall be setback at least 20 feet from an adjoining property and public street.
  5. Slaughtering of chickens is prohibited.
  6. Keeping of chickens are only permitted in the GI Zone with a zoning permit.
- e. Keeping of agricultural animals and livestock. No agricultural animals, farm animal, or other livestock shall be permitted on any property except as part of a permitted agricultural operation.
- f. Keeping of domestic pets.
1. The keeping of domestic pets is permitted by right in all zoning districts without a zoning permit.

2. Pets shall not be kept in such a manner as to create a serious nuisance (including odor or noise), a health or public safety hazard.
  3. The owner of the pet shall be responsible for collecting and properly disposing of all fecal matter on a regular weekly basis.
  4. No dangerous pet shall be kept outdoors except within a secure enclosure.
  5. No more than a total of five dogs and cats (or any combination of dogs and cats) shall be permitted on a lot or within a dwelling except for an approved animal kennel.
  6. No more than four small birds, gerbils, rabbits or other small animals commonly sold in retail pet stores (or any combination of animals) shall be permitted.
- g. Animal day care.
1. Hours of operation may only occur between the days of Monday through Saturday and between the hours of 7:00 a.m. and 7:00 p.m. otherwise the use must also comply with the supplemental regulations for an animal kennel under Section 603(b) above.
  2. Recreation must be provided by the operator for the domestic pets.
  3. A maximum of fifteen domestic pets shall be permitted per property.

#### **SECTION 604. COMMERCIAL USES.**

- a. Adult uses.
1. No adult use shall be located less than 1,000 feet from a residential use, place of worship, public or quasi-public use, school, or child care center. No adult use may be located within 500 feet from another adult use.
  2. A buffer yard of at least 50 feet shall be provided and the lot (except for access drives) shall be screened with both a planting strip and fence under the specifications under Chapter 10 of this ordinance.
  3. No pornographic material, display or words shall be placed in view of persons who are not inside the establishment.
- b. Airport or heliport.
1. A minimum lot size of five acres shall be required for a heliport, and 10 acres for an airport.

2. The entire perimeter of the runway or landing/take-off area shall be enclosed by a fence not less than eight feet in height. The surface area of the runway or landing/take-off area shall be paved. The runway or landing/take-off area shall be located not less than 300 feet from all lot lines. Where the property abuts either a zoning district having residences as a principally permitted use or a property being used for residential purposes, the runway or landing/take-off area shall be located not less than 500 feet from such zoning district or property line.
  3. Bulk fuel storage shall not be permitted for a heliport but may be permitted for an airport as a second principal use under this ordinance.
  4. An aviation permit issued by the Pennsylvania Department of Transportation shall first be obtained before making an application for a zoning permit.
- c. Automobile related uses.
1. Repair garage.
    - A. All repairs and painting shall be conducted within an enclosed building. Spray booths shall have ventilation systems that direct fumes away from adjacent properties and buildings.
    - B. No outdoor storage of materials shall be permitted. Temporary outdoor parking of customer vehicles is permitted.
    - C. Service bay doors shall be closed when repairs are being performed. Service bay doors on new buildings shall front on a public street.
  2. Automobile, boat, equipment, manufactures home and recreational vehicle sales. Where sales and rentals of automobiles, boats, equipment, manufactured homes and recreational vehicles are permitted, outdoor displays shall be at least five feet from all lot lines and no part of the display area shall be permitted in an existing or future street right-of-way or in a required parking or loading space.
  3. Car wash.
    - A. All structures housing self-service devices such as vacuum, air or fuel may be located in any yard provided that they are not less than 25 feet from the existing street right-of-way and side yard lot lines.

- B. Water from the car wash shall not flow onto sidewalks or streets in such a manner as to negatively impact pedestrian and vehicular travel.
  - C. Minimum lot size: five acres, which may be reduced to one acre if the applicant proves that the water will be recycled on-site.
  - D. Access drives and parking aisles shall be designed so as not to cause traffic hazards on streets. On-lot traffic circulation channels and parking areas shall be clearly marked.
  - E. Adequate provisions shall be made for the proper and convenient disposal of refuse.
- d. Commercial residential related uses.
- 1. Assisted living residence and personal care home shall dedicate a minimum of 20 percent of the lot to outdoor recreational activities limited to one or more of the following: garden areas, sitting areas, picnic areas and pedestrian walkways. Proof of licensing by Pennsylvania Department of Human Services must be provided prior to the issuance of a zoning permit.
  - 2. Bed and breakfast.
    - A. A Bed and breakfast shall be conducted within a dwelling unit.
    - B. There shall not be separate cooking facilities in any guestroom, and food shall only be prepared or served to overnight guests unless a restaurant is also a permitted use within the zoning district in which the property is located.
    - C. Guests shall not be permitted to stay for more than four weeks in any given year.
    - D. No display or advertising shall be permitted except for a permitted identification sign.
  - 3. Boarding or rooming houses.
    - A. A boarding or rooming house shall serve no more than 12 persons.
    - B. Each bedroom shall be limited to no more than two adults.
    - C. Rooms shall be rented for a minimum of one week.

- D. The owner shall also reside in the boarding or rooming house.
  - E. A buffer yard with screening under Chapter 10 shall be provided where the building adjoins a residential dwelling unit.
4. Childcare center or family care homes.
- A. An outdoor play area, which is equal to at least 20 percent of the total gross floor area for the child care shall be required.
  - B. The outdoor play area shall be setback a minimum of 25 feet when adjoining a dwelling unit.
  - C. The outdoor play areas shall be completely enclosed with a fence at least six feet in height. A locked gate shall be provided when the play area is accessible to a public access area.
  - D. Outdoor play activities shall be limited to the hours of 9:00 AM and 5:00 PM local time.
  - E. The use shall not be conducted in dwelling that is physically attached to another dwelling that does not have a common owner.
  - F. The exterior appearance shall be maintained so that it is compatible with existing dwellings in the neighborhood.
5. Group home.
- A. The maximum occupancy shall not exceed six unrelated persons, excluding paid professional staff members, who shall live on the premises and function as a common household unit. If there are a maximum number of occupants, then 24 hour on-site staffing shall be provided.
  - B. The exterior appearance of the group home shall be residential in nature.
  - C. A group home shall not include any use meeting the definition of a Treatment Center.
  - D. The applicant shall provide evidence of state licensing or certification.
  - E. Additional unrelated persons may reside at a group home location if allowed and authorized and after review by the UCC commercial



inspector pursuant to the applicable provisions of the Uniform Construction Code.

6. Hotel and motel.
  - A. The use shall have a minimum lot area of two acres.
  - B. The building shall contain at least 10 guest sleeping rooms not less than 250 square feet per sleeping room.
  - C. No less than 60 percent of the gross floor area of the building shall be devoted to sleeping rooms.
  - D. The remaining floor area may be used for such uses as a restaurant, retail store, game room, ballroom and banquet room provided that these uses are primarily designed to serve the guests of the motel or hotel.
  - E. All buildings and structures shall be located not less than 60 feet from a front yard line, 35 feet from all side yard lines, and 50 feet from the rear yard line.
  - F. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.

e. Drive-in or thru facilities.

1. Parking lots shall be designed to provide the minimum queue lengths outlined below without blocking access points, dumpster enclosures, crosswalks, or parking spaces for uses having drive-in or drive through facilities:
  - A. 100 feet queue length for:
    - i. Carwash as an accessory use.
    - ii. A use that has a call box for access.
    - iii. Pharmacy pickup or drop off window.
  - B. 150 feet queue length for stand-alone ATM.
  - C. 250 feet queue length for:
    - i. Drive thru restaurant.

- ii. Bank or financial institution.
    - D. 300 feet queue length for:
      - i. Stand-alone car wash.
      - ii. Drive thru oil change facility.
  - 2. All queue lengths shall be measured from the center of the last window for the drive thru service. For car washes, the length shall be measured from the stop line prior to the car wash building. For ATMs, and Access Boxes, the length shall be measured from the actual ATM or Access Box. The queue lengths can be divided among multiple drive thru lanes.
  - 3. Drive thru lanes shall have a minimum width of 10 feet. In addition, a bypass lane with a minimum width of 12 feet shall be provided to allow motorists an opportunity to exit the drive thru lane and re-enter the parking lot.
- f. Medical uses.
  - 1. Health care campus.
    - A. The maximum percent of lot coverage shall be 50 percent for all principal and accessory buildings excluding parking structures.
    - B. The maximum height for buildings shall be 40 feet.
    - C. The minimum lot size shall be five acres.
    - D. All buildings and parking structures shall be setback a minimum of 75 feet from all lot lines.
    - E. The minimum setbacks shall be applied only to the perimeter of the campus, and the minimum setback between individual buildings on a Health Care Campus shall be 40 feet.
    - F. In no case shall a public right-of-way be used for parking, loading, unloading, or storage of commercial vehicles.
    - G. At least two access drives with a minimum width of 24 feet each shall be provided, each from a public street.
    - H. Drug and Alcohol Rehabilitation and Treatment shall be permitted by special exception approval from the zoning hearing board

provided that the center or facility providing such services is an accessory use to the Health Care Campus consisting of less than 10 percent of the total uses on the campus.

2. Medical, therapy, or treatment facilities.
  - A. The facility must be supervised and secured in such a manner as to adequately protect the safety of the general public.
  - B. The application must state the conditions that will cause persons to occupy the facility and the manner in which the facility will be supervised and secured.
3. Medical marijuana delivery vehicle office.
  - A. Off-street parking regulations shall utilize those listed for an office.
  - B. The parking area where the delivery vehicles are to be stored shall be screened with a visually solid, tight fence. A fence plan shall be required as part of the application for conditional use.
  - C. Entrances and driveways must be designed to accommodate the anticipated vehicles used to enter and exit the premises.
4. Medical marijuana dispensary.
  - A. A medical marijuana dispensary shall meet the same municipal zoning and land use requirements as other commercial uses located in the same district in order to comply with Section 2107(2) of the Pennsylvania Medical Marijuana Act, Act 16 of 2016.
  - B. The use shall be conducted in an indoor, enclosed, permanent, and secure building. The use shall have a single secure public entrance that is not shared with any other use or user and shall not be located inside the same physical space or area of another retail commercial property. The use shall not have a drive-through or outdoor seating. All storage areas shall be separately locked. The medical marijuana may not be administered or consumed on site. The user shall implement appropriate security and surveillance measures as required by the Pennsylvania Department of Health.
  - C. A medical marijuana dispensary may not operate on the same property as a grower and processor of medical marijuana.
  - D. A medical marijuana dispensary may only dispense medical marijuana to patients and caregivers.

- E. The use may not be located within 1,000 feet of the property line of a public, private, or parochial school or public, private, or parochial school or day-care center (“Protected Use”) unless a waiver is granted by the DOH. This distance shall be measured in a straight line from the closest exterior wall of the building in which the business is conducted or proposed to be conducted, to the closest property line of the protected use, regardless of the municipality in which it is located. A medical marijuana dispensary lawfully operating under the Medical Marijuana Act, Act 16 of 2016, shall not be considered in violation of this provision as a result of a later location of a protected use.
- F. Permitted hours of operation shall be between 8:00 A.M. to 9:00 P.M. daily.
- G. All external lighting serving medical marijuana dispensary must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties.
- H. The required number of off-street parking spaces shall be one space for every 300 square feet of gross floor area.
- I. The required number of loading spaces shall be one space for every 10,000 square feet of gross floor area or fraction thereof.
- J. The user shall obtain a permit and approval from the DOH and provide a copy to the City.

5. Treatment facility or treatment center, out-patient.

- A. The applicant shall prove to the satisfaction of the zoning hearing board that such use will involve adequate supervision and security measures to protect public safety.
- B. The zoning hearing board may place conditions on the use as necessary to protect public safety, including conditions on security measures.

g. Night club, BYOB club.

- 1. The applicant shall prove that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light and litter and will be controlled as to not constitute a nuisance due to noise or loitering outside the building.

2. The use shall be not less than 200 feet from any residential use, place of worship, public use, school or child care center.
  3. A fence or buffer under Chapter 10 shall be provided along any lot line adjoining a lot that is being used for residential purposes, place of worship, public use, school or child care center.
- h. Retail sales or wholesale services.
1. Generally. Any use providing retail sales shall be conducted within a completely enclosed building, except for permitted sidewalk sales. No outdoor storage or display is permitted.
  2. Flea markets.
    - A. All outdoor display and sale of merchandise shall commence no earlier than one hour before sunrise and cease no later than one hour prior to sunset.
    - B. The retail sales area shall be set back at least 25 feet from all lot lines.
    - C. The retail sales area shall be calculated as part of the maximum lot coverage regardless of its surface material.
    - D. Any exterior amplified public address system shall be arranged and designed so as to prevent objectionable impact on adjoining properties and the applicant shall demonstrate compliance with the noise and lighting requirements of this ordinance.
    - E. Trash receptacles shall be provided in the retail sales areas, and must be routinely emptied so as to prevent the scattering of litter, garbage, and debris. All applications shall include a litter plan.
- i. Self-storage facilities.
1. All storage shall be contained within a completely enclosed building.
  2. The maximum length of any building shall not exceed 300 feet.
  3. No activities including off-street parking shall be allowed within 30 feet of a property line abutting a district having residences as a principal permitted use.

## **SECTION 605. ENERGY RELATED ACCESSORY USES.**

- a. Accessory solar energy systems (ASES).
1. Compliance with industry standards. The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.
  2. Installers. ASES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:
    - A. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for PV installation.
    - B. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.
    - C. For residential applications, a registered home improvement contractor with the Attorney General's Office.
  3. Maintain in good working order. Upon completion of installation, the ASES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the ASES was constructed. Failure of the owner to maintain the ASES in good working order is grounds for an enforcement action by the zoning officer.
  4. Underground requirements. All on-site utility, transmission, and plumbing lines shall be placed underground.
  5. Signage. The display of advertising is prohibited except for a nameplate and identification sign under Chapter 9 of this ordinance.
  6. Glare.

- A. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby properties, structures, buildings, or roadways.
  - B. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
7. Solar easements. If a solar easement, intended to guarantee unobstructed solar access, is desired by the applicant, owner or landowner for an ASES, such matter shall be carried out as a private agreement among the parties of which the City shall not be a party. The City shall also not be responsible for ensuring the maintenance or enforcement of any solar easement.
8. Roof mounted and wall mounted accessory solar energy systems.
- A. Location. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
  - B. Setbacks.
    - i. Wall mounted ASES shall comply with the setbacks for an accessory structure under Chapter 4 of this ordinance.
    - ii. Roof mounted ASES shall not extend beyond any portion of the roof edge.
  - C. Height. ASES mounted on roofs or walls of any building shall be subject to the maximum height requirement specified for a principal building within the zoning district in which it is located.
  - D. Code compliance. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the PA Uniform Construction Code and that the roof or wall is capable of holding the load imposed on the structure. Applications for roof mounted ASES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the ASES.
9. Ground mounted accessory solar energy systems.
- A. Setbacks.

- i. The minimum yard setbacks from side and rear property lines shall comply with the required setbacks for a principal structure setback of the zoning district in which it is located.
      - ii. Ground mounted ASES are prohibited in front yards, between the principal building and the public street, excluding front yard locations which are located not less than 200 feet from the front property line.
    - B. Height. Freestanding ground mounted ASES shall not exceed 20 feet in height above the ground elevation surrounding the systems.
    - C. Maximum impervious cover.
      - i. The surface area of the arrays of a ground mounted ASES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the percentage of impervious cover. ASES shall not exceed the maximum impervious cover for the zoning district in which it is located.
      - ii. If applicable, the applicant shall submit a Stormwater Management Plan that demonstrates compliance with the City stormwater management regulations.
    - D. Screening. Ground mounted ASES when located less than 150 feet from a property line shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screening shall be in accordance with Chapter 10 of this ordinance.
  - 10. Safety and warning signage. Appropriate safety and warning signage concerning voltage shall be affixed to ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.
  - 11. Location restrictions. Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system or in any other location on the property that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
- b. Accessory wind energy facilities (AWEF).



1. Compliance standards. The layout, design and installation of AWEF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Notske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with the PA Uniform Construction Code and all applicable building and electrical codes of the City. The manufacturer specifications shall be submitted as part of the permit application.
2. Noise.
  - A. The sound produced by an AWEF shall not exceed 45 dBA Lmax as measured at the property line at ground level.
  - B. Methods for measuring and reporting acoustic emissions from AWEF shall be equal to or exceed the minimum standards for precision described in ANSI/ASA S12.9 Part 3, Short Term Measurements with an Observer Present; S 12.100, Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas; and Computer Modeling shall comply with ANSI.ASA S12.6 (ISO9613-2) Attenuation of sound during propagation outdoors- Part 2 General method of Calculation.
3. Accessory building storage. When an accessory building is necessary for storage cells or related mechanical equipment, the accessory building shall comply with accessory building requirements of the zoning district in which the accessory building is located.
4. Underground requirements. All on-site utility, transmission lines, and cables shall to the maximum extent possible be placed underground.
5. Utility notification. The owner of an AWEF shall provide the City written confirmation that the public utility to which the AWEF will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid AWEF shall be exempt from this requirement.
6. Signage. The display of advertising is prohibited, except for the identification of the manufacturer of the system.
7. Lighting. AWEF shall not be lighted, except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations.

8. Color. AWEF shall be painted a non-reflective, flat color such as white, off-grey or grey unless required to be colored differently by FAA or BOA regulations.
9. Braking system. All WEF shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
10. Shadow flicker. An AWEF shall not cause shadow flicker on any occupied building on a non-participating landowner's property.
11. Location. No part of any AWEF shall extend over parking areas, access drives, driveways or sidewalks.
12. Insurance. The owner of the AWEF shall provide evidence to the City that the owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the AWEF.
13. Ice throw. The potential ice throws or ice shedding for an AWEF shall not cross the property line of the lot on which the AWEF is located nor impinge on any right-of-way or overhead utility line.
14. Electronic interference. The owner of the AWEF shall ensure that the design and operation of the AWEF avoids disruption or loss of radio, telephone, television, cell, internet, VOR signalization for aircraft or similar signals, and shall mitigate any harm caused thereby.
15. Warnings.
  - A. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers.
  - B. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be place on the anchor points of guy wires and along guy wires up to a height of 10 feet above the ground.
16. Ground mounted AWEF.
  - A. Minimum Lot Size is two acres.
  - B. Height. AWEF shall not exceed 80 feet in height.

