

BOROUGH OF CLARKS SUMMIT
LACKAWANNA COUNTY, PENNSYLVANIA

ZONING ORDINANCE

ORDINANCE 2002-01

JANUARY 30TH, 2002

Planning Assistance By:

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TABLE OF CONTENTS

ARTICLE I GENERAL PROVISIONS

	Page
100 Repealer and Conflict	I.1
101 Title and Short Title	I.1
102 Purpose	I.2
103 Interpretation	I.2
104 Severability	I.3
105 Effective Date	I.3

ARTICLE II COMMUNITY DEVELOPMENT OBJECTIVES

	Page
Community Development Objectives	II.1

ARTICLE III DEFINITIONS

	Page
301 Rules of Construction and Definitions	III.1
302 Terms, Phrases and Words Not Defined	III.1
303 Definitions	III.1

January 30th, 2002

**ARTICLE IV
DISTRICT REGULATIONS**

	Page
401 Designation of Districts	IV.1
402 Official Zoning Map	IV.1
403 District Boundaries	IV.1
404 District Regulations	IV.2
404.1 Use Regulations	IV.2
404.2 Uses Not Specified in Schedule of Uses	IV.2
404.3 Development Standards	IV.3
Schedule of Uses	IV.4
R-1 Low Density Residential District	IV.4
R-2 Medium Density Residential District	IV.5
R-3 High Density Residential District	IV.6
RP Residential/Professional District	IV.7
CC Central Commerical District	IV.8
HC Highway Commercial District	IV.9
HC1 Highway Commercial - Limited District	IV.10
MI Manufacturing/Industry District	IV.11
RU Railroad-Utility District	IV.11
Schedule of Development Standards	IV.12
Part 1 Residential Lot Sizes and Density	IV.13
Part 2 Lot Dimensions For Single-Family and Two-Family Dwellings In All Districts	IV.13
Part 3 Maximum Building Height For Single-Family And Two-Family Dwellings In All Districts	IV.14
Part 4 Maximum Lot Coverage For Single-Family And Two-Family Dwellings In All Districts	IV.15
Part 5 Non-Residential Uses in R-1, R-2, R-3 And RP Districts Where Permitted)	IV.15
Part 6 Non-Residential Uses in CC, HC, HC1, MI and RU Districts	IV.16
405 Professional Offices in the RP District -- Applicant Option	IV.17

**ARTICLE V
SUPPLEMENTARY REGULATIONS**

		Page
500	Introduction	V.1
501	Deviations From Required Sizes	V.1
501.1	Nonconforming Lots of Record	V.1
501.2	Reserved	V.1
501.3	Front Yard Exception	V.1
501.4	Height Limitations	V.1
501.5	Extension of Non-Conforming Setbacks	V.1
501.6	Projections Into Yards	V.2
502	Unique Lots, Yards and Building Locations	V.2
502.1	Two or More Uses on a Lot	V.2
502.2	Street Frontage	V.3
502.3	Clear View At Street Intersections	V.3
503	Accessory Structures and Uses	V.3
503.1	Accessory Structures	V.3
503.2	Fences and Walls	V.4
503.3	Heliports	V.4
503.4	Home Gardening, Nurseries and Greenhouses	V.5
503.5	Home Occupations	V.5
503.6	Pets, Keeping of	V.6
503.7	Private Outdoor Swimming Pools	V.7
503.8	Private Parking Areas and Garages	V.7
503.9	Stables, Private	V.7
503.10	Temporary Uses	V.8
503.11	Treatment Centers	V.10
503.12	Yard Sales	V.11
504	Off-Street Parking and Loading	V.11
504.1	Availability of Facilities	V.11
504.2	Size and Design of Parking Spaces	V.11
504.3	Lighting	V.11
504.4	Public Right-of-Ways	V.11