- C. Ground clearance. The minimum ground clearance for the AWEF shall be 80 feet.
- D. Setbacks. AWEF shall be set back from property lines, occupied dwelling, above ground utility lines, railroads and/or rights-of-way by a distance equal to or no less than one and half times the total height.
- E. Number of AWEF. One ground mounted AWEF shall be permitted per lot.
- F. Location. Ground mounted AWEF shall be prohibited in front yards, between the principal building and the street right-of-way. The minimum distance between the ground and the wind rotor blade shall be 20 feet.
- G. Safety and security. All AWEF shall be surrounded by a six-foot high fence if the AWEF is not otherwise rendered unclimbable up to 12 feet above the ground.

17. Building mounted AWEF.

- A. Location. Building mounted AWEF may be located on any lot regardless of lot size.
- B. Height. Building mounted AWEF shall comply with the height restrictions of the zoning district in which it is located. The AWEF shall not exceed the maximum height requirements for an accessory structure under Chapter 4 of this ordinance and when attached to a building, the building and AWEF combined shall not exceed the maximum height for a principal building in the zoning district in which it is located.
- C. Number of AWEF. One building mounted AWEF shall be permitted per lot.
- D. Compliance with Codes. The applicant shall provide evidence to the City that the plans for a building mounted AWEF comply with the Uniform Construction Code and other adopted building.

c. Outdoor wood fired burners.

1. Installation of outdoor wood fired burners. An outdoor wood fired burner shall be permitted by special exception in a residential zoning district and shall installed as follows:
  - A. Located at least 100 feet from any building or occupied structure.
  - B. Installed under the Uniform Construction Code and in accordance with manufacturer's specifications and instructions.
  - C. Demonstrated that the chimney of the outdoor wood fired burner is the greater of 30 feet in height or five feet in excess of the height of any occupied structure within 300 feet not located on the lot on which the outdoor wood fired burner will be located.
  - D. Demonstrated that the outdoor wood fired burner has been laboratory tested and listed to appropriate safety standards such as (UL) (Underwriters Laboratories) and ANSI (American National Standard Institute) standards.
  
2. Use of outdoor wood fired burners. Each person who owns a lot on which an outdoor wood fired burner is located and each person who occupies a lot on which an outdoor wood fired burner is located shall be responsible to insure that the outdoor wood fired burner is operated under the following requirements:
  - A. The only substance that may be burned in an outdoor wood fired burner is clean wood.
  - B. None of the following shall be burned in an outdoor wood fired burner:
    - i. Any wood that does not meet the definition of clean wood;
    - ii. Tires;
    - iii. Lawn clippings or yard waste;
    - iv. Materials containing plastic;
    - v. Materials containing rubber;
    - vi. Waste petroleum products;
    - vii. Paints and paint thinners;
    - viii. Coal;

- ix. Any type of paper;
  - x. Construction and demolition debris;
  - xi. Plywood;
  - xii. Particleboard;
  - xiii. Salt water driftwood;
  - xiv. Manure;
  - xv. Animal carcasses;
  - xvi. Asphalt products; or
  - xvii. Used cooking oils.
- C. The outdoor wood fired burner shall, at all times, be operated and maintained in accordance with the manufacturer's specifications.
  - D. The outdoor wood fired burner shall be maintained and operated in compliance with all emissions of air quality standards promulgated by the U.S. Environmental Protection Administration (EPA).
  - E. The emissions from the outdoor wood fired burner shall not be detectable beyond the lot on which the outdoor wood fired burner is located, interfere with the reasonable enjoyment of life or property of neighbors, cause damage to vegetation or property of neighbors, or be harmful to human or animal health.
  - F. The outdoor wood fired burner shall not be operated before October 1 or after April 30 of each calendar year.
  - G. The installation must be inspected and approved by the fire chief and be installed in accordance with the fire code.

**SECTION 606. INDUSTRIAL USES.**

- a. Bulk fuel storage.
  - 1. Bulk fuel storage whether permitted as a principal or accessory use shall be located on a lot of not less than two acres.

2. Storage tanks shall be located not less than 250 feet from all lot lines and shall be not less than 500 feet from any residential dwelling unit, school, child care center, place of worship, and public use.
3. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than 100 feet from all lot lines.
4. The tank storage area shall be completely fenced with a chain link fence at least six feet in height and properly locked and posted as hazardous and dangerous. If the storage area adjoins a lot used for residential purposes, the fence shall be screened from view by a buffer planted and maintained under Chapter 10 of this ordinance.
5. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations and proof of such shall be provided to the zoning officer prior to commencement of the use.

b. Heavy and light industrial.

1. The application shall include a detailed description of:
  - A. The nature of the on-site processing operations, the materials used in the process, the products produced, the generation and methods for disposal of any wastes and by-products, and the manner and method of storage and disposal of materials.
  - B. The general scale of the operation in terms of its market area, specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size.
  - C. Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, waste water, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts.
2. A buffer yard of at least 75 feet shall be provided from any lot used with an existing residential dwelling unit or for any residential zoning district. When the lot adjoins a lot used for residential purposes or zoned for residential use, the lot shall be screened with both a planting strip and fence under Chapter 10 of this ordinance.

c. Industrial hemp production.

1. An industrial hemp production facility shall meet the same requirements as other manufacturing, processing and production uses located in the same zoning district, including minimum lot size (area and width), minimum yard dimensions (front, each side and rear), and maximum building coverage and height.
  2. Industrial hemp production must occur in an indoor, enclosed, and secure building.
  3. All outdoor lighting shall be directed away from public right of ways and adjoining properties so that the lighting does not present a hazard to drivers or pedestrians by impairing their ability to safely traverse (disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring uses or properties (nuisance glare). An outdoor lighting plan shall be required as part of the application for conditional use.
  4. The required number of off-street parking spaces shall be one space for every 2,000 square feet of gross floor area, plus one space for every two employees on the maximum working shift.
  5. The required number of loading spaces shall be one space for every 7,500 square feet of gross floor area. Loading areas shall be located within the principal building.
  6. A screened buffer is required where the facility adjoins a residential zoning district (R-1, R-2 and R-3) or a residential use of a property. The screened buffer shall consist of a visually solid, tight fence not less than six feet in height and a natural wooded buffer or planting strip along the nonresidential use or zone that is at least six feet in height and five feet in width when planted so as to shield the residential use or zone from the proposed grower and processor facility. A landscape plan shall be required as part of the application for conditional use.
  7. There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from an industrial hemp production facility.
- d. Junk or salvage yard.
1. The premises shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.
  2. Burning or incineration of any kind shall be prohibited.

3. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on the premises.
4. Whenever any motor vehicle shall be received on the premises as junk, all gasoline and oil shall be drained and removed from the vehicle and properly stored or disposed.
5. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within a fireproof building.
6. The manner of storage and arrangement of junk and the drainage facilities on the premises shall be such as to prevent the accumulation of stagnant water upon the premises, which is a place for the breeding of rodents, insects and vermin.
7. Stockpiling of motor vehicles is prohibited.
8. Outdoor storage of junk may not be piled higher than eight feet in height, and must be setback no less than 100 feet from any adjoining property line, street right-of-way, water way, and drainage swale.
9. The premises shall contain a minimum of two access drives, each of which shall remain unobstructed at all times for emergency vehicles and be not less than 20 feet in width.
10. The minimum lot size shall be three acres and the maximum lot size shall be five acres.
11. Motor vehicles, parts and other junk shall be arranged in such a manner as to allow access drives no less than 12 feet in width for emergency vehicles. The access drives shall be kept open and unobstructed at all times.
12. Except for the required access drives, the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than five feet in depth, with shrubbery, plants or evergreen trees which are a minimum of six feet in height at the time of planting. This area must then be suitably landscaped and maintained.

e. Machine shop.

1. Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such



boundary line, and a buffer yard of not less than 20 feet in width must be landscaped, and maintained in good condition.

2. No parking, loading, idling, storage of any kind, or trucking shall be allowed within the buffer yard. All trucks idling in excess of 15 minutes shall be prohibited. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited.
3. All operations excluding pickups or deliveries shall be conducted within the enclosed building.

f. Mineral extraction.

1. The use, activity or any aspect of the operation shall be located not less than 1,500 feet from the nearest inhabited residence, place of worship, or any public recreational activity. The setback distance of the use, activity or any aspect of the operation from surface water bodies, creeks, streams, and wetlands shall comply with the State mandated requirements.
2. Except for approved access drives (which shall be secured by locked gates, which may only be open during business hours), the premises shall be completely screened to protect public safety with an industrial type gauge fence eight feet in height.
3. Signs shall be conspicuously attached to the fence every 75 feet warning the public of the nature of the operation.
4. A buffer yard not less than 50 feet in width shall also be maintained with natural vegetative ground cover along all exterior lot lines that are within 300 feet of an area of excavation. This buffer yard shall include an earth berm with a minimum height of six feet and an average of one shade tree for each 50 feet of distance along the lot lines. The shade trees shall be planted outside of the required berm and fence. If substantial trees, vegetation or forest exist within the required buffer yard, then new plantings in the buffer yard is not necessary provided that the existing trees, vegetation or forest are well-kept, preserved, maintained and adequately serve the purpose for which the yard was to be created.
5. The lot and operation thereon shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare. The days and hours of operation, including excavation, blasting and relating trucking, may be limited depending upon the characteristics of the neighborhood.
6. The site shall contain a minimum of two access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in

accordance with the City SALDO, and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. Access drives shall be located so as to prevent public safety hazards, dust and noise.

7. All applications shall include a plan that evidences the measures to be taken by the operator to prevent dust, dirt, stone or other debris from escaping from the facility onto any public property/street, or private property of another.
8. Applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.
9. Applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.
10. An asphalt, batch or concrete plant or processing operations shall constitute a principal use, not an accessory use.

g. Outdoor storage.

1. The use of a lot for outdoor storage shall require a minimum lot area of not less than one acre.
2. No outdoor storage shall be permitted within a front yard.
3. Except for a gated and located entranceway, the storage area shall be completely enclosed from public view by means of a screened chain link fence not less than six feet in height.
4. The applicant shall include a complete listing of all material to be stored on the lot at the time of application. The list shall be updated annually and filed with the City and the zoning officer.

h. Recycling collection center.

1. All operations, including collection, shall be conducted within a completely-enclosed building.
2. There shall be no outdoor storage of materials used or generated by the operation.

3. The applicant shall explain the scope of operation, and any measures used to mitigate problems associated with noise, fumes, dust, and litter.
  4. The applicant will assure regular maintenance of the site to assure the immediate collection of stray debris.
- i. Solid waste facilities (including solid waste landfill, transfer and solid waste-to-energy facility).
1. The use, activity or any aspect of the operation shall be located not less than 500 feet from any street right-of-way, creek, stream or wetland; and not less than 1,000 feet from any residential zoning district, or lot line where a residential dwelling unit, place of worship, school, day care, or public recreational activity is located.
  2. Burning and incineration is prohibited, except for an approved waste to energy facility.
  3. The property shall contain a minimum of three access drives, each of which shall be not less than 24 feet in width, and all of which shall be improved in accordance with the City SALDO, and connect to a public street sufficient in size to accommodate the proposed traffic expected to be generated by the use. One of the access drives shall be restricted to use by emergency vehicles only, and shall be clearly marked and identified. The application shall also be accompanied by a plan of the site that includes the location of access drives and proposed structures, and an emergency response plan to address potential safety concerns associated with the use.
  4. The lot shall at all times be maintained so as not to constitute a private or public nuisance, or adversely impact the public health, safety or welfare.
  5. A solid waste facility shall have a minimum lot area of 15 acres and a maximum lot area of 20 acres, whether developed initially or cumulatively, with a maximum total capacity to treat or dispose of 500 tons of waste per day.
  6. Except for the required access drives (which shall be secured by locked gates, which may only be open during business hours) the premises shall be completely screened by a wall or fence not less than eight feet in height and a planting strip not less than 10 feet in depth, with shrubbery, plants or evergreen trees which are a minimum of eight feet in height at the time of planting. This area must then be suitably landscaped and maintained. In addition, an attendant shall be present during all periods of operation or dumping to ensure that:

- A. Only authorized waste is accepted;
  - B. The access drives remain unobstructed; and
  - C. Litter, garbage and rubbish is collected from the site and it's surrounding on a regular daily basis prior to the closing of business on each day.
7. The days and hours of operation shall be limited to Monday through Friday from 7 a.m. to 5 p.m. and Saturday from 8 a.m. to 4:00 p.m. The facility shall not conduct any approved operations at any other times and days.
  8. The operator shall take all necessary precautions to prevent litter, garbage and rubbish from scattering off site, and shall regularly monitor the site and its surroundings collecting litter, garbage and other rubbish that may have escaped from the facility or trucks.
  9. Dangerous materials such as radioactive, hazardous or infectious waste may not be stored, processed, disposed of, or incinerated on site.
  10. All loading and unloading of solid waste shall occur within an enclosed building, and over an impervious surface drain to a holding tank that is then adequately treated. All solid waste processing and storage shall occur within an enclosed building or enclosed container.
  11. All applications shall include an estimated life expectancy for the proposed use; a plan for the future productive use of the property once the life of the project has terminated; a proposed cost to reclaim the property and implement the future use; and a financial guarantee for implementation of that use.
  12. All applications shall include the same information, written materials and plans that are to be submitted to the Pennsylvania Department of Environmental Protection, as part of the state permitting process.
- j. Trucking terminal.
1. The minimum lot area shall not be less than two acres.
  2. Access drives shall be sufficient in width to accommodate the use, but in no event exceed 24 feet in width. Access drives must connect to a public street.
  3. Where the operation abuts a zoning district where residences are a

principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than eight feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped, and maintained in good condition. No parking, loading, idling, storage of any kind, or trucking use shall be allowed within the buffer yard.

4. All trucks idling in excess of 15 minutes shall be prohibited.

k. Warehouse and distribution facilities.

1. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited.
2. Access drives shall be sufficient in width to accommodate the use, but in no event shall any access drive exceed 24 feet in width.
3. No activities including off-street parking shall be allowed within 150 feet of a property line abutting a district having residences as a principal permitted use.
4. All truck idling in excess of 15 minutes shall be prohibited.

**SECTION 607. INSTITUTIONAL USES.**

a. Medical marijuana academic clinical research center.

1. Off-Street parking regulations shall utilize those listed for an office.
2. An academic clinical research center may only grow medical marijuana in an indoor, enclosed, and secure building which includes electronic locking systems, electronic surveillance and other features required by the DOH. The portions of the academic clinical research center where the medical marijuana is grown may not be in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
3. All external lighting must be shielded in such a manner not to allow light to be emitted skyward or onto adjoining properties.
4. A screened buffer is required where a medical marijuana academic clinical research center adjoins a residential zoning district (R-1, R-2 and R-3) or a residential use of a property. The screened buffer shall consist of a visually solid, tight fence not less than six feet in height and a natural wooded buffer or planting strip along the nonresidential use or zone that is at least six feet in height and five feet in width when planted so as to

shield the residential use or zone from the proposed grower and processor facility. A landscape plan shall be required as part of the application for conditional use.

b. Prison or correctional facility (including juvenile and other detention facilities).

1. The minimum lot size shall be five acres.
2. All buildings must be setback not less than 150 feet from a property line and 300 feet from a street line.
3. Where the prison abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than 10 feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than 300 feet in width must be landscaped, and maintained in good condition at all times. No structures, parking, loading, storage of any kind, or any use shall be allowed within the buffer yard. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.

c. School.

1. A school shall have outdoor recreational or play areas. The outdoor recreational or play areas shall be located not less than 150 feet from any residential lot line, or existing residential dwelling unit. Outdoor recreation areas shall not be located within the front yard and must be set back 25 feet from all lot lines. Any vegetative materials located within the outdoor recreation areas shall be of a non-harmful type (poisonous, thorny, allergenic, etc.). All outdoor recreation areas must provide a means of shade, such as shade trees or a pavilion. Off-street parking lots shall not be used as outdoor play areas.
2. Passenger “drop-off” and “pick-up” areas shall be provided and arranged so that students do not have to cross traffic lanes on or adjacent to the site.
3. All buildings shall be set back at least 100 feet from any adjoining lot.
4. No part of the school property shall be located within 1,000 feet of a property containing an adult use, betting use, or medical, therapy or treatment facility.

**SECTION 608. RECREATIONAL USES.**

a. Recreational facility (outdoor).

1. The outdoor recreation activity shall be conducted no closer to any property line than the minimum required front yard for the zoning district in which the property is located.
2. The outdoor recreation area shall be screened by a buffer area with a minimum of 10 feet in depth and six feet in height at the time of planting. The buffer area shall consist of planted trees or shrubs, and shall completely surround the activity except for permitted access drives.
3. Parking areas shall not be located within any buffer area, as the buffer areas must be properly landscaped and maintained in good condition at all times. Natural forest or woods may be provided in lieu of a buffer area provided that the minimum depth of the forest or wood area is 50 feet and it is consistently thick enough to serve the purpose of a buffer area.
4. The minimum lot size for any outdoor recreational use shall be not less than three acres.
5. A restaurant/tavern, entertainment facility, or retail store shall be permitted accessory uses to an outdoor recreational use provided that those uses are allowed in the applicable zoning district, and only when all the requirements for those particular uses have also been met.
6. Hours of operation shall be limited to daytime hours only, and any lighting shall be limited to the hours of operation only. The days/hours of operation shall be limited to Monday through Saturday from 7:00 a.m. to 6:00 p.m. or dusk. The facility shall not conduct any approved operations at any other times and days.

**SECTION 609. RELIGIOUS USES.**

a. Cemetery.

1. All cemeteries shall be enclosed by a fence, wall or shrubbery at least three feet in height.
2. Interior walking paths shall be provided at a minimum of four feet in width and interior roads shall have a minimum width of 12 feet for vehicular travel. All paths and roads shall be paved.
3. The owner must provide sufficient proof that an appropriate financial system is in place to guarantee perpetual maintenance of the cemetery, grounds, roads and pathways.

- b. Funeral home. In addition to providing the minimum number of required off-street parking spaces, proof shall be provided at the time of the application to show that sufficient off-street parking and stacking of vehicles shall be provided to prevent traffic back-ups onto adjoining streets. Loading and unloading shall be conducted in a designated loading area on the lot.
- c. Place of worship.
  - 1. A minimum lot area of not less than one acre shall be required for the use. The maximum lot coverage for all uses and buildings shall not exceed 60 percent.
  - 2. Religious instruction and educational rooms may be permitted within the principal building as accessory uses.
  - 3. Rectories and convents shall also be permitted as an accessory use except that the building shall be treated as a principal building for compliance with the dimensional requirements of the zoning district where located.
  - 4. Where the lot adjoins an existing residential dwelling unit, the parking area shall be screened along the property line adjoining the dwelling with either a fence or buffer under Chapter 10 of this ordinance.

**SECTION 610. RESIDENTIAL USES.**

- a. Conversion of building into a dwelling.
  - 1. The conversion of a building or dwelling unit into a multi-family dwelling unit is not be permitted if it would require the placement of an exterior stairway on the front of the building, or would require off-street parking spaces in the front yard.
  - 2. A maximum total of four dwelling units may be developed per lot provided that each unit meets the minimum floor areas of Chapter 4, Section 411 of this ordinance.
  - 3. The conversion of a building into a single-family or two-family or the conversion of a single-family dwelling unit into a two family dwelling unit is permitted provided that the single-family dwelling or two-family dwelling is a use permitted by right in the zoning district where the conversion is to occur and the dwelling or dwellings after the conversion meets the minimum floor area of Chapter 4, Section 411 of this ordinance.
- b. Home occupation. A home occupation shall be a permitted use by right in any residentially zoned property provided that the following requirements are met:



1. The occupation shall be carried on entirely within the principal dwelling unit not an unattached accessory structure.
2. No display or advertisement of products or services may be visible from outside of the dwelling.
3. Any storage of materials associated with the home occupation shall be within the dwelling unit. No storage of hazardous waste or flammable materials shall be permitted.
4. An identification sign is the only sign that is permitted. The sign may only be lit with indirect lighting.
5. No person other than a resident of the dwelling unit may conduct the home occupation. No non-occupants of the dwelling may be employed.
6. No more than 25 percent, or 500 square feet, whichever is less, of the total floor area of the building wherein the home occupation is being conducted may be devoted to the home occupation. The use shall clearly be secondary to the residential use.
7. A home occupation shall have a minimum of one off-street parking space. The off-street parking shall be in addition to the off-street parking spaces required for the dwelling unit.
8. No deliveries shall be permitted that require anything other than occasional parcel service, or panel truck delivery. The use shall not require delivery by tractor-trailer trucks.
9. A home occupation shall only operate in a manner that is noticeable to other residents between the hours of 7 a.m. and 9 p.m., Monday through Friday and on Saturday from 9 a.m. and 4 p.m.
10. A home occupation shall not involve manufacturing, other than of custom crafts and sewing.
11. A home occupation shall not involve commercial repair of motor vehicles.
12. No more than one home occupation is permitted within a dwelling unit.
13. A home occupation shall require a zoning permit.

- c. No-impact home based business. A no-impact home based business shall be a permitted use by right in all zones provided that the following requirements are met:
1. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  2. The business shall employ no employees other than family members residing within the dwelling unit.
  3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  4. There shall be no outside appearance of a business use, including, but not limited to parking, signs and lights.
  5. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
  6. The business activity may not generate any solid water or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.
  7. The business activity shall be conducted only within the dwelling unit(no accessory building or structure) and may not occupy more than 25 percent of the habitable floor area.
  8. The business may not involve any illegal activity.
  9. No zoning permit is required for a no-impact home based business.
- d. Manufactured home.
1. Placement. A manufactured home may only be placed in accordance with this Subsection and only in the zoning district designated in the Use Table of Chapter 5 of this ordinance.
  2. Replacement. The removal of a manufactured home as a nonconforming use upon a property with the intent to replace it with another manufactured home may be permitted without zoning hearing board approval provided that the new manufactured home is in conformity with all applicable setbacks, area, and bulk requirements for the zoning district in which it is located.

3. Construction standards. A manufactured home shall be set on a concrete frost-free footer with skirting made of brick, block or concrete wall, and any towing tongues, wheels and axles shall be removed from the manufactured home and the home must be secured with a safety strap or cable to the concrete footer or steel cross support. Only under these conditions shall the home constitute a residence. The specifications of the footer and its depth shall be constructed under the applicable building code and pass a satisfactory inspection by the building Code Official.

e. Manufactured home community.

1. The minimum lot area shall be three acres, which must be under single ownership.
2. The maximum density shall be four homes or dwelling units per net acre.
3. Each manufactured home or dwelling unit and any attached accessory structures shall be at least 35 feet from another manufactured home within the community.
4. Access drives or driveways to individual manufactured homes shall be from interior private streets, which shall include the installation of curbing, sidewalks, and street lights.
5. A minimum of 30 percent of the total lot area shall be set aside and devoted as common open space for recreational purposes limited to use by the residents of the community and their guests. The common open space shall be maintained in perpetuity by the owner of the manufactured home community.

f. Multi-family dwelling units.

1. The exterior appearance of the building shall be so constructed and maintained so as to retain the residential character of the neighborhood.
2. Fire escapes, when required, shall be located in the rear of the building and shall not be located on any side of the building or street.
3. Service entrances, trash and garbage and drying yards shall be enclosed and screened from public view.
4. A minimum setback of 35 feet is required adjacent to a property line that adjoins an existing single family dwelling.

5. Multi-family dwelling units shall have a maximum density requirement of twelve units per net acre and shall be setback a minimum of 35 feet between each multi-family dwelling building.
- g. Satellite dishes. A non-commercial satellite dish antenna including amateur television and radio antennas shall be permitted as an accessory use in all zoning districts provided the following are met:
1. A ground-mounted satellite dish antenna must be located in a side or rear yard only not less than 15 feet from a rear yard property line and 10 feet from a side yard property line and cannot exceed an overall diameter of 12 feet or an overall height of 15 feet.
  2. A roof-mounted satellite dish antenna is permitted provided that it is less than three feet in diameter and properly attached to a roof or secured to a structure at a height of not more than four feet.
  3. No more than one dish or antenna shall be permitted per dwelling unit within a residential building.
  4. No more than two dishes or antennas shall be permitted per non-residential building.
  5. A satellite dish or antenna does not require a zoning permit under this Ordinance.
- h. Storage and parking.
1. Domestic composting. The composting of biodegradable vegetative material such as trees, shrubs, leaves and vegetable waste, which do not contain garbage, meat, meat by-products, or animal fats shall be permitted as an accessory use to a principal residential use in all zoning districts provided that the composting does not include manure and is conducted in such a manner as not to create any health, welfare or safety concerns, or a nuisance to adjoining properties. The placement of a framed enclosure for composting is permitted, subject to all accessory building setbacks, even if not rooted, and other requirements. Only waste materials generated from the residential use of the lot shall be deposited within the compost enclosure.
  2. Recreational vehicles, boats, campers, trucks and trailers. In any residential district, no recreational vehicle, boat, camper, truck with more than two axles and more than one ton (except a personal pickup truck), or trailer shall be stored, parked or repaired on a street or in a front yard, unless located within a driveway and owned by the occupant of the residence. However, the parking of a truck of up to 15,000 pounds

aggregate gross vehicle weight is permitted provided to be parked on a street or in a front yard provided that the truck is used by a resident of the dwelling unit to travel to and from work. Except when necessary for on-site construction, the parking or storing of construction vehicles and equipment that is not primarily intended for on-road use shall not be stored overnight in a residential zoning district.

3. Accumulation of garbage, trash, refuse and junk. The outdoor storage of garbage, trash, refuse and junk is prohibited except when placed in an approved container for waste collection pickup not less than forty-eight hours prior to scheduled pickup.
4. Portable storage containers and pods. Upon any property used for a principal residence, the use of portable storage containers and pods is limited to temporary periods during events such as construction, remodeling, moving and similar activities. The use of portable storage containers and pods for permanent storage, storage of vehicles, junk, waste containment or as a dwelling is expressly prohibited. The use of portable storage containers and pods shall not exceed 90 days during any calendar year. Such containers must be located so as not to block any required sight clearances and shall be at least 10 feet from all lot lines. The zoning officer may issue 30 day extensions if the applicant can demonstrate that the nature of the proposed activity is ongoing and reasonable progress requires additional time and has a definitive ending date.

i. Short term rentals (home and transient).

1. Off-street parking shall be provided on the rental property for tenants and their guests. On-street parking is prohibited.
2. Use or occupancy of recreational vehicles, trailers, campers and tents is prohibited.
3. Outdoor overnight sleeping of tenants and their guests is prohibited.
4. Recreational outdoor fires are prohibited.
5. Fireworks are prohibited.
6. Rentals shall comply with the City adopted edition of the International Property Maintenance Code.
7. When the landowner is residing more than 20 miles from the rental, the landowner shall designate a local person, property manager or agent within 20 miles of the rental, as a local emergency contact person who has

access and authority to assume management duties of the rental and take remedial measures. 24-hour contact information of the landowner and the manager/agent shall be provided to the zoning officer as part of the permit application.

8. The maximum number of overnight tenants and guests shall be limited to the density requirements for bedrooms as established under the City adopted edition of the International Property Maintenance Code.
9. The maximum number of guests not staying overnight shall be limited to 50 percent of the maximum number of overnight occupants. The maximum occupancy limit shall be established at the time of application.
10. Proof of liability insurance by the owner shall be provided to the zoning officer as part of the permit application.

j. Student housing.

1. The principal permitted use of the building shall be student housing.
2. No more than one principal building shall be permitted on a lot.
3. No more than two persons per bedroom with the maximum number of bedrooms not to exceed four per rental unit.
4. One off-street parking space shall be required for each student.

k. Swimming pools, ornamental ponds and wading pools.

1. Swimming pools generally.
  - A. Swimming pools, including spas and hot tubs shall be located in the rear yard of a lot as an accessory structure or use.
  - B. The swimming pool, including spas and hot tubs and all accessory buildings and structures such as a pool house, deck, and sidewalks shall be setback a minimum of 10 feet from all property lines. The setback shall include the deck, pad or apron around the pool.
  - C. All swimming pools capable of containing water to a depth, at any point, in excess of 24 inches and all spas and hot tubs shall be enclosed, except that spas or hot tubs with a lockable safety cover need not be enclosed.
2. In-ground swimming pools.

- A. Except for the portion of the swimming pool having direct access from a dwelling, the swimming pool, or the entire lot upon which the pool is located, shall be enclosed with a permanent fence not less than four feet in height, which includes an access gate secured with a lock.
  - B. The fence shall not have any openings, holes or gaps larger than six inches in any dimension, and if a picket fence is erected or maintained, the horizontal or vertical dimension of space between pickets shall not exceed six inches. A dwelling house or accessory building may be used as part of the enclosure.
  - C. All gates or doors opening through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part off the enclosure need not be so equipped, but must contain a lock. Pedestrian access gates shall open outward away from the swimming pool and shall be self-closing and have a self-latching device. Gates not intended for pedestrian use, such as utility or service gates, shall remain locked when not in use.
  - D. Where a swimming pool has direct access from a dwelling, doors and operable windows with a sill height of less than 48 inches, that provide direct access to the swimming pool through the wall shall be equipped with an alarm that produces an audible warning when the door or its screen or window, is opened.
3. Above-ground or on-ground swimming pools.
- A. An above-ground swimming pool shall be enclosed with a permanent fence not less than four feet in height which includes a gate secured with a lock, or in lieu of a fence, a swimming pool barrier not less than four feet in height. The fence or swimming pool barrier may include the swimming pool wall or a building wall, which equals or exceeds a height of four feet. Swimming pool barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal construction tolerances and tooled masonry joints.
  - B. Access into an above-ground swimming pool which includes a deck shall also be secured by a gate with a lock. Above-ground swimming pools without access from a deck shall include removable or locking retractable steps or any similar device which

prohibits uncontrolled access into the swimming pool when not in use. Shrubbery is not to be considered a barrier.

- C. Where a swimming pool has direct access from a dwelling, doors and operable windows with a sill height of less than 48 inches, that provide direct access to the swimming pool through the wall shall be equipped with an alarm that produces an audible warning when the door or its screen or window, is opened.
- 4. Swimming pool filtration systems. Except for on-ground inflatable portable swimming pools, all other swimming pools shall have an operable filtration system utilizing chlorine, bromine or some other disinfectant.
  - 5. Pumping, draining or backwashing swimming pools. The pumping, draining or backwashing of swimming pool water in such a manner as to cause it to spill onto a street or adjoining property is prohibited. No swimming pool water containing chlorine shall be permitted to be drained into the stormwater system, or any water of the Commonwealth of Pennsylvania.
  - 6. Other regulations. Swimming pools shall conform to all manufacturer recommendations and specifications and all other state and federal regulations.
  - 7. Ornamental ponds or wading pools. Ornamental ponds and wading pools are permitted accessory residential uses permitted by right, provided that they comply with the following:
    - A. The use shall comply with the side and rear yard accessory building setbacks under Chapter 4 of this ordinance, even if not roofed, and the minimum front yard setbacks for the zoning district in which the lot is located.
    - B. No such impoundment shall contain more than 500 gallons. No such impoundment shall have a length or diameter exceeding 10 feet nor a maximum depth exceeding two feet.
    - C. All such ponds or wading pools shall be maintained so as to not pose a nuisance by reason of odor or the harboring of insects.
    - D. No ponds shall be used for the commercial hatching of fish or other species.
- l. Tree houses. Tree houses shall only be permitted in the rear or side yard in the R-1, R-2 and R-3 zoning districts and then only if the tree house is accessory to a



residential dwelling unit located at least 10 feet from all side and rear yard property lines. No permit is required for the construction of a tree house under this ordinance, but the tree house shall be built in a manner safe for occupancy.

- m. Garage sales. A garage sale may not include wholesale sales or the sale of new merchandise type typically found in retail store. Garage sales shall only be permitted during day light hours. No garage sale shall occur on a property more than six times per year. The garage sale must be clearly accessory to the principal residential use of the property. No outdoor storage is permitted when the garage sale is not occurring.

## **SECTION 611. STORAGE CONTAINERS AND DUMPSTERS.**

- a. Containers for personal property and donated items.
  - 1. A container on a lot for the collection and storage of clothes, shoes, apparel, personal property, or donated items shall only be permitted as an accessory use in the PI, CH, LI and GI zoning districts as an secondary use of a property.
  - 2. No advertising shall be depicted or displayed on the container except for the identity and logo of the owner or company providing the container, the type of donations permitted to be placed in the container, and a brief description of how the donations will be used.
  - 3. A container shall meet the minimum setbacks for an accessory non-residential building under Chapter 4 of this ordinance.
  - 4. All containers shall be made of galvanized steel or other similar durable material and securely fastened to prevent movement while being stored on a lot.
  - 5. A container may not be placed within a public right-of-way, access drive, required parking space, or required loading zone.
  - 6. A container may not be located closer than 1,000 feet from another container.
- b. Dumpsters.
  - 1. All dumpsters being stored on a lot for regular trash pickup shall be located in a side or rear yard, screened from adjoining streets and properties.
  - 2. Hazardous waste shall not be stored in a dumpster.

3. Dumpsters must be placed so they do not block the view of any motorist pulling into a street.
4. When a dumpster is full to its capacity, it must be removed within 72 hours of that occurrence.
5. No overflow of any trash shall be permitted from the dumpster, nor shall any accumulation of any trash next to the dumpster be permitted.

## **SECTION 612. UTILITIES.**

### **a. Communication tower on a building or structure.**

1. Building mounted communication antennas shall not be located on any single-family, two-family or multi-family dwelling units. Building mounted communication antennas shall not exceed the height limitations of the applicable zoning district by more than 20 feet. Omni-directional or whip communication antennas shall not exceed 20 feet in height and seven inches in diameter. Directional or panel communication antennas shall not exceed five feet in height and three feet in width.
2. An application for a communication antenna to be mounted on a building or structure shall submit:
  - A. Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location;
  - B. Detailed construction and elevation drawings indicating how the antennas will be mounted on the building or structure for review for compliance with the applicable building code; and
  - C. Evidence of agreements and 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 antennas and communication equipment buildings can be accomplished.
3. Communication antennas shall comply with all applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation. Communication antennas shall not cause radio frequency interference with other communication facilities located within the City.

4. A communication equipment building shall be subject to the height and setback requirements of the applicable zoning district for accessory structures.
  5. The owner or operator of communication antennas must be licensed by the Federal Communication Commission to operate such antennas.
- b. Communications towers, standing alone.
1. The applicant must be licensed by the Federal Communications Commission to operate a communication tower. The applicant must demonstrate that the proposed communication tower complies with all applicable standards established by the Federal Trade Commission governing human exposure to electromagnetic radiation, Federal Aviation Administration regulations, and Commonwealth Bureau of Aviation regulations.
  2. Any applicant proposing construction of a new communications tower shall first demonstrate that a good faith effort has been made to obtain permission to mount the communication's antenna on an existing building, structure, or communications tower. A good faith effort shall require that all owners of a potentially suitable structure within a two-mile radius of the communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:
    - A. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost;
    - B. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost;
    - C. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to perform its intended function;
    - D. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the Federal Communications Commission governing human exposure to electromagnetic radiation; or
    - E. A commercially reasonable agreement could not be reached with the owners of such structures.

3. Access shall be provided to the communication tower and communication equipment building 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 paved to a width of at least 10 feet for its entire length.
4. A communication tower may be located on a lot occupied by a principal structure and may occupy a leased parcel within a lot meeting the minimum lot area requirements for the zoning district in which it is located.
5. Land development shall not be required for the lease parcel on which a communication tower is proposed to be constructed provided that the communication equipment building is unmanned. However, a subdivision plan shall be required for a lease parcel on which a communication tower is proposed to be constructed.
6. The applicant shall demonstrate that the proposed height of the communication tower is the minimum height necessary to perform its functions, but in no event shall a communication tower exceed 150 feet. However, a communication tower's height may be increased to 200 feet provided the required setbacks from adjoining lot lines (not lease lines) are increased by one foot for each one foot of height in excess of 150 feet. The foundation and base of any communication tower located adjacent to any property being used for residential purposes, or adjacent to any property where the principal permitted use is residential, shall be setback from the property line (not lease line) at least 150 feet and shall be set back from any other property line (not lease line) at least 50 feet.
7. The base of a communication tower shall be landscaped so as to screen the foundation and base and communications equipment building from abutting properties.
8. The communications equipment building shall comply with the required setbacks and height requirements of the applicable zoning district for an accessory building.
9. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed communications tower 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 Associations/Telecommunications Industry Association. The applicant shall also submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the communication tower; a certificate of insurance evidencing general liability coverage in

the minimum amount of \$1,000,000.00 per occurrence and property damage coverage in the minimum amount of \$1,000,000.00 per occurrence covering the communication tower, communication antennas, communication equipment and communication building. Proof of insurance to be submitted annually to the zoning officer.