504.5	Exemption	V.11
504.6	Number of Spaces To Be Provided	V.12
504.7	Loading and Unloading Areas	V.14
504.8	Access To Off-Street Parking and Loading Areas	V.14
504.9	Parking and Loading Area Setbacks	V.15
504.10	Surfacing	V.16
504.11	Off-Lot Parking	V.16
504.12	Joint Use Parking	V.16
504.13	Landscaping	V.16
504.14	Existing Parking Areas	V.17
504.15	Parking for Residential Use	V.17
504.16	Handicapped Parking	V.17
504.17	Non-Residential Parking in Residential Districts	V.18
504.18	Parking of Unregistered, Commercial and Junk Vehicles	V.18
505	Signs	V.20
505.1	Intent and Purpose	V.20
505.2	Definitions	V.20
505.3	General Provisions	V.23
505.4	Illumination	V.24
505.5	Construction Specifications	V.25
505.6	Prohibited Signs	V.26
505.7	Exempt Signs	V.26
505.8	Temporary Signs	V.29
505.9	Residential Uses	V.32
505.10	Commercial and Manufacturing Uses	V.34
505.11	Permits	V.39
505.12	Review of Existing Permanent Signs	V.41
505.13	Non-Conforming Signs	V.41
505.14	Removal of Certain Signs	V.42

**ARTICLE VI
RESIDENTIAL STANDARDS**

		Page
601	Cluster Residential Development	VI.1
601.1	Applications	VI.1
601.2	Minimum Size	VI.1
601.3	Individual Lots and Density	VI.1
601.4	General Planning Criteria	VI.2

601.5	Open Space and Improvements	VI.2
601.6	Minimum Lot Dimensions	VI.3
601.7	Water Supply	VI.3
601.8	Sewage Disposal	VI.3
601.9	Lot Access	VI.3
601.10	Buffer	VI.3
601.11	Accessory Structures	VI.3
602	Two Family Dwellings	VI.3
602.1	Unit Size	VI.3
602.2	Common Wall	VI.3
602.3	Over/Under Units	VI.4
602.4	Conversions	VI.4
603	Multi-Family Dwellings	VI.4
603.1	Procedure	VI.4
603.2	Bulk and Density Standards	VI.5
603.3	Design Criteria	VI.6
603.4	Non-Residential Use	VI.7
603.5	Conversions of Existing Structures	VI.7
603.6	Common Property Ownership and Maintenance	VI.7
604	Conversion to Dwellings	VI.7
604.1	General Requirements	VI.8
604.2	Structural Alterations	VI.8
605	Group Homes	VI.8
605.1	Definition	VI.8
605.2	Supervision	VI.8
605.3	Certification	VI.8
605.4	Registration	VI.8
605.5	Counseling	VI.8
605.6	Parking	VI.9
605.7	Appearance	VI.9
605.8	Number of Residents	VI.9
606	Unit for Care of Relative	VI.9
606.1	Definition	VI.9

606.2	Occupancy	VI.9
606.3	Care requirement	VI.9
606.4	Unit Design	VI.9
606.5	Permit	VI.10
606.6	Removal of Unit	VI.10
606.7	Exterior Appearance	VI.10
606.8	Entrance	VI.10
606.9	Structural Connection	VI.10
607	Mobile Home Parks	VI.10
607.1	Conditional Use	VI.10
607.2	Reserved	VI.10
607.3	Procedures	VI.10
607.4	Lot Size	VI.11
607.5	Slope	VI.11
607.6	Mobile Home Placement	VI.11
607.7	Soil and Ground Cover	VI.11
607.8	Storm water/Drainage	VI.11
607.9	Buffers and Screening	VI.12
607.10	Streets, Parking and Access	VI.12
607.11	Recreation Area	VI.12
607.12	Landscaping and Outdoor Living Requirements	VI.13
607.13	Non-Residential Uses	VI.13
608	Mobile Homes on Individual Lots	VI.13
609	Reserved	VI.13
610	Bed and Breakfast Establishments	VI.13
611	Hotels, Motels, and Lodging Facilities	VI.14
611.1	Density	VI.14
611.2	Design Criteria	VI.14