10. All guy wires associated with the guyed communication tower shall be clearly marked so as to be visible at all times and shall be included within a fenced enclosure.
11. The site of a communication tower shall be secured by a fence with a minimum height of eight feet to limit accessibility by the general public. A minimum of one off-street parking space shall be provided within the fenced area.
12. No lights or signs shall be mounted on a communication tower except as may be required by the Federal Communications Commission, Federal Aviation Administration, or all other governmental agency having jurisdiction.
13. If a communication tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communication tower within six months of the expiration of the 12 month period. The owner or operator must provide a bond to the City in a monetary amount sufficient to cover the costs of removal. The cost of removal shall be determined by the City Engineer after considering the cost estimate provided by the applicant.
14. Co-location; new tower. The zoning hearing board may require the applicant to demonstrate that the applicant contacted, in writing, the owners of tall structures within a five-mile radius of the site proposed, asked for permission to install co-locate on those structures, and was denied. This would include smokestacks, water towers, tall buildings, other communications towers (fire, police, etc.) and other tall structures. The zoning hearing board may deny the application to construct a new tower if the applicant has not made a good faith effort to mount 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 small wireless communication facility. A good faith effort shall demonstrate that one or more of the following reasons apply to a particular structure:
  - A. The proposed equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost.
  - B. The proposed equipment would cause radio frequency interference

with other existing equipment for that existing structure, and the interference cannot be prevented at a reasonable cost.

- C. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to enable it to provide service consistent with the provider's system requirements.
- D. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
- E. A commercially reasonable agreement could not be reached with the owners of such structures.

c. Small wireless communication facility, small cell installation.

- 1. A small wireless communication facility site with a small wireless communication facility that is either not mounted on an existing structure or which is more than 15 feet higher than the structure on which it is mounted shall, in addition to all other applicable requirements, comply with the following:
  - A. Service provider required. No zoning permit shall be issued for any new small wireless communication facility governed by this section until the applicant provides documentation to the zoning hearing board that a service provider has contracted for the use of the facility. An applicant may apply for approval of the small wireless communication facility, and such approval may be granted by the zoning hearing board, but the zoning permit shall not be issued until the required service provider documentation is provided.
  - B. Location requirement and number. The applicant shall demonstrate to the satisfaction of the zoning hearing board, using technological evidence, that the small wireless communication facility and support structure must go where it is proposed, in order to satisfy its function in the company's grid system. The number of small wireless communication facility 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.
  - C. Co-location; new tower. The zoning hearing board may require the applicant to demonstrate that the applicant contacted, in writing, the owners of tall structures within a five-mile radius of

the site proposed, asked for permission to install the small wireless communication facility on those structures, and was denied. This would include smokestacks, water towers, tall buildings, small wireless communication facility support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The zoning hearing board may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the small wireless communication facility 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 small wireless communication facility. A good faith effort shall demonstrate that one or more of the following reasons apply to a particular structure:

- i. The proposed equipment would exceed the structural capacity of the existing structure, and its reinforcement cannot be accomplished at a reasonable cost.
- ii. 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.
- iii. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to enable it to provide service consistent with the provider's system requirements.
- iv. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
- v. A commercially reasonable agreement could not be reached with the owners of such structures.

2. Small wireless communication facility height; design.

- A. Minimum height. A small wireless communication facility shall not be more than 50 feet in height. The small wireless communication facility shall comply with any applicable airport hazard ordinance.
- B. Stackable. The zoning hearing board may require the tower to be designed and constructed to be stackable (structurally capable of being increased in height) so that additional antenna arrays can be accommodated in addition to the arrays on the original tower to

facilitate future co-location.

- C. Visual impact; stealth design. The applicant shall provide to the zoning hearing board graphic information that accurately portrays the visual impact of the proposed tower from various vantage points selected by the zoning hearing board, such as but not limited to parks, designated historic sites or districts or designated scenic areas. This graphic information may be provided in the form of photographs or computer-generated images with the tower superimposed, as may be required by the zoning hearing board. The zoning hearing board may require the applicant to conduct a balloon test to confirm the visual impact. The zoning hearing board may require stealth design or specific colors, consistent with applicable federal regulations, to ensure that the small wireless communication facility is compatible with the surrounding landscape.
- D. Setbacks. If a new small wireless communication facility support structure is constructed (as opposed to mounting the small wireless communication facility on an existing structure) or if the small wireless communication facility height exceeds the height of the existing structure on which it is mounted by more than 15 feet, the following minimum setbacks shall apply:
  - i. Separate parcel. If the parcel on which the small wireless communication facility and support structure are located is a separate and distinct parcel, the distance between the base of the support structure and any adjoining property line shall not be less than the height of the small wireless communication facility structure plus 30 feet. The setback for equipment containers, other accessory structures, and guy wire anchors shall be a minimum of 30 feet.
  - ii. Lease, license or easement. If the land on which the small wireless communication facility and support structure is located is leased or is used by license or easement, the setback for any part of the small wireless communication facility, 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 distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall not be less than the height of the small wireless communication facility structure plus 30 feet.
  - iii. Residential dwellings. Support structures shall be



separated from residential dwellings on adjacent or proximate properties by not less than two times the height of the structure.

- iv. Setback reduction. The setbacks in Subparagraph D (i) and (ii) and (iii) above may be reduced to not less than 30 feet, provided the affected property owner provides to the applicant permission for the lesser setback. Such permission shall be in the form of a recorded agreement between the affected property owner and the applicant.
- E. Small wireless communication facility support structure safety. The applicant shall demonstrate that the proposed small wireless communication facility and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania-registered and licensed professional that a proposed small wireless communication facility 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.
- F. Fencing. A fence, a minimum of eight feet in height and of a design to restrict unauthorized access, shall be installed around the small wireless communication facility support structure and other equipment.
- G. Landscaping. Existing vegetation on and around the site shall be preserved to the greatest extent possible.
- i. Landscaping installation and maintenance may be required to screen as much of the support structure as possible, the fence surrounding the support structure, any other ground level features (such as a building), and, in general, buffer the small wireless communication facility and support structure site from neighboring properties and the sight lines from prominent viewing locations.
  - ii. The zoning hearing board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

- H. Access. Access to the small wireless communication facility and support structure shall be provided by means of a public street or easement to a public street in accord with a local or state highway occupancy permit, as applicable. 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. Access shall, if feasible, be provided along existing access points and drives.
- I. Fire control plan. The applicant shall provide a fire control plan including details about any fire suppression system proposed for any small wireless communication facility or similar item. The plan shall be provided to the applicable fire company for review and comment.

d. Public utilities.

- 1. When the use includes the storage of equipment not to be located within a building, the equipment shall be enclosed by a chain link fence and locked gate not less than six feet in height, which fence and gate must consist of screening material that has openings or gaps no greater than four inches in any dimension.
- 2. When the facility is located within a residential area, it shall be designed in such a manner as to conform to the characteristics of the neighborhood.

**CHAPTER 7  
NONCONFORMING USES, STRUCTURES AND LOTS**

**SECTION 701. CONTINUATION OF NONCONFORMITIES.** Except as otherwise provided in this ordinance, any lawful nonconforming use, structure, or lot which fails to conform to the requirements of this ordinance shall be permitted to continue.

**SECTION 702. IDENTIFICATION AND REGISTRATION OF NONCONFORMITIES.** The zoning officer or a landowner may initiate the process of registering a nonconformity. The zoning officer shall issue a certificate of nonconformity when the zoning officer finds that the nonconformity, although not in compliance with all applicable requirements of the zoning district in which the property is located, is a lawful pre-existing nonconformity. The form for the issuance of a certificate of nonconformity shall be provided by the zoning officer, and any documents relied upon by the zoning officer in approving or denying the certificate of nonconformity shall be made a part of the certificate. The zoning officer shall prepare and maintain an accurate list of all certificates issued.

**SECTION 703. ABANDONMENT OF NONCONFORMING USE.** A nonconforming use shall not resume if it is abandoned. A nonconforming use shall be deemed abandoned when the owner intends to abandon the nonconforming use. An overt act to convert the use into another use, or the ceasing of the use for more than 12 consecutive months shall raise a presumption that the use has been abandoned. The burden shall be on the owner of the nonconforming use to rebut that presumption. However, once a use has been deemed to be abandoned, the use shall not thereafter be reinstated and the structure, if any, shall not be reoccupied or used except in conformity with this ordinance.

**SECTION 704. EXPANSION OF NONCONFORMING USES AND STRUCTURES.**

- a. Residential dwellings. An existing non-conforming residential dwelling may be expanded without zoning hearing board approval if:
  1. The number of dwelling units are not increased.
  2. The setbacks for the zoning district in which the dwelling is located are met.
  3. No new nonconformities are created.
  4. If subparagraphs one (1) through three (3) above are not met, then the expansion requires special exception approval from the zoning hearing board and variances if any of the dimensional requirements for the zoning district in which the property is located have not been met.
  
- b. All other expansions of nonconforming uses and structures. Upon application for a special exception, the zoning hearing board may approve the expansion of a nonconforming use or structure provided that all of the following are met:
  1. The expansion must be confined to the lot on which it is located at the effective date of this ordinance. No expansion to an adjoining lot shall be permitted, even if such lot was in the same ownership at the effective date of this ordinance unless the adjoining lot merged with the nonconforming lot under Section 709(b) of this ordinance.
  2. The nonconforming use or structure, after expansion, shall comply with all of the dimensional, general and supplemental regulations applicable to the zoning district in which the use or structure is located.
  3. The total of all expansions shall not exceed an additional 50 percent of the total floor or land area as it existed at the time the use or structure first became nonconforming.
  4. The expansion may not create any new nonconformities.

5. The use or structure complies with the Performance Standards of this Chapter 10 of this ordinance.
6. The specific criteria for the granting of a special exception have been met along with the supplemental regulations for the proposed use, including supplemental regulations relating to access, parking, loading and signs.

**SECTION 705. MOVING OF A NONCONFORMING USE OR STRUCTURE.** A nonconforming use or structure may not be moved on a lot without special exception approval from the zoning hearing board and provided that the nonconforming use or structure, when moved, shall comply with all of the dimensional regulations applicable to the zoning district in which the use or structure is located and the supplemental regulations for the use.

**SECTION 706. CHANGE OF NONCONFORMING USE.**

- a. Upon application for a special exception, the zoning hearing board may approve the change of use, or replacement from one nonconforming use to another nonconforming use, provided that all of the following are met:
  1. The new use is compatible with the surrounding area.
  2. The proposed use shall not create any new dimensional nonconformities.
  3. There is no increase in vehicular and pedestrian traffic generated by the proposed use.
  4. The new use will not cause any traffic problems, hazards, or congestion.
  5. There is no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
  6. The hours of operation of the proposed use are not greater than the hours of operation of the existing nonconforming use.
  7. The proposed nonconforming use will not have any adverse impacts upon adjoining properties, and the public health, safety and welfare.
  8. The specific criteria for the granting of a special exception have been met along with the supplemental regulations for the proposed use, including access, parking, loading and signs.
  9. The performance standards of this ordinance have been met.
- b. Any change or replacement of a nonconforming use to another nonconforming use that fails to meet a dimensional regulation, shall also require a variance from the zoning hearing board from that dimensional requirement.

**SECTION 707. RESTORATION.** A nonconforming structure that is partially or entirely destroyed or damaged by involuntary, natural, or accidental causes not related to demolition or neglect may be rebuilt and occupied for the same use as before the destruction or damage, provided that the reconstructed structure shall not increase any dimensional non-conformity that existed before the destruction or damage. For this section to apply, the reconstruction of the nonconforming structure shall commence within 12 months from the date of damage or destruction to the structure and must be carried on without interruption.

**SECTION 708. UNSAFE OR UNLAWFUL STRUCTURES.** If a nonconforming structure becomes physically unsafe due to neglect or lack of maintenance and repairs, uninhabitable, or has been legally condemned under any applicable property maintenance or building code or ordinance, then the nonconforming status of the structure and its use shall be deemed abandoned, and the use shall cease and the structure shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the provisions of this ordinance.

**SECTION 709. NONCONFORMING LOTS OF RECORD.**

- a. A structure may be built on a lot of record existing as of the effective date of this ordinance even though the lot does not meet the minimum requirements for lot area or lot width as established for the zoning district in which the lot is located. However, the structure must conform to all other dimensional requirements for that zoning district including setbacks, height and lot coverage.
- b. If two or more contiguous lots of record are in single ownership as of the effective date of this ordinance and those lots do not meet the required minimum lot area or lot width, then the lots shall be considered to be an undivided single lot and shall not be separately sold, transferred or developed. In this case, the lots shall be considered to have merged for purposes of this ordinance. Before a zoning permit is issued for the construction of a principal building on either lot, the landowner shall be required to provide evidence that the deeds have been recorded in a manner that states that the nonconforming lots have been merged into a single lot.

**SECTION 710. USES NOT CONSIDERED NONCONFORMING USES.** Any building, structure or lot that is permitted by variance, special exception, or conditional use under this or any previous Hazleton City Zoning Ordinance shall not be deemed a nonconforming use, but a permitted use.

**SECTION 711. REVERSION OF A NONCONFORMITY.** A nonconformity, when changed to conform to this ordinance or changed to another nonconformity, may not revert back to the original or previous nonconformity. This section shall not preclude a landowner from obtaining a variance, special exception or conditional use, as the case may be, under the requirements of this ordinance.

**SECTION 712. REDUCTION OF A NONCONFORMITY.** Any dimensional nonconformity may be reduced without zoning hearing board approval and with the issuance of a permit by the zoning officer, provided that the demolition reduces the dimensional nonconformity even if it does not entirely eliminate the dimensional nonconformity.

**SECTION 713. NONCONFORMING SIGNS.**

- a. Continuation. An existing nonconforming sign related to a legally established use may be continued at its present dimensions and location, but shall not be enlarged without conforming to the dimensional sign requirements of Chapter 9 of this ordinance.
- b. Identification and registration. The zoning officer or a landowner may initiate the process of registering a nonconforming sign. A certificate of nonconformity shall be issued when the zoning officer determines that the nonconforming sign, although not in compliance with all applicable requirements of the zoning district in which the sign is located, is lawful.
- c. Moving. No nonconforming sign shall be moved to another location on a building or lot on which it is located after the effective date of this ordinance, unless it can be made to conform to the sign regulations of Chapter 9 of this ordinance.
- d. Alterations and repairs. A nonconforming sign may be continued provided that it is not structurally altered. The zoning officer may permit the repair of a sign provided that the sign is not enlarged or moved.
- e. Restoration. In the event that any nonconforming sign is damaged to the extent of 50 percent or more of its replacement costs determined at the time of construction, such sign shall not be restored or replaced except in conformity with the sign regulations of Chapter 9 of this ordinance.
- f. Discontinued. Whenever any use of a building, structure or land, or combination thereof, ceases, all signs accessory to such use shall be deemed to be abandoned and shall be removed within 90 days from the discontinuance of the use.
- g. Unsafe or unlawful signs. If a nonconforming sign becomes unsafe due to neglect or lack of maintenance, or has been declared unsafe under any applicable property maintenance or building code or ordinance, and the landowner fails to repair the sign after notice from the zoning officer, then the sign shall be deemed abandoned, and must be removed. Any repair performed under this Section shall not result in enlarging or moving of the sign.

**CHAPTER 8  
PARKING, LOADING AND ACCESS**

**SECTION 801. OFF-STREET PARKING.**

- a. Applicability. The minimum off-street parking regulations shall apply to:
  - 1. Any new building.
  - 2. Any existing building that is enlarged or relocated.
  - 3. Any new use or change of use of land or a building.
  
- b. Size of off-street parking spaces.
  - 1. Each off-street parking space shall have an area of not less than 162 square feet, being nine feet in width and 18 feet in length, exclusive of access drives or aisles.
  - 2. Where 10 or more parking spaces are required, the area of each space shall not be less than 200 square feet, being 10 feet in width and 20 feet in length, exclusive of access drives or aisles.
  
- c. Minimum required number of off-street parking spaces. Each specific use shall have the minimum required number of off-street parking spaces as provided in the following Minimum Off-Street Parking Table:

<b>TYPE OF USE</b>	<b>MINIMUM NUMBER OF SPACES REQUIRED</b>
<b>Residential Uses:</b>	
Single-Family Dwelling Units	2 spaces for each dwelling unit
Two-Family Dwelling Units	2 spaces for each dwelling unit
Multi-Family Dwelling Units	3 space for each dwelling unit
Rooming or Boarding House	1 space for each bed
Group or Personal Care Homes	1.5 spaces for each bedroom
Home Occupations	1 space plus 2 spaces for the dwelling unit
<b>Other Residential Uses</b>	1.5 spaces for every unit/use
<b>Commercial Uses:</b>	<b>MINIMUM NUMBER OF SPACES REQUIRED</b>
Animal Kennels	1 space for every 5 animals, plus 1 space for each employee per shift
Auditoriums, Theatres or Other Places of Public Assembly	1 space for every 3 seats
Automobile or Truck Repairs or Services	1 space for each 400 square feet of total floor area
Automobile Wash	4 spaces for each wash bay
<b>Commercial Uses:</b>	<b>MINIMUM NUMBER OF SPACES REQUIRED</b>

Automobile or Truck Sales	1 space for each 500 square feet of display area whether indoor or outdoor
Banks or Financial Institutions	1 space for each 200 square feet of total floor area
Clinics	5 spaces for every practitioner, plus 1 space for each employee
Convenience Stores	1 space for each 75 square feet of total floor area plus 2 paralleling spaces for each fuel dispensing location
Drive-In/Thru Businesses	1 space for every 60 square feet of total floor area, plus 1 space for every 2 employees per shift
Funeral Homes	1 space for every 50 square feet of total floor area
Hospital	1 space for every 3 beds
Hotels or Motels	1 space for each guest sleeping room, plus 1 space for each employee per shift
Night Clubs	1 space for every 2 seats or possible occupants, plus 1 space for each employee
Offices (General, Professional or Other)	1 space for every 300 square feet of total floor area
Personal and Retail Services	1 space for every 300 square feet of total floor area
Restaurants, Taverns and Brew Pubs	1 space for every 3 seats plus 1 space for each employee on the largest shift
<b>Other Commercial Uses:</b>	1 space for every 400 square feet of total floor area
<b>Industrial Uses:</b>	
Heavy Industrial Uses	1 space for every 5,000 square feet of total floor area, plus 1 space for each employee per shift
Light Industrial Uses	1 space for every 2,000 square feet of total floor area, plus 1 space for every 2 employees per shift
Warehouses	1 space for every 5,000 square feet of total floor area, plus 1 space for every 2 employees per shift
Other Industrial Uses	2 spaces for every employee on the largest shift, or 1 space for every 1,000 square feet of total floor area, whichever is greater
<b>Other Non-Residential Uses:</b>	
Churches or Places of Worship	1 space for every 3 seats
<b>Other Non-Residential Uses:</b>	<b>MINIMUM NUMBER OF SPACES REQUIRED</b>



Public Uses	1 space for every 100 square feet of total floor area
Public Utility Facilities	2 spaces for each facility, plus 1 space for each employee
Recreational Uses (Indoor or Outdoor)	1 space for every 4 possible occupants or spectator seats
Schools (Elementary/Secondary)	1 space for every 20 classroom seats
Schools (Other)	1 space for every 5 classroom seats
Social Halls, Clubs and Lodges	1 space for every 100 square feet of total floor area

- d. Maximum number of off-street parking spaces. Each use group shall have the maximum number of off-street parking spaces as provided in the following Off-Street Parking Table:

USE GROUP	MAXIMUM NUMBER OF SPACES
<b>Multi-Family Residential:</b>	2 space for every unit and 1 guest space per 10 units
<b>Commercial Uses:</b>	125percent of minimum number of spaces
<b>Industrial Uses:</b>	150percent of minimum number of spaces
<b>Other Non-Residential Uses:</b>	125percent of minimum number of spaces

- e. Use of certain residential areas in calculation of minimum number of off-street parking spaces. For single-family, two-family and multi-family dwelling units, parking areas in driveways and garages may be used in calculating the required number of minimum off-street parking spaces.
- f. Uses not addressed in the minimum off-street parking table. Any use not listed in the Minimum Off-Street Parking Table under Section 801(c) above shall provide a minimum of one off-street parking space for every 100 square feet of total floor area, plus one space for each employee unless the City Planning Commission recommends otherwise based upon a traffic study prepared by the applicant.
- g. Fractions of a space. When the required off-street parking computation results in any fraction, the fraction shall be construed to require another additional off-street parking space.
- h. Location of parking areas.
1. Off-street parking spaces for any type of use shall be located on the same lot as the principal use for which the off-street parking spaces are required.
  2. Off-street parking spaces may be located on an adjoining lot held under the same ownership provided that the lot to be used for off-street parking and the lot on which the principal use is located are in the same zoning

district and not less than 300 feet to the nearest lot line where the principal structure or use is located.

i. Layout of parking spaces.

1. Off-street parking spaces shall be permitted in any yard area.
2. If the parking spaces are located in a side or front yard, then the off-street parking spaces shall be located not less than five feet to the nearest point of the property line.
3. Any non-residential off-street parking area abutting a residentially zoned or used property (not owned by the owner of the non-residential off-street parking area) shall be located not less than 15 feet from the residential property and screened under Chapter 10 of this ordinance.
4. All off-street parking areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out onto any public right-of-way.

j. Construction of parking areas. All required parking areas and spaces shall be paved with a concrete or bituminous paving material, and shall be properly graded and drained to dispose of all surface water properly under the City Stormwater Management Ordinance.

k. Marking of spaces.

1. All signing and striping installations will be in conformance with the City's current standards or as otherwise deemed necessary by the City Engineer to ensure safe and efficient traffic flow in or about any parking area. Painted curbs (i.e. loading, passenger drop-off), cannot constitute a required parking space.
2. Vehicular parking spaces will be clearly outlined with a minimum of four-inch wide lines painted on the surface of the parking area.
3. Parking spaces for the disabled will be striped and marked according to the applicable state standards.

l. Lighting. All parking areas shall be adequately illuminated if designed for use by five or more vehicles after dusk.

m. Electric vehicles. Every new use or building that requires a minimum of 100 parking spaces shall provide special parking areas to accommodate electric or other alternative fuel vehicles. Special parking spaces shall be provided where 100 or more parking spaces are required under the minimum off-street parking

Table of Section 801(c) of this Chapter, or whenever the redesign of an existing parking lot with 250 or more spaces is proposed. When electric vehicle recharging areas are required under this Section, the following development standards shall apply:

1. At least one separate meter panel for the sole purpose of electric vehicle recharging must be provided and sized to handle the required electric vehicle recharging spaces.
  2. Photovoltaic or similar solar power facilities are encouraged to be integrated into the facility.
  3. Service equipment, new or existing, of enough size and ampere capacity to accommodate the additional meter panels must be installed.
  4. Overhead lighting must be adequate to allow proper and safe utilization of the recharging equipment.
- n. American with disabilities (ADA) accessible parking spaces. When parking spaces are provided for self-parking by employees and visitors, or both, accessible parking spaces complying with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) shall be provided in each parking area in conformance with the following Parking Table:

<b>Total Parking in Lot</b>	<b>Minimum Required Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

## **SECTION 802. OFF-STREET LOADING SPACES.**

- a. Applicability. The minimum off-street loading space regulations shall apply to:
  1. Any new building.
  2. Any existing building that is enlarged or relocated.

3. Any new use or change of use of land or a building.
- b. Off-street loading spaces required. Every commercial, industrial or other non-residential building, which requires the receipt or distribution by tractor trailer of goods, products, materials or merchandise shall provide off-street loading space.
  - c. Size of off-street loading spaces. Every required off-street loading space shall be not less than 40 feet in length, 12 feet in width, and provide an overhead vertical clearance of not less than 14 feet.
  - d. Use of public right-of-way prohibited. In no case shall a public right-of-way be used for the loading or unloading.
  - f. Minimum number of off-street loading spaces. A minimum number of off-street loading spaces must be provided for the following use group in the Off-Street Loading Space Table:

<b>TYPE OF USE:</b>	<b>MINIMUM NUMBER OF SPACES REQUIRED:</b>
Commercial Uses	1 space for every 20,000 square feet of total floor area
Industrial or Warehouse Uses	1 space for every 10,000 square feet of total floor area
Other Non-Residential or Mixed Uses	1 space for every 15,000 square feet of total floor area

- g. Location of off-street loading spaces. Off-street loading spaces shall not be permitted in any front yard. Off-street loading spaces when abutting a residentially zoned or used property, shall be located not less than 25 feet from the residential property and screened under Chapter 10 of this ordinance.
- h. Layout of off-street loading spaces. All loading spaces shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.
- i. Construction of off-street loading spaces. All off-street loading spaces shall be paved with a concrete or bituminous paving material and shall be properly graded and drained to dispose of all surface water properly under the City Stormwater Management Ordinance.

**SECTION 803. NONRESIDENTIAL ACCESS DRIVES.**

- a. Access drives required.
  - 1. There shall be adequate ingress or egress to all parking spaces and loading

spaces by way of an access drive leading to the off-street parking and loading areas.

2. Access drives to off-street parking and loading areas shall be limited to well defined locations.
  3. Buildings with truck-height loading docks shall be designed with at least one access drive approach capable of accommodating a 48-foot wheel track turning radius.
- b. Number of access drives. The number of access drives intersecting with a street may not exceed the equivalent of one two-way access drive per each 300 feet of lot frontage and no more than a total of two two-way access drives per lot frontage.
- c. Location and layout of off-street loading spaces. Access drives shall be located and designed so as not to:
1. Prevent the blocking of vehicles entering or exiting a lot.
  2. Cross any street right-of-way.
  3. Cause an unsafe condition with inadequate drainage.
  4. Obstruct vision with inadequate sight distance.
- d. Construction of access drives. All access drives (the entire length and width) shall be paved with a concrete or bituminous paving material.
- e. Width of driveway aisles. The minimum width of aisles providing access to parking spaces, with one-way traffic, varying with the angle of parking, shall be:

<b>Angle of Parking</b>	<b>Minimum Aisle Width One-Way Traffic</b>	<b>Minimum Aisle Width Two-Way Traffic</b>
45 degrees	14 feet	24 feet
60 degrees	18 feet	24 feet
90 degrees	20 feet	24 feet

- f. Visibility at intersections.
1. A clear-sight triangle shall be provided at all street and driveway intersections. Nothing shall be erected, placed or allowed to grow in a manner which obscures vision above the height of two and one half feet and below 10 feet, measured from the centerline grade of intersecting streets and driveways.

2. At street intersections, an isosceles triangle shall be established for a distance of 20 feet at each side of the point of intersection of the street right-of-way lines.
  3. At driveway intersections with streets, an isosceles triangle shall be established for a distance of 20 feet at each side of the point of intersection of the street right-of-way line with the driveway edge of improved surface.
- g. Slopes. Access drives shall not exceed a slope of four percent within 75 feet of the intersecting street centerline and 10 percent elsewhere.
- h. Setbacks. All access drives shall be set back at least:
1. 20 feet from the intersection of any street right-of-way lines.
  2. 20 feet from any other access drive located upon the same lot (measured from cartway edges).
  3. 15 feet from any side and rear lot lines except when a joint parking lot is shared by adjoining uses.
- i. Alignment. Where applicable, a proposed access drive located on one side of a street shall be aligned so that it is directly across from an intersection or another access drive on the opposite side of the street.
- j. Sight obstructions prohibited. No person shall park a vehicle or place or construct any structure on a lot or street in such a manner as to obstruct the sight or ability of another motor vehicle to safely enter or exit an access drive.

#### **SECTION 804. RESIDENTIAL ACCESS DRIVES.**

- a. Access required. Every residential dwelling constructed after the adoption of this ordinance or any residential conversion intended to increase the number of dwelling units shall have access to or be located upon a lot adjacent to a public or private street.
- b. Maximum number of access drives per lot. No more than two residential access drive connections shall be permitted per lot frontage, and no more than three residential access drive connections shall be permitted per lot.
- c. Setbacks. Access drives shall not connect to a street within 20 feet of the right-of-way lines of any intersecting streets, within 10 feet of a fire hydrant and within five feet from an adjoining property line.
- d. Visibility at intersections.

1. A clear-sight triangle shall be provided at all street and driveway intersections.
  2. Nothing shall be erected, placed or allowed to grow in a manner which obscures vision above the height of two and a half feet and below 10 feet, measured from the centerline grade of intersecting streets and driveways.
  3. At street intersections, an isosceles triangle shall be established for a distance of 20 feet at each side of the point of intersection of the street right-of-way lines.
  4. At driveway intersections with streets, an isosceles triangle shall be established for a distance of 20 feet at each side of the point of intersection of the street right-of-way line with the driveway edge of improved surface.
- e. Slopes.
1. Access drives shall not exceed a slope of eight percent within 25 feet of the street right-of-way lines.
  2. An access drive may not have a slope that exceeds 15 percent at any point.
- f. Width. The width of an access drive may not be less than 10 feet nor more than 24 feet between the street right-of-way and street cartway.
- g. Drainage. An access drive shall be constructed in a manner consistent with the design, maintenance and drainage of the street to which it will connect.
- h. Vertical clearance. An access drive shall be clear of obstructions and vegetation to facilitate emergency vehicle access for a distance of at least 12 feet from a street line.
- i. Improvements. Access drives shall be paved with a concrete or bituminous paving material.

#### **SECTION 805. LOT ACCESS.**

- a. Every new principal use or building shall be on a lot with frontage along a public street or approved private street.
- b. Outparcel lots are permitted provided that they have adequate vehicular access and are accompanied by a recorded cross access easement agreement.
- c. The creation of new principal buildings and uses on a lot without adequate access are not permitted.

- d. The creation of a flag lot is prohibited.

## **CHAPTER 9 SIGN REGULATIONS**

**SECTION 901. EXEMPT SIGNS.** The following signs are not subject to the regulations of this Chapter of the ordinance and do not require a zoning permit:

- a. National or State Flags.
- b. Window displays or other signs erected inside a structure or that cannot be seen from outside a structure.
- c. Governmental signs and other signs required by a governmental agency authorized for a public purpose by law, statute, ordinance, regulation or policy.
- d. Athletic scoreboards provided that sponsor advertising on the sign does not exceed 25 percent of the surface area of the sign, or any other sign advertising a sponsor and erected in a public recreational facility such as the signs attached to the outfield fences in a baseball field.
- e. Warning signs, no trespassing signs, no parking signs, towing signs, and other similar signs provided that they are constructed in accordance with state law and do not exceed two square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four square feet.
- f. Parking lot directional signs containing no advertising either erected pursuant to an approved land development plan, or signs otherwise designating parking area entrances and exits limited to one sign for each entrance and exit and not exceeding four square feet in gross surface area for each exposed face and not exceeding five feet in height.
- g. Parking lot and loading zone instructional signs either erected pursuant to an approved land development plan, or signs otherwise identifying a parking lot area and not exceeding eight square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of sixteen square feet, and not projecting higher than 10 feet for walls signs and seven feet for ground signs.
- h. Memorial signs such as grave markers that are not commercial in nature and erected for the purpose of remembering a person or an event.
- i. Name and address signs identifying the name and address of the owners or occupants, including those signs erected for 911 purposes provided that the signs do not exceed two square feet in gross surface area for each exposed face and having an aggregate gross surface area of four square feet.



- j. Holiday signs, which are erected as a decoration to temporarily display a traditionally accepted civic, patriotic, or religious holiday related to observance of the civic, patriotic, or religious holiday.
- k. Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two square feet in gross surface area for each exposed face and not exceeding four square feet in aggregate gross surface area.
- l. Permanent, non-flashing signs, on gasoline pumps, vending machines, or other similar devices indicating only the contents of the device, the pricing of the contents, directional and instructional information as to the use of the device, and other similar non-advertising information not exceeding four square feet in gross surface area for each exposed face and not exceeding an aggregate gross surface area of eight square feet.
- m. Political signs provided that the political signs are removed within 10 days following the election for which the sign was erected.
- n. Real estate signs provided that the no more than one sign is located on the property intended for sale, except on a corner lot two signs shall be permitted. A real estate sign shall not exceed 12 square feet for a residentially zoned property and 32 square feet for a non-residentially zoned property.
- o. Construction site signs identifying an architect, engineer or contractor when placed on a construction site and not exceeding 12 square feet in area only during the construction process.

**SECTION 902. PROHIBITED SIGNS.** Unless otherwise permitted by City Ordinance, the following signs are prohibited in every zoning district:

- a. Signs which are constructed, erected, placed or installed in such a manner so as to obstruct or distract motorists, or pose a threat to pedestrian or vehicular travel.
- b. No signs shall be permitted that:
  - 1. Have spinners, reflectors, or similar materials displayed outside a building.
  - 2. Emit smoke, visible vapors, particles, sound, or odor.
  - 3. Are inflatable except those associated with exempt holiday decorations.
  - 4. Contain an open flame in a way to attract attention.

- c. Except for time and temperature indicators with digital or analogue movement, signs shall not contain moving parts or use flashing, sequential or intermittent illumination. The source of light shall be steady and stationary.
- d. No sign shall be constructed, placed, erected or maintained which either because of its illumination or location, poses a danger to vehicular or pedestrian traffic, or obstructs free ingress to or egress from any window, door, emergency exit, or fire escape.
- e. No sign other than an official traffic sign or political sign may be erected within the right-of-way line of any street, including sidewalks and walkways.
- f. Signs which imitate, interfere with, or obstruct the view of an official traffic sign or signal is prohibited. In addition, any sign because of its design or location that may be confused with an official traffic sign or signal are also prohibited.
- g. Off-premise advertising on an automobile, truck, or other vehicle is prohibited if that vehicle is parked for no other purpose than to advertise for a period of three or more consecutive days, or more than one day for any thirty day period per year, or the vehicle is otherwise being used primarily for displaying such sign, and the vehicle is parked in or visible from a public right-of-way.
- h. Portable and wheeled signs.
- i. A frame or sandwich board and sidewalk, or curb sign.
- j. Banners, pennants, streamers, balloons, and gas filled signs or figures.
- k. Projecting signs which are attached to a building and project more than 15 inches beyond the wall surface of the building to which the sign is attached.
- l. Signs which are attached to a tree or utility pole unless the owner of the telephone pole agrees to the attachment. No sign shall be painted, pasted, nailed, stapled, or otherwise attached to utility poles, trees, fences, fire hydrants, or in an unauthorized manner to walls or other signs.
- m. No sign shall be placed so as to obstruct ventilation or light from a building.
- n. No sign shall include statements, words, or pictures that are considered to be vulgar, obscene, or pornographic. No sign shall depict specified anatomical areas or specified sexual activities.
- o. Any nonconforming sign that is prohibited under this Section may continue to exist, but shall not be moved, altered, repaired or replaced except in conformity with this Chapter of the ordinance.

**SECTION 903. PERMITTED SIGNS.** The placement, construction, relocation or alteration of signs shall require a zoning permit and be governed by the following Sign Table:

<b>Sign Type</b>	<b>Permitted Zone</b>	<b>Maximum Number of Signs</b>	<b>Maximum Sign Area</b>	<b>Maximum Height of Freestanding Signs</b>	<b>Maximum Height of Wall, Window or Roof Signs</b>	<b>Maximum Projection from Wall</b>	<b>Minimum Setbacks for Freestanding Signs</b>
Billboard	LI GI	1 per lot	300 sq. ft.	25 ft.	Not Permitted	Not Permitted	15 ft.
Business	CC CH LI GI	2 per lot or building	36 sq. ft. with no more than 3 window signs per Building	15 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	4 ft.	5 ft.
Directional or Informational	All Zones	4 per use	2 sq. ft. per sign unless not legible from a street than no more than 8 sq. ft.	5 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	2 ft.	1 ft.
Institutional	All Zones	1 per principal building	32 sq. ft. or 64 sq. ft. each exposed side	15 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	4 ft.	5 ft.
Name Plate or Identification	All Zones	1 per dwelling unit	6 sq. ft.	8 ft.	8 ft.	NP	2 ft.
Shopping Center or Strip Mall	CC CH	1 per lot with unlimited wall or window signs	200 sq. ft.	20 ft.	Top of the wall for a wall sign, or below the highest point of the roof for a roof sign	4 ft.	10 ft.

Special Event	All Zones	None	16 sq. ft.	10 ft.	Top of the wall for a wall sign. Roof signs NP.	2 ft.	1 ft.
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**SECTION 904. SUPPLEMENTAL SIGN REGULATIONS.**

- a. Sign regulations generally. Except as otherwise provided in this ordinance, signs may only be constructed, relocated, altered, placed or maintained when in compliance with the following:
  - 1. Lighting. A sign:
    - a. With lighting shall be steady and stationary and constructed and maintained so that all lighting is shielded and directed away from public rights-of-ways and adjoining properties.
    - b. May not include a revolving beam or beacon of light resembling an emergency vehicle or facility.
    - c. Incorporating LCD, LED, plasma, CRT, pixelated lights, or other animated or video-like displays and projected displays shall be limited to the GI and CH zoning districts and shall:
      - i. Consist of sufficient size lettering and symbols so it could be immediately recognized by motorists.
      - ii. Display simple and static messages for immediate recognition by motorists. Messages shall be complete in each display cycle and shall not require viewers to see multiple display cycles to derive its meaning.
      - iii. Use instantaneous transitions from one message display cycle to the next with no blank-outs, scrolling, fading, streaming, zooming, flashing or any other animated effect to facilitate immediate recognition by motorists.
      - iv. All properties utilizing a dynamic message display sign must remove all exterior promotional banners, sandwich board signs, and may not use any temporary signage.
      - v. Each message display cycle shall comply with the following minimum time standards: total sign area with up to 64 square feet: 17 seconds; total sign area with between 64; and 300 square feet: 28 seconds.

2. Corner lots. When one sign is permitted and the sign is to be erected on a corner lot, a second sign shall be permitted of equal size so that each sign may face a street. Where two signs are permitted this special rule for corner lots shall not apply in that it is not the intent of this Section to allow three signs on a lot.
  3. Construction material. All signs shall be constructed of durable materials, maintained in good condition, and secured in a safe manner. The areas surrounding all signs shall be maintained in a neat, clean, and attractive condition.
  4. Compliance with other laws.
    - A. In the event that the Pennsylvania Highway Beautification Program or another law or regulation has a more restrictive regulation governing signs, then the more restrictive regulation shall apply.
    - B. No sign shall advertise activities or products that are illegal under Federal, State, or local municipal laws or regulations.
    - C. A sign must be erected in accordance with the applicable building and electrical codes, when applicable.
- b. Specific regulations for certain signs.
1. Event Signs.
    - A. All temporary event signs may be erected and maintained for a period not to exceed 30 days prior to the special purpose, occasion or event and shall be removed by the property owner or person erecting, placing or maintaining the sign within seven days following the completion or conclusion of the purpose, occasion or event, or within three days following the date when the circumstances leading to their erection no longer apply.
    - B. Event signs erected on private property must be located at least 10 feet from another sign.
  2. Billboards.
    - A. Billboards shall be located on a vacant lot or a lot developed to less than two-thirds of the permitted building coverage.

- B. Billboards shall not be located within 150 feet from any residential structure and street intersection.
- C. A billboard sign shall be a minimum of 500 feet from another billboard sign.

## **CHAPTER 10 PERFORMANCE STANDARDS**

**SECTION 1001. APPLICABILITY.** Except when a more restrictive standard is imposed for a particular use under a separate section of this ordinance, all principal and accessory uses whether permitted by right, special exception, or conditional use shall comply with the Performance Standards of this Chapter.

### **SECTION 1002. APPLICATION AND PROCEDURES.**

- a. In order to determine whether a proposed use complies with the requirements of this Chapter, an applicant must submit a plan of the proposed use and development along with a comprehensive and detailed description of all machinery, equipment, and techniques to be used at the time of filing the zoning permit application. The zoning officer may consult with the City Engineer to determine whether the plan is in compliance with this Chapter before issuing a zoning permit.
- b. If compliance with a performance standard cannot be determined until the use is in operation, as determined by the zoning officer in consultation with the City Engineer, then the zoning officer may require the applicant and landowner to provide sworn affidavits that the use, once operational, will comply with the performance standards set forth in this Chapter.
- c. Continued compliance with performance standards is required. The zoning officer may request that the operator or landowner demonstrate compliance with these performance standards at any time during the permit process and operation of the use.

### **SECTION 1003. PERFORMANCE STANDARDS.**

- a. Fire protection. Fire prevention and firefighting equipment must be pre-approved by the City Fire Chief and readily available once the use is commenced when it involves the handling or storage of flammable or explosive materials. Building requirements shall comply with the design and construction regulations for fire prevention as per the Pennsylvania Uniform Construction Code, as amended, and the City Fire Code, as amended.

- b. Radioactivity or electrical disturbance. No use shall be permitted which emits dangerous radioactivity or electrical disturbance that adversely impacts the operation of any equipment or adversely affects any person in the vicinity of such disturbance. In addition, no use shall cause repetitive or continuous electrical disturbance that negatively impacts television, radio, or other equipment in the neighborhood.
- c. Noise.
  - 1. No use shall cause noise in excess of the sound levels prescribed below at any point beyond a lot line of the lot upon which the use is to be located. For the purposes of this Chapter, the noise level will be measured in decibels (dBA) which indicates the sound pressure level obtained from a frequency weighing network corresponding to the A-scale on a standard sound level meter.

<b>Zoning District</b>	<b>Maximum Sound Level</b>
Residential Zoning districts R-1, R-2 and R-3	Not to exceed a maximum of 60 dBA for more than one hour per 24 hours.
Industrial Zoning districts GI and LI	Not to exceed a maximum of 75 dBA.
All other Zoning districts (except for the EOD as that zone has its own sound levels for the uses permitted in that zone)	Not to exceed a maximum of 65 dBA

- 2. Where two zoning districts in which different noise levels are prescribed share a common boundary line, the most restrictive of the noise level standards shall govern.
- 3. The preceding noise standards shall not apply to the following:
  - A. Noises emanating from construction or maintenance activities between the hours of 7:00 a.m. and 9:00 p.m.
  - B. Noises caused by safety signals, warning devices and other emergency-related activities or uses.
  - C. Transient noises emanating from moving sources, such as trucks, automobiles, airplanes and trains.
- d. Lighting and glare.
  - 1. All outdoor lighting shall be directed away from public right of ways and adjoining properties so that the lighting does not present a hazard to drivers or pedestrians by impairing their ability to safely traverse

(disabling glare), and so as not to create a nuisance by projecting or reflecting objectionable light onto neighboring uses or properties (nuisance glare).

2. No direct reflected glare, whether from any lighting source or production operation, shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.
3. An outdoor lighting plan shall be required with a zoning permit application when outdoor lights are proposed or required. If the proposed use is permitted by special exception or conditional use, the applicant shall present the outdoor lighting plan as part of the application for a special exception or conditional use. If the proposed use is as of right but requires subdivision or land development approval, the applicant shall submit the outdoor lighting plan with the subdivision or land development plan for approval as part of the subdivision or land development plan. Outdoor lighting plans shall include, but not be limited to, a detailed grid of illumination levels, a calculation as to the average illumination levels, the number of lighting fixtures, the height and location of the mounting fixtures, including the underside of any canopies, details as to how lighting will be recessed, shielded and banded, when required, as well as details of any building or canopy-mounted lighting to show compliance with this Section.
4. In no case shall illumination exceed 0.5 foot-candles measured at the lot line and 0.2 foot-candles at 10 feet from the lot line onto an adjoining lot. The amount of illumination projected onto a residentially zoned or used lot from another lot shall not exceed 0.2 foot-candles at the lot line.
5. For the lighting of roadways, pathways and parking areas fixtures shall meet the Illuminating Engineering of North America (IESNA) cutoff criteria (not have more than 2.5 percent of their light output emitted above 90 degrees at any lateral angle around the fixture). The use of floodlighting, spotlighting, wall-mounted fixtures, decorative globes and other fixtures not meeting IESNA cutoff criteria shall not be permitted. Fixtures shall be equipped with light directing devices such as shields, visors or hoods when necessary to redirect offending light distribution. Lighting standards in public parking areas shall be a minimum of five feet outside the paved area, behind curb stops or on reinforced concrete pedestals at least 30 inches in height above the pavement. Lighting fixtures shall not be mounted in excess of 25 feet above grade. All newly constructed electrical feeds shall be underground.
6. No luminaire, spotlight or other light source that is within 200 feet of a lot line of an existing dwelling unit or approved residential lot shall be placed at a height exceeding 20 feet above the average surrounding ground level. This limitation does not apply to lights needed for air safety, lights



intended solely to illuminate an architectural feature of a building, or lighting of outdoor public recreation facilities.

7. All light sources, including signs, shall be properly diffused as needed with a translucent or similar cover to prevent exposed bulbs from being directly visible from streets, public sidewalks, dwellings or adjacent lots.
  8. All light sources, including signs, shall be shielded around the light source and carefully directed and placed to prevent the lighting from creating a nuisance to reasonable persons in adjacent dwellings or persons enjoying outdoor passive recreation areas, and to prevent the lighting from shining into the eyes of passing motorists.
  9. Flashing, flickering or strobe lighting are prohibited, except for non-advertising seasonal lights between October 25<sup>th</sup> and January 10<sup>th</sup>.
  10. Exterior lighting on an institutional, commercial or industrial property shall not cause a spillover of light onto a residential lot that exceeds 0.2 foot-candles at the residential property line. Exterior lighting shall not cause a nighttime spillover of light that exceeds five horizontal foot-candles onto a street.
  11. Light fixtures under commercial canopies (such as over gasoline pumps) shall be placed so that the cover is recessed or flush with the bottom surface of the canopy shielded by the edge of the canopy so that light is restrained to no more than 85 degrees from vertical.
- e. Vibration. Any use or portion thereof creating intense or earthshaking vibrations shall be set back from the lot lines on all sides to a distance which will ensure that in no case shall any such vibration create a nuisance or hazard beyond such lot lines. Vibrations detectable without instruments on neighboring property shall be prohibited.
  - f. Smoke. The maximum amount of smoke emission permissible shall be determined by use of the Standard Ringlemann Chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 will be allowed. This section does not apply to starting fires and breakdown of equipment.
  - g. Odor. No use shall emit odorous matter in such quantities as to be readily detectable at any point along or behind the boundaries of the lot where it is located. Malodorous gas or matter shall not be permitted to be emitted which is so objectionable as to damage property interest on any neighboring lot.
  - h. Solid waste disposal.

1. No person or use shall dispose any solid waste matter or fill within the City. Commercial and industrial disposal shall be disposed of in a manner approved by the Pennsylvania Department of Environmental Protection.
  2. Restaurants and other food establishments must store and dispose of grease, lard and excess meat products (renderings) in closed containers.
  3. Vehicles transporting solid waste shall be covered at all times during transit.
  4. No person shall empty any waste or water into the public sewer system that contains fat, oil or grease unless otherwise permitted by the Greater Hazleton Joint Sewer Authority.
- i. Air pollution. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which may cause any damage to the health of persons, animals, vegetation, or other property, or which may cause any excessive soiling.
  - j. Hazardous waste. No liquid or solid waste known to be or determined to be hazardous by the Pennsylvania Department of Environmental Protection or other appropriate state or federal agencies shall be dumped, buried or otherwise dispersed within the City.
  - k. Liquid waste or sewage. No discharge shall be permitted into a reservoir, sewage or storm disposal system, stream, open body of water or into the ground of any materials in such a way or of such nature or temperature as could contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements. Such objectionable contaminants or emissions must be treated so that insoluble substances (oils, grease, acids, alkalis or other chemicals) are in accordance with the standards as approved by the Pennsylvania Department of Environmental Protection and the regulations of the City.
  - l. Erosion. No erosion by wind or water shall be permitted which will carry or deposit objectionable substances onto neighboring properties. Provisions required by the Luzerne Conservation District shall be applicable to all development or redevelopment.
  - m. Screens, buffers and landscaping.
    1. All nonresidential uses or structures that adjoin a residential zoning district or residential dwelling unit shall provide the following on the nonresidential lot:
      - A. A visually solid, tight fence not less than six feet in height screened to prevent the view from the residential use and zone; or

B. A natural wooded buffer or planting strip along the nonresidential use or zone that is six feet in height and five feet in width when planted so as to shield the residential use and zone from the proposed nonresidential use. The buffer or planting strip shall provide a substantial visual barrier. A planting and landscape plan must be submitted and approved by the zoning officer (for a permitted use), Planning Commission (for a subdivision or land development), the governing body (for a conditional use) or the zoning hearing board (for a special exception or variance) depending on the use. It is the responsibility of the landowner to maintain the buffer or planting strip in perpetuity. The wooded buffer or planting strip must remain undisturbed and free from the accumulation and disposition of garbage, refuse, junk and other debris. The planting or maintaining of invasive plant species of Pennsylvania or noxious weeds are strictly prohibited as part of the buffer or planting strip. Every landowner shall destroy noxious weeds growing on that lot, and cut and maintain grass and other vegetation on that lot in accordance with the version of the International Property Maintenance Code adopted by the City.

2. In the case of a land development, conditional use, special exception or use variance, the approving body may require a fence and wooded buffer or planting strip under this Section m (1)(A) and (B) above depending on the type of use.

n. Earth moving activities.

1. Topsoil or sod may be removed from a lot provided that it is done as part of normal lawn preparation and maintenance, or incidental to construction or alteration of a building, street, or driveway.
2. The removal of clay, sand, gravel, rock or other minerals shall be permitted only when it is being done in connection with the construction of a building, street, or driveway. A surface of a lot shall not be graded to a level below that of adjoining streets. Excavation shall not leave loose rocks or boulders to be exposed.
3. No grading or excavation shall result in a slope steeper than two (2) to one (1) within 20 feet of any lot line except for the construction of a retaining wall provided that the retaining wall is constructed in accordance with the other provisions of this ordinance and the applicable building code.
4. All new grading and excavation must be done with stormwater management controls under the City of Hazleton Stormwater Management Ordinance, the Luzerne Conservation District regulations, and

Pennsylvania Department of Environmental Protection Erosion and Sediment Control Manual, as amended.

5. Except for stormwater management controls, the other parts of this section shall not apply to permitted mineral extraction.
- o. Nuisance prohibited for all uses.
1. No lot in any zoning district or overlay district shall be used in such a manner as to create any dangerous, injurious, noxious, or otherwise harmful condition, or in any manner that adversely impacts the public health, welfare and safety.
  2. No person shall use or allow to be used any land, structure or building in such a manner that results or threatens to result in any of the following conditions:
    - A. Transmission of communicable disease, including conditions that may encourage the breeding of insects or rodents.
    - B. A physical hazard to the public, or a physical hazard that could be an attractive nuisance that would be accessible by children.
    - C. Pollution to groundwaters or surface waters, other than as authorized by a State or Federal permit.
    - D. Risks to public health and safety, including explosion, fire or biological hazards.
    - E. Interference with the reasonable use and enjoyment of property by a person of ordinary sensitivities.

## **CHAPTER 11 ENFORCEMENT AND ADMINISTRATION**

### **SECTION 1101. ZONING OFFICER.**

- a. Appointment and qualifications. For the administration of this ordinance, a zoning officer, who shall not hold any elective office in the City, shall be appointed. The zoning officer shall meet qualifications established by the City and shall be able to demonstrate to the satisfaction of the City a working knowledge of municipal zoning.
- b. Powers and duties of the zoning officer. The powers and duties of the zoning officer shall include the following:

1. Administering and enforcing the provisions of this ordinance in accordance with their literal terms. In performing these duties the zoning officer shall not have the power to permit any construction, alteration or any use or change of use to land or structures, which does not conform to the applicable provisions of this ordinance.
2. Receiving and reviewing all types of zoning applications and approving or denying zoning permits and certificates of zoning compliance under this ordinance. When a zoning permit application or certificate is approved, the zoning officer shall issue the permit or certificate.
3. Keeping records of all applications, permits, certificates, complaints, enforcement actions, investigations, and decisions of the zoning hearing board in the zoning Office located within City Hall. All of the zoning records are the property of the City and must be available for public inspection and copying when authorized by the Pennsylvania Right to Know Law.
4. Conducting property inspections to assure compliance with this ordinance.
5. Maintaining the official zoning map and zoning ordinance, including any amendments.
6. Notifying the zoning hearing board of scheduled zoning hearings, including assisting the secretary or solicitor in advertising zoning hearings.
7. Making certain that properties are conspicuously posted at least one week prior to a zoning hearing.
8. Attending and participating in proceedings before the zoning hearing board or the governing body, as the case may be, and offering testimony and evidence when necessary.
9. Reviewing and reporting on subdivision and land development plans for compliance with this ordinance as part of the City Planning Commission's review.
10. Inspecting and registering nonconformities upon request of a landowner, or at the discretion of the zoning officer.
11. Assisting appointed and elected local officials, police, codes and the general public with zoning issues.
12. Making the current versions of the zoning ordinance and zoning map available to the public for inspection and providing copies upon proper request and payment of appropriate fees.

13. Rendering a preliminary opinion under Section 916.2. of the Pennsylvania Municipalities Planning Code.
14. Investigating and acting upon complaints of alleged violations of this ordinance. Complaints should be acted upon within 30 days of their receipt and a complainant must be notified by the zoning officer, upon request, of any enforcement action taken.
15. Prosecuting violations of this ordinance by instituting civil enforcement proceedings when it is determined that a person has violated this ordinance, or any conditions placed upon the approval of special exception, variance, conditional use or any other approvals or permits under this ordinance.
16. Issuing preliminary opinions under Section 916.2 of the Pa MPC.
17. Doing all things necessary to administer and enforce this ordinance.

#### **SECTION 1102. ZONING PERMITS.**

- a. Zoning permit required. A zoning permit issued by the zoning officer shall be required prior to using or changing the use of land, buildings or structures, or demolishing, altering, erecting, constructing, moving, placing, or expanding any building or structure. However, a zoning permit shall not be required for repairs or maintenance of any structure or land provided such repairs or maintenance do not change the use or the exterior dimensions of the structure or building, or otherwise violate the provisions of this ordinance.
- b. Zoning permit application.
  1. A zoning permit application shall be made in writing by the landowner, the authorized agent of the landowner, or any person having an equitable interest in the property with the permission of the landowner.
  2. A zoning permit application shall be on a form provided by the City and shall include at least the following:
    - A. The name and address of the applicant, and the landowner if different than the applicant.
    - B. The address of the property and a description of its location.
    - C. The names and addresses of all adjoining landowners, including those located immediately across the street from the property that is the subject of the application.

- D. A site plan drawn to scale and showing:
- i. The actual dimensions and shape of the property including existing and proposed access drives, roads and streets identifying them by name.
  - ii. The location and dimensions of all existing and proposed structures, buildings, signs, parking spaces, access drives, and loading zones, with existing features being clearly distinguished from proposed features.
  - iii. The exact size and location of existing and proposed uses of land, with existing uses being clearly distinguished from proposed uses.
  - iv. The location of any existing and proposed utilities.
  - v. Any other information required in order to ensure the zoning officer is able to determine compliance with this ordinance.
- c. Time period to act upon a zoning permit application. A zoning permit application shall be approved or denied by the zoning officer within 30 days from the date of receipt of a fully completed application. An application shall be deemed complete for purposes of this ordinance when the application has been received by the zoning officer, fully completed and accompanied by a site plan and the applicable fee.
- d. Expiration of zoning permit. A zoning permit shall expire one year from the date of issuance. However, a zoning permit may be extended by the zoning officer for an additional period of six months upon the request of the applicant for good cause shown. Once a permit has expired, the applicant or landowner must reapply for another zoning permit and the zoning officer may approve or deny the application under the ordinance in effect at the time of the new application.
- e. Revocation of zoning permit. The zoning officer may revoke a zoning permit issued under this ordinance when:
1. The permit was issued in error under this ordinance.
  2. The application or plan upon which the permit was issued has been found to contain false or misleading information.
  3. There exists a violation of any condition imposed by the zoning hearing board or governing body as part of its written decision.

4. Good cause exists under this ordinance or applicable law.
- f. Reconsideration of zoning permit application previously denied. An applicant whose request for a zoning permit has been denied by the zoning officer may make another application for a zoning permit, provided all deficiencies which were the basis for the prior denial of the permit have been eliminated, or the new application is different than the previous application. A failure to do so, shall be a reason for denial by the zoning officer.
- g. Issuance of zoning permit upon approval by zoning hearing board or governing body. The zoning officer shall issue a zoning permit once the use, structure, or building has been approved by special exception or variance by the zoning hearing board, or by conditional use by the governing body. A zoning permit shall be issued within 30 days of issuance of a written decision approving the application. Should an aggrieved party or person appeal the written decision, any work performed shall be at the applicant's own risk if the decision is reversed on a subsequent appeal to the Court of Common Pleas, the Commonwealth Court or the Supreme Court.
- h. Compliance with zoning permit. All work or uses for which a zoning permit have been issued shall conform to the approved application, decision and site plan.
- i. Display of zoning permit. An approved zoning permit shall be conspicuously posted on the property during construction of the building or structure, or commencement of the use. The posting of the permit shall occur within 10 days of the issuance of the zoning permit, or prior to the commencement of actual work or use of the property, whichever occurs first. The zoning permit shall be continuously posted on the property until completion of the work, commencement of the use, or issuance of a certificate of zoning compliance, if required.
- j. Inspections. By making a zoning permit application, the applicant and landowner authorize the zoning officer to inspect the land, structure, and building (interior and exterior) for which a zoning permit has been issued to ensure compliance with this ordinance.

### **SECTION 1103. ZONING CERTIFICATES.**

- a. Certificate of zoning compliance required. A zoning certificate issued by the zoning officer certifying compliance with this ordinance shall be required by an applicant or landowner prior to a new use or change of use of land and buildings and the construction or placement of buildings, such as dwelling units, garages, and additions. However, a certificate of zoning compliance is not required for repairs to or construction or placement of accessory structures such as fences, decks, porches, signs, and swimming pools, and unattached accessory buildings of not more than 1,000 square feet in total floor area.



- b. Certificate of zoning compliance applications. All applications for certificates evidencing zoning compliance shall be made in writing on forms prescribed by the City. All applications shall include the information necessary for the zoning officer to ascertain compliance with a zoning permit and this ordinance
- c. Time limits for issuance of certificate of zoning compliance. Applications for zoning certificates shall be made by the landowner or an authorized agent for the landowner prior to occupying or using any building or land for which a zoning certificate is required. Upon the making of an application for a certificate of zoning compliance, the zoning officer shall have 30 days from receipt of the application to approve or deny it. A certificate of zoning compliance may only be approved and issued by the zoning officer when it has been determined that the use or building complies with the information contained in the zoning permit and this ordinance.

#### **SECTION 1104. TEMPORARY ZONING PERMITS.**

- a. Zoning permit required. A zoning permit shall be required for all temporary uses of structures, buildings, or land. The zoning officer shall issue a zoning permit for any temporary use of a structure, building or land, including short-term special events or retail sales held on private property with or without the use of a structure such as a tent, trailer, or truck provided that all of the following are met:
  - 1. The use is permitted in the zoning district where it is to be located;
  - 2. The use, structure, or vehicle meets the dimensional regulations of the zoning district where it is to be located or parked;
  - 3. The use will not adversely affect or interfere with the use and quiet enjoyment of adjoining or surrounding properties; and
  - 4. The use will not cause undue congestion or traffic hazards, or otherwise interfere with vehicular and pedestrian travel and parking and loading facilities.
- b. Time limitation. A zoning permit for a temporary structure or use shall be issued by the zoning officer for a period not to exceed 180 days per year, except that a zoning permit for a special event shall be for a period of no more than 30 days.

#### **SECTION 1105. INFORMATION SUBMISSION REQUIREMENTS.**

- a. Public records.
  - 1. By making a submission under this ordinance, the applicant acknowledges and agrees that all documents and other information submitted under this

ordinance constitutes public records within the meaning of the Pennsylvania Right to Know Law, Act 3 of 2008, as amended, and are therefore subject to review and reproduction upon request in accordance with that Law and applicable City ordinances and resolutions.

2. To the extent that any such documents or information are not deemed public records and are subject to protection pursuant to Federal or State copyright laws, or Common Law copyright protection, the applicant (agents, employees and consultants) by filing documents with the City under this ordinance, shall be deemed to have waived all copyright protection as relates to review, analysis, criticism, or approval of the application by the City and all of its agents, servants, employees, officials, and consultants, and the public at large.
  3. The applicant hereby agrees to indemnify and hold harmless the City and all of its agents, servants, employees, officials, and professional consultants from any and all claims including losses and attorney fees related to violations of copyright, or copyright infringement claims.
- b. Unsworn falsification to authorities. All statements, whether written or oral, to the City or the zoning officer in the course of the review of the application under this ordinance shall be true and correct to the best of the knowledge, information and belief of the applicant or the applicant's agents and consultants, and with the understanding that any false statement is subject to the penalties of 18 Pa. C.S.A. Section 4804, relating to "Unsworn Falsification to Authorities".

**SECTION 1106. NOTICE.** In any case in which mailed notice or electronic notice is required by this ordinance, the following shall apply:

- a. An owner of a tract or parcel of land located within a City or an owner of the mineral rights in a tract or parcel of land within the City may request that the City provide written or electronic notice of a public hearing which may affect such tract or parcel of land.
- b. Mailed notice shall be required only if an owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City has made a written request that the notice be mailed and has supplied the City with a stamped, self-addressed envelope prior to a public hearing.
- c. Electronic notice shall be required only if an owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City has made a written request that notice be sent electronically and has supplied the City with an electronic address prior to a public hearing and only if the City maintains the capability of generating an electronic notice. An owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City making the request and

supplying an electronic address may at any time notify the City that the owner of the tract or parcel of land located within the City or the owner of the mineral rights in the tract or parcel of land within the City no longer will accept electronic notice, and, in that event, the City may no longer provide electronic notice.

- d. An owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City who has requested a mailed notice shall be solely responsible for the number, accuracy and sufficiency of the envelopes supplied. The City shall not be responsible or liable if the owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City does not provide to the City notice of any changes in the owner's mailing address.
- e. An owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City who has requested electronic notice shall be solely responsible for the accuracy and functioning of the electronic address provided to the City. The City shall not be responsible or liable if the owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City does not provide to the City notice of any changes to the owner's electronic address.
- f. The City shall deposit a mailed notice in the United States mail or provide electronic notice not more than 30 and not less than seven days prior to the scheduled date of the hearing as shown on the notice.
- g. For each public hearing, the City Secretary or the zoning officer shall prepare, sign and maintain a list of all mailed notices, mailing dates, electronic notices and electronic notice dates. The signed list shall constitute a presumption that the notice was given.
- h. The mailed notice shall be deemed received by an owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City on the date deposited in the United States mail.
- i. The electronic notice shall be deemed received by an owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City on the date the City electronically notifies the owner.
- j. Failure of an owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City to receive a requested mailed notice or electronic notice shall not be deemed to invalidate any action or proceedings under this ordinance.

**SECTION 1107. VIOLATIONS.** Failure of a landowner to secure a zoning permit prior to using or changing the use of land, buildings or structures, or demolishing, altering, erecting, constructing, moving, placing, relocating, or expanding any building or structure; or failing to

obtain a certificate of zoning compliance prior to the using or changing the use of land or buildings (except for accessory structures and buildings less than 1,000 square feet in total floor area in case of a certificate of zoning compliance), shall be a violation of this ordinance. It shall also be a violation of this ordinance to undertake actions contrary to the provisions of this ordinance, and any conditions of conditional uses, special exceptions and variances. Each day that a violation continues shall constitute a separate offense.

#### **SECTION 1108. ENFORCEMENT PROCEDURES.**

- a. Enforcement notice. If it appears to the zoning officer that a violation of this ordinance has occurred, the zoning officer shall initiate enforcement proceedings by issuing an enforcement notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land, and to any other person requested in writing by the owner of record. The enforcement notice shall state at least the following:
  1. The name of the owner of record and any other person against whom the City intends to take action.
  2. The location and address of the property in violation.
  3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable sections of this ordinance.
  4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  5. That the recipient of the notice has the right to appeal to the zoning hearing board within 30 days from date of the issuance of the notice.
  6. That failure to comply with the notice within the time specified, unless extended by appeal to the zoning hearing board, constitutes a violation, with a description of the sanctions that will result if the violation is not corrected.
- b. Order of proof. In any appeal of an enforcement notice to the zoning hearing board, the City shall have the responsibility of presenting evidence first.
- c. Refund of filing fee in certain instances. Any filing fee paid by a party to appeal an enforcement notice to the zoning hearing board shall be returned to the appealing party by the City if the zoning hearing board or any court in a subsequent appeal rules in the appealing party's favor.

- d. Private cause of action. In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this ordinance, City Council, or, with the approval of City Council, an officer or agent of the City, or any aggrieved owner or tenant of real property who shows that his or her property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon the City at least 30 days prior to the time the action is instituted by serving a copy of the complaint on City Council. No action may be taken until such notice has been given.
- e. Jurisdiction. The District Justice sitting in the City of Hazleton shall have initial jurisdiction over proceedings brought under this Section of the ordinance.
- f. Enforcement remedies. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable thereof in a civil enforcement proceedings commenced by the City or the zoning officer, shall pay a judgment of not more than \$500.00 dollars, plus all court costs, including reasonable attorney fees incurred by the City as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the City 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 determined that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this ordinance shall be paid over to the City.
- g. Stay. 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.
- h. Private enforcement actions. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the City the right to commence any action for enforcement under this ordinance.

**SECTION 1109. FEES.** City Council shall adopt a schedule of fees, charges and expenses for applications, permits, certificates, appeals, and amendments to the zoning ordinance and zoning

map, and any other matters relating to the administration of this ordinance. The fee schedule shall be available for public inspection and shall be adopted and may be amended from time to time by resolution of City Council. No application or appeal shall be considered filed until all related fees, charges and expenses have been paid in full.

**SECTION 1110. AMENDMENTS TO ZONING ORDINANCE OR MAP.**

- a. Amendments to the zoning ordinance and zoning map. The provisions of this ordinance and the zoning districts on the zoning map, may from time to time be amended by City Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. An amendment may be initiated by the City Planning Commission, City Council, or by a petition to City Council by an interested party. The City is under no obligation to consider any zoning amendment other than a curative amendment.
  
- b. Enactment of zoning ordinance amendments.
  1. Before voting on the enactment of an amendment, City Council shall hold a public hearing on the amendment, pursuant to public notice, and pursuant to mailed notice and electronic notice to an owner of a tract or parcel of land located within the City or an owner of the mineral rights in a tract or parcel of land within the City who has made a timely request in accordance with section 1106. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the City at points deemed sufficient by the City along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
  2. In addition to the requirement that notice be posted under subsection b (1) above, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the City at least 30 days prior to the date of the hearing by first class mail to the addressees to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the City. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This subsection shall not apply when the rezoning constitutes a comprehensive rezoning.
  3. In the case of an amendment other than that prepared by the City Planning Commission, City Council shall submit each such amendment to the City Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the City Planning Commission an opportunity to submit recommendations.

4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, City Council shall hold another public hearing, pursuant to public notice, mailed notice and electronic notice, before proceeding to vote on the amendment.
  5. At least 30 days prior to the public hearing on the amendment by City Council, City Council shall submit the proposed amendment to the Luzerne County Planning Commission for recommendations.
  6. The City may offer a mediation option as an aid in completing proceedings authorized by this Section.
  7. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the Luzerne County Planning Commission.
- c. Landowner curative amendments.
1. A landowner who desires to challenge on substantive grounds the validity of a zoning 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 City Council with a written request that the challenge and proposed amendment be heard and decided as provided under the Pennsylvania Municipalities Planning Code.
  2. City Council shall commence a hearing thereon within 60 days of the request. The curative amendment and challenge shall be referred to the City and County Planning Commissions and notice of the hearing thereon shall be given in the same manner as conducting a zoning hearing under Section 1111(f) of this ordinance.
  3. The hearing shall be conducted in accordance with Section 1111(f) of this ordinance and all references therein to the zoning hearing board shall, for purposes of this section be references to City Council: provided, however, that the provisions of section 1111(f)(3) and 1111(f)(11) relating to time periods shall not apply and the provisions of section 916.1 of the Pennsylvania Municipalities Planning Code shall control. If a municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning ordinance and map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
  4. If City Council has determined that a validity challenge has merit it may accept a landowner's curative amendment, with or without revision, or

may adopt an alternative amendment which will cure the challenged defects. City Council shall consider the curative amendments plans and explanatory material submitted by the landowner and shall also consider:

- A. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
  - C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
  - D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
  - E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- d. Municipal curative amendments. If the City determines that its zoning ordinance or any portion thereof is substantially invalid, it shall take the following actions:
- 1. The City shall declare by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal the City shall:
    - A. By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include references to:
      - i. Specific uses which are either not permitted or not permitted in sufficient quantity;
      - ii. A class of use or uses which require revision; or
      - iii. The entire ordinance which requires revisions.



- B. Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.
  - C. Within 180 days from the date of the declaration and proposal, the City shall enact a curative amendment to validate, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by section 1110(b) of this ordinance in order to cure the declared invalidity of the zoning ordinance.
  - E. Upon the initiation of the procedures, as set forth in subsection (d)(1) above, City Council shall not be required to entertain or consider any landowner's curative amendment filed under section 1110(c) of this ordinance nor shall the zoning hearing board be required to give a report requested under section 1113(a) of this ordinance or Section 916.1 of the Pa MPC subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by Section 1110(d)(1)(A) of this ordinance. Upon completion of the procedures as set forth in Sections 1110(d)(1)(A) and (B) of this ordinance, no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 of the Pa MPC shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended zoning ordinance for which there has been a curative amendment pursuant to this Section.
- 2. If the City utilizes the procedures set forth in this Section, it may not again utilize the same procedure for a 36-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance; provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the City by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the City may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.
- e. Publication, advertisement and availability of ordinances.
    - 1. Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the City where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. City Council shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the City not more than 60 days nor

less than seven days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the City Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- A. A copy thereof shall be supplied to a newspaper of general circulation in the City at the time the public notice is published.
- B. An attested copy of the proposed ordinance shall be filed in the Luzerne County law library or other county office designated by the Luzerne County Council, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

- 2. In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, City Council shall, at least 10 days prior to enactment, re-advertise, in one newspaper of general circulation in the City, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
- 3. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

#### **SECTION 1111. ZONING HEARING BOARD.**

- a. Membership of board. The zoning hearing board shall consist of five residents of the City recommended for appointment by the Mayor and appointed by City Council. The existing terms of office shall continue, with terms of office being five years and so fixed that the term of office of one member shall expire each year. Members of the zoning Board shall hold no other office in the City.
- b. Alternate members. City Council may appoint by resolution at least one but no more than three residents of the City to serve as alternate members of the board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of Section 1111(d) below, an alternate shall be entitled to participate in all proceedings and discussions of the board to the same and full extent as provided by law for board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other elected or appointed office in the City, including service as a member of the planning commission or as a zoning officer, nor shall any alternate be an employee of the City. Any alternate may participate in any proceeding or discussion of the board but shall not be entitled to vote as a member of the board nor be compensated pursuant to Section 1111(e) unless designated as a voting alternate member pursuant to Section 1111(d).

- c. Removal of members. Any zoning board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for any other just cause by a majority vote of City Council, taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
  
- d. Organization of board.
  - 1. Election of officers. The zoning Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.
  
  - 2. Quorum/hearing officer. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the zoning Board. The zoning Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the zoning board. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the zoning board shall designate as many alternate members of the board to sit on the zoning board as may be needed to provide a quorum. Any alternate member of the zoning board shall continue to serve on the zoning board in all proceedings involving the matter or case for which the alternate was initially appointed until the zoning board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case by case basis in rotation according to declining seniority among all alternates.
  
  - 3. By-laws/records. The zoning board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the City and the laws of the Commonwealth. The zoning board shall keep full public records of its business, which records shall be the property of the City, and the board chairperson or its secretary shall submit an annual report of its activities to the City Council.
  
- e. Expenditures for services. Within the limits of appropriated funds, the zoning board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the zoning hearing board may receive compensation for the performance of their duties, as may be fixed by City Council. Alternate members of the zoning hearing board may receive compensation, as may be fixed by City Council, for the performance of their duties when designated as alternate members, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by City Council.

- f. Hearings. The zoning board shall conduct hearings and render decisions in accordance with the following:
1. Notice of hearings. Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. The posting may be performed by the applicant provided that an affidavit of posting is submitted to the zoning board at the commencement of the hearing. No other written notices shall be required.
  2. Fees for hearings. City Council may prescribe reasonable fees with respect to hearings before the zoning board. Fees for said hearings may include compensation for the secretary and board members, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning board, expenses for engineering, architectural or other technical consultants or expert witness costs.
  3. Time periods for hearings. The first hearing before the zoning board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the zoning board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his, her or its case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the zoning board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. The applicant may, upon request, be granted additional hearings to complete his, her or its case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the City, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
  4. Conduct of hearings. The hearings shall be conducted by the zoning board or the zoning 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 zoning board; however, the appellant or the

applicant, as the case may be, in addition to the City, may, prior to the decision of the hearing, waive decision or findings by the zoning board and accept the decision or findings of the hearing officer as final.

5. Parties to the hearings. The parties to the hearing shall be the City, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the Board. The zoning board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the zoning board for that purpose.
6. Oaths/subpoenas. The chairman or acting chairman of the zoning board or the hearing officer presiding shall have 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 requested by the parties.
7. Right to representation/evidence/argument. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
8. Rules of evidence. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
9. Stenographic record and transcript fees. The zoning Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the zoning board. The cost of the original transcript shall be paid by the zoning board if the transcript is ordered by the zoning board or hearing officer or shall be paid by the person appealing from the decision of the zoning board 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.
10. Communications and site visits. The zoning board or the hearing officer shall not communicate, directly or indirectly, with any party or his or her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

11. Time periods for hearings, decisions and findings. The zoning board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the zoning board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons thereof. Conclusions based on any provisions of this ordinance shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the zoning board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the zoning board prior to final decision or entry of findings, and the zoning board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for substantive challenges to the validity of the ordinance under Section 1110 of this ordinance, where the zoning board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in Paragraph (3) of this section above, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the zoning board to meet or render a decision as hereinabove provided, the zoning board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Paragraph (1) of this Section above. If the zoning board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
12. Mailing, copies and notice of decisions. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him, her or it not later than the day following its date. To all other persons who have filed their name and address with the zoning board not later than the last day of the hearing, the zoning board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

#### **SECTION 1112. MEDIATION OPTION.**

- a. Parties to zoning hearing proceedings under this Chapter may utilize mediation as an aid in completing such proceedings. In proceedings before the zoning board, in no case shall the zoning board initiate mediation or participate as a mediating

party. Mediation shall supplement, not replace, the procedures in this Chapter once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

- b. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. Any municipality offering the mediation option shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
  - 1. Funding mediation.
  - 2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
  - 3. Completing mediation, including time limits for such completion.
  - 4. Suspending time limits otherwise authorized in the Pennsylvania Municipalities Planning Code and this ordinance, provided there is written consent by the mediating parties, and by an applicant or municipal decision making body if either is not a party to the mediation.
  - 5. Identifying all parties and affording them the opportunity to participate.
  - 6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
  - 7. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision making body pursuant to the authorized procedures set forth under the Pennsylvania Municipalities Planning Code and this ordinance.
- c. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

**SECTION 1113. JURISDICTION OF THE ZONING HEARING BOARD.** The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- a. Substantive challenges to the validity of any land use ordinance, except for those brought before City Council such as in the case of a landowner curative amendment.

- b. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the zoning board within 30 days after the effective date of the ordinance subject to the appeal.
- c. Appeals from the determination of the zoning officer, including but not limited to, the granting or denial of any permit, or failure to act on an application, the issuance of any cease and desist order, the revocation of a zoning permit or building permit or the registration or refusal to register any nonconforming use, structure or lot.
- d. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- e. Applications for variances from the terms of this ordinance.
- f. Applications for special exceptions under this ordinance.
- g. Appeals from the determination of the zoning officer or the City engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.

**SECTION 1114. VARIANCES.**

- a. Provisions for granting variances. The zoning Board shall hear requests for variances if it is alleged that the provisions of this ordinances inflict unnecessary hardship upon the applicant. All applications for variances shall be on forms proscribed by the City and shall require preliminary application to the zoning officer. The zoning board may grant a variance, provided that all of the following findings are made where relevant in a given case:
  - 1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
  - 2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the



provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

3. That such unnecessary hardship has not been created by the appellant.
  4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- b. Referral to planning commission. The zoning board prior to deciding on a use variance application may refer the application to the City Planning Commission for review and recommendation to the zoning board.
- c. Reasonable conditions and safeguards. In granting any variance, the zoning board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code.

#### **SECTION 1115. SPECIAL EXCEPTIONS.**

- a. Additional information required. In addition to the required site plan and information to accompany a zoning permit application under Section 1102(b) above each special exception application shall include the following:
1. Ground floor plans and elevations of proposed structures;
  2. A scaled drawing (site plan) of the site, including finished topography with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this ordinance; and
  3. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this ordinance.
- b. Provisions for granting special exceptions. When special exceptions are allowed by this ordinance, the zoning hearing board shall hear and decide requests for such special exceptions in accordance with provisions of this ordinance. All applications for special exceptions shall be on forms proscribed by the City and shall require preliminary application to the zoning officer. The zoning board shall grant approval only upon the determination that all applicable standards, criteria and provisions within this ordinance, including the following have been met:

1. Public services and facilities such as water supply, sewage disposal, storm drainage, and fire and police protection are adequate for the proposed use and development.
  2. Existing and future streets and access to the subject property shall be adequate for emergency services while avoiding undue congestion, and providing for the safety and convenience of pedestrian and vehicular traffic.
  3. The relationship of the proposed use and development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of their location and site relative to the proposed operation, and the nature and intensity of the use.
  4. The relationship of the proposed use and development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
  5. The proposed use and development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the zoning district.
  6. The proposed use and development shall not be injurious to the public health, safety, welfare and morals.
  7. The specific standards set forth for each particular use for which a special exception may be granted have been met.
  8. The proposed use meets all of the other applicable requirements of this ordinance.
  9. The proposed use shall be consistent with the purpose and intent of the zoning ordinance and the City Comprehensive Plan.
- c. Referral to planning commission. The zoning board prior to deciding a special exception application may refer that application to the City Planning Commission for review and recommendation.
- d. Reasonable conditions and safeguards. In granting special exception approval, the zoning board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code.
- e. Environmental impact statement (EIS). An EIS may be required by the zoning

hearing board to be performed by the applicant. The purpose of this EIS is to disclose the impacts of a proposed use upon the environment so that the zoning hearing board could decide whether to approve or deny the application or approve the application with conditions. The statement, if required, shall be prepared by a professional engineer licensed within the Commonwealth of Pennsylvania and shall include, at a minimum, an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts:

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 five acres.
  - D. Surface waters
    - i. Distance of site from nearest surface water and head waters of streams.
    - ii. Sources of runoff water.
    - iii. Rate of runoff from the site.
    - iv. Destination of runoff water and method of controlling downstream effects.
    - v. Chemical additives to runoff water on the site.
    - vi. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Luzerne Conservation District.
    - vii. The information shall be set forth in a storm water management plan meeting the requirements of the City's Subdivision and Land Development Ordinance.
2. 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.
  - F. Topographic and geologic
    - i. Maximum existing elevation of site.
    - ii. Minimum existing elevation of site.
    - iii. Maximum proposed elevation of site.
    - iv. Minimum proposed elevation of site.
    - v. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
    - vi. Surface and subsurface geology.
3. Ground water
- A. Average depth to seasonal highwater table.
  - B. Minimum depth to water table on site.
  - C. Maximum depth to water table on site.
  - D. Quality.
  - E. Water supply
    - i. The source and adequacy of water to be provided to the site.
    - ii. The expected water requirements (g.p.d.) for the site.
    - iii. The uses to which water will be put.
4. Sewage disposal
- A. Sewage disposal system (description and location).
  - B. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).

- C. Expected daily volumes of sewage.
  - D. Affected sewage treatment plant's present capacity and authorized capacity.
5. 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.
6. 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.
  - C. Establishment of air quality goals, including a description of any programs to be implemented to achieve those air quality goals, a development plan for control strategies, and a schedule explaining the manner for on-going evaluations.
7. Noise
- A. Source and magnitude of noise levels expected to be generated at the site during and after construction.
  - B. Proposed method for control of additional noise on site during and after construction.
8. Property values
- A. Identify, measure and explain the impact of the proposed use on real estate values.
  - B. In an effort to measure the impact of a proposed use on property values, sale transactions of both homes located next to the proposed use, if any, and those that are away from the proposed use, but in the same community, shall be examined.
  - C. The data once collected shall be analyzed on a sales comparison approach before development of the proposed use and assuming

post-development of the proposed use. Similarly situated uses in other areas should be examined when possible to determine what, if any, impact the proposed use will have on surrounding residential property values.

9. Land and water surface 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.
  - C. Type and concentration of existing water craft uses.
10. Critical impact areas. Any area, condition, or feature which is environmentally sensitive, or which, if disturbed during construction, would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15 percent, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas.
11. Historic resources. Identification of structures or sites of historic significance and probable effect of the project.
12. Transportation network. Existing network traffic volumes and capacities and need for improvements required by the project.
13. Law enforcement. Existing law enforcement capabilities of the City and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.
14. Community facilities and services. Existing community facilities and services and how the proposed use will affect those facilities and services, including projected needs for additional facilities and services.
15. Economic and social impacts. The local economy and social structure and how the proposed use is likely to affect them.
16. Additional requirements. In addition to the above requirements, the Governing body may require such other information as may be reasonably necessary for the City to evaluate the proposed use for its impacts upon the community, including, but not limited to:
  - A. A description of alternatives to the proposed use.

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

**SECTION 1116. CONDITIONAL USES.**

- a. Additional information required. In addition to the required site plan and information to accompany a zoning permit application under Section 1102(b) above each conditional use application shall include the following:
  - 1. Ground floor plans and elevations of proposed structures;
  - 2. A scaled drawing (site plan) of the site, including finished topography with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this ordinance; and
  - 3. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this ordinance.
- b. Provisions for granting conditional use. When a conditional use is allowed by this ordinance, the governing body shall hear and decide requests for such in accordance with provisions of this ordinance. All applications for conditional uses shall be on forms proscribed by the City and shall require preliminary application to the zoning officer. The governing body shall grant approval only upon the determination that all applicable standards, criteria and provisions within this ordinance, including the following have been met:
  - 1. Public services and facilities such as water supply, sewage disposal, storm drainage, and fire and police protection are adequate for the proposed use and development.
  - 2. Existing and future streets and access to the subject property shall be adequate for emergency services while avoiding undue congestion, and

providing for the safety and convenience of pedestrian and vehicular traffic.

3. The relationship of the proposed use and development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of their location and site relative to the proposed operation, and the nature and intensity of the use.
  4. The relationship of the proposed use and development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
  5. The proposed use and development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the zoning district.
  6. The proposed use and development shall not be injurious to the public health, safety, welfare and morals.
  7. The specific standards set forth for each particular use for which a conditional use may be granted have been met.
  8. The proposed use meets all of the other applicable requirements of this ordinance.
  9. The proposed use shall be consistent with the purpose and intent of the zoning ordinance and the City Comprehensive Plan.
- c. Referral to planning commission. The governing body prior to deciding a conditional use application shall refer the application to the City Planning Commission for review and recommendation.
- d. Reasonable conditions and safeguards. In granting conditional use approval, the Governing body may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this ordinance and the Pennsylvania Municipalities Planning Code.
- e. Environmental impact statement (EIS). An EIS may be required by the governing body to be performed by the applicant. The purpose of this EIS is to disclose the impacts of a proposed use upon the environment so that the governing body could decide whether to approve or deny the application or approve the application with conditions. The statement, if required, shall be prepared by a professional engineer licensed within the Commonwealth of Pennsylvania and shall include, at a



minimum, an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts:

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 five acres.
  - D. Surface waters
    - i. Distance of site from nearest surface water and head waters of streams.
    - ii. Sources of runoff water.
    - iii. Rate of runoff from the site.
    - iv. Destination of runoff water and method of controlling downstream effects.
    - v. Chemical additives to runoff water on the site.
    - vi. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Luzerne Conservation District.
    - vii. The information shall be set forth in a storm water management plan meeting the requirements of the City's Subdivision and Land Development Ordinance.
2. 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.
  - F. Topographic and geologic

- i. Maximum existing elevation of site.
  - ii. Minimum existing elevation of site.
  - iii. Maximum proposed elevation of site.
  - iv. Minimum proposed elevation of site.
  - v. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
  - vi. Surface and subsurface geology.
3. Ground water
  - A. Average depth to seasonal highwater table.
  - B. Minimum depth to water table on site.
  - C. Maximum depth to water table on site.
  - D. Quality.
  - E. Water supply
    - i. The source and adequacy of water to be provided to the site.
    - ii. The expected water requirements (g.p.d.) for the site.
    - iii. The uses to which water will be put.
4. Sewage disposal
  - A. Sewage disposal system (description and location).
  - B. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
  - C. Expected daily volumes of sewage.
  - D. Affected sewage treatment plant's present capacity and authorized capacity.

5. 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.
6. 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.
  - C. Establishment of air quality goals, including a description of any programs to be implemented to achieve those air quality goals, a development plan for control strategies, and a schedule explaining the manner for on-going evaluations.
7. Noise
  - A. Source and magnitude of noise levels expected to be generated at the site during and after construction.
  - B. Proposed method for control of additional noise on site during and after construction.
8. Property values
  - A. Identify, measure and explain the impact of the proposed use on real estate values.
  - B. In an effort to measure the impact of a proposed use on property values, sale transactions of both homes located next to the proposed use, if any, and those that are away from the proposed use, but in the same community, shall be examined.
  - C. The data once collected shall be analyzed on a sales comparison approach before development of the proposed use and assuming post-development of the proposed use. Similarly situated uses in other areas should be examined when possible to determine what, if any, impact the proposed use will have on surrounding residential property values.

9. Land and water surface 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.
  - C. Type and concentration of existing water craft uses.
10. Critical impact areas. Any area, condition, or feature which is environmentally sensitive, or which, if disturbed during construction, would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15 percent, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas.
11. Historic resources. Identification of structures or sites of historic significance and probable effect of the project.
12. Transportation network. Existing network traffic volumes and capacities and need for improvements required by the project.
13. Law enforcement. Existing law enforcement capabilities of the City and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.
14. Community facilities and services. Existing community facilities and services and how the proposed use will affect those facilities and services, including projected needs for additional facilities and services.
15. Economic and social impacts. The local economy and social structure and how the proposed use is likely to affect them.
16. Additional requirements. In addition to the above requirements, the governing body may require such other information as may be reasonably necessary for the City to evaluate the proposed use for its impacts upon the community, including, but not limited to:
  - A. A description of alternatives to the proposed use.
  - B. A statement of any adverse impacts which cannot be avoided.

- C. Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.
  - D. A list of all licenses, permits and other approvals required by municipal, county or state law and the status of each with copies of all completed applications/submissions.
  - E. A listing of steps proposed to minimize environmental damage to the site and region during and after construction.
- f. Conditional use hearings. Conditional use hearings shall be conducted in the same manner as zoning hearings under Section 1111(f) above.

**SECTION 1117. INITIAL DETERMINATIONS BY ZONING OFFICER.** An application for a variance, special exception or conditional use shall not be considered by the zoning board until the applicant has submitted a zoning permit application and site plan to the zoning officer and the zoning officer has denied the application.

**SECTION 1118. APPEALS TO THE BOARD AND STANDING.** Appeals before the zoning hearing board or governing body shall be filed in writing by the affected landowner or by an aggrieved person or party. The zoning board or the governing body shall not accept appeal applications or proceed with any hearings from any tenant or equitable owner of a property without the express written consent of the landowner or legal title holder of the property.

**SECTION 1119. APPEALS TO COURT.** The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, as amended, shall constitute the exclusive mode for securing review of any decision rendered under this ordinance.

- a. Jurisdiction and venue on appeal and time for appeal. All appeals from all land use decisions rendered pursuant to Chapter 11 shall be taken to the Court of Common Pleas of Luzerne County within 30 days from the date of mailing the decision, or in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given.
- b. Procedural defects. Challenges to the validity of this ordinance or the zoning map, or any amendment, raising procedural questions or alleged defects in the process of enactment or adoption shall be raised by appeal taken directly to the Court of Common Pleas of Luzerne County within 30 days after the intended effective date of this ordinance or any amendment unless a party establishes each of the following:
  - 1. There was a failure to strictly comply with statutory procedure.
  - 2. There was a failure to substantially comply with statutory procedure which resulted in insufficient notification to the public of impending changes in

or the existence of the ordinance, so that the public would be prevented from commenting on those changes and intervening, if necessary, or from having knowledge of the existence of the ordinance.

3. There exist facts sufficient to rebut any presumption that the City, residents, and landowners within the City have substantially relied upon the validity and effectiveness of the ordinance.
4. If the challenge is made more than two years from the date of the alleged enactment, it must also be shown that:
  - A. The challenge would impermissibly deprive the appellants of constitutional rights to property and due process.
  - B. There was a failure to substantially comply with statutory procedure which resulted in insufficient notification to the public of impending changes in or the existence of the ordinance, so that the public would be prevented from commenting on those changes and intervening, if necessary, or from having knowledge of the existence of the ordinance.
  - C. There exist facts sufficient to rebut any presumption that the City, residents and landowners within the City have substantially relied upon the validity and effectiveness of the ordinance.

c. Appeals to court; commencement; and stay of proceedings.

1. Land use appeals shall be entered as of course by the Prothonotary upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.
2. Upon filing of a land use appeal, the Prothonotary shall forthwith, as of course, send to City Council, the zoning board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding City Council or the zoning board, within 20 days after receipt thereof, to certify to the Court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to City Council or zoning board at the time it received the writ of certiorari.
3. If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the

land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the City and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of Court.

4. The filing of an appeal in Court under this section shall not stay the action appealed from, but the appellants may petition the Court for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the Court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond is presented, the Court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the Court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the Court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him, her or it if an appeal is taken from a final decision of the Court. The question of the amount of the bond shall be within the sound discretion of the Court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the Court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the Court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

- d. Intervention. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of the City, the City and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.
- e. Hearing and argument of land use appeal. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the Court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the Court pursuant to Section 1110 of this ordinance governing substantive challenges to the validity of this ordinance shall not be remanded for further hearings before anybody, agency or officer of the City. If the record below includes findings of fact made by the City

Council, zoning board or agency whose decision or action is brought up for review and the Court does not take additional evidence or appoint a referee to take additional evidence, the findings of City Council or the zoning board shall not be disturbed by the court if supported by substantial evidence. If the record does not include findings of fact or if additional evidence is taken by the Court or by a referee, the Court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

f. Judicial relief.

1. In a land use appeal, the Court shall have the power to declare an ordinance or map invalid and set aside or modify any action, decision or order of City Council, the zoning hearing board or zoning officer or City Engineer brought up on appeal.
2. If the Court finds that an ordinance or map, or a decision or order there under, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the City, the zoning hearing board, zoning officer or City Engineer whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to City Council, the zoning hearing board, zoning officer or City Engineer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.
3. Upon motion any of the parties or upon motion by the Court, the judge of the Court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the Court employs an expert, the report or evidence of such expert shall be available to any party and he or she shall be subject to examination or cross-examination by any party. He or she shall be paid reasonable compensation for his or her services which may be assessed against any or all of the parties as determined by the Court. The Court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.
4. The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The Court may act upon preliminary or sketch plans by framing its decree to



take into account the need for further submissions before final approval is granted.