**ARTICLE VII
PERFORMANCE STANDARDS AND ENVIRONMENTAL PROTECTION**

Page

701	Performance Standards Applicable to All Non-Residential Uses	VII.1
------------	---	--------------

January 30th, 2002

701.1	Yards and Buffers	VII.1
701.2	Landscaping	VII.2
701.3	Operations and Storage	VII.3
701.4	Fire and Explosion Hazards	VII.3
701.5	Radioactivity or Electric Disturbance	VII.3
701.6	Noise	VII.3
701.7	Vibration	VII.5
701.8	Lighting and Glare	VII.6
701.9	Reserved	VII.6
701.10	Odors	VII.6
701.11	Other Forms of Air Pollution	VII.7
701.12	Surface and Ground Water Protection	VII.7
701.13	Storm Water Management and Soil Erosion Control	VII.7
701.14	Waste Materials	VII.7
701.15	Handicapped Access	VII.7
701.16	Architectural Rendering	VII.7
701.17	Other Regulations	VII.8
702	Placement and Screening of Waste Containers	VII.8
702.1	Screening	VII.8
702.2	Setback from Dwellings	VII.8
702.3	Food Sales	VII.8
702.4	Enclosed Containers	VII.8
703	Environmental Impact Statement	VII.8
703.1	Purpose of EIS	VII.9
703.2	Contents of EIS	VII.9
703.3	Additional Considerations	VII.12
703.4	Qualifications	VII.12
703.5	Procedures for Evaluation of EIS	VII.12
704	Special Conservation Standards	VII.13
704.1	Steep Slope Areas	VII.13
704.2	Wetlands	VII.14
704.3	Flood Plains	VII.14
705	Earth Disturbance	VII.14
705.1	Intent	VII.14
705.2	Permit	VII.15

705.3	Plan	VII.15
705.4	Soil Erosion and Sedimentation and Storm Water Control	VII.15
705.5	Revegetation/Reforestation	VII.15

**ARTICLE VIII
STANDARDS FOR SPECIFIC USES**

	Page
801 Adult Businesses	VIII.1
801.1 Findings	VIII.1
801.2 Intent	VIII.2
801.3 Conditional Use in the MI District	VIII.2
801.4 Standards	VIII.3
802 to 804 Reserved	
805 Bulk Fuel Storage Facilities	VIII.4
806 to 808 Reserved	
809 Communication/Reception Antennae	VIII.4
809.1 Purposes	VIII.5
809.2 Use Regulations	VIII.5
809.3 Standards	VIII.6
810 to 816 Reserved	
817 Institutions	VIII.8
817.1 Parcel Size	VIII.8
817.2 Site Design Standards	VIII.8
817.3 Security	VIII.8
817.4 Accessory Uses and Ancillary Activities	VIII.8
818 to 819 Reserved	
820 Junk Yards	VIII.9
821 Reserved	

822	Kennels	VIII.9
823	Reserved	
824	Livestock Operations and Commercial Stables	VIII.10
825 to 835	Reserved	
836	Recycling Facilities	VIII.10
836.1	Small Collection Facilities	VIII.10
836.2	Large Collection Facilities	VIII.11
836.3	Recyclable Processing Facilities	VIII.12
837 to 840	Reserved	
841	Self-Storage Facilities	VIII.13
842 to 844	Reserved	
845	Shopping Centers, Malls, and Multiple Occupant Commercial	VIII.13
845.1	Conditional Use and Land Development	VIII.14
845.2	Ownership	VIII.15
846 to 847	Reserved	
848	Solid Waste	VIII.15
848.1	Traffic Study	VIII.15
848.2	Yards	VIII.15
848.3	Fencing	VIII.15
848.4	Environmental Impact Statement	VIII.16
848.5	Storage and Loading/Unloading	VIII.16
848.6	Effluent Treatment	VIII.16
848.7	Dangerous Materials	VIII.16
848.8	Water Quality	VIII.16
848.9	Emergency Access	VIII.17
848.10	Hours of Operation	VIII.17
848.11	Nuisances	VIII.17
848.12	Attendant and Inspections	VIII.17
848.13	State and Federal Regulations and Reporting	VIII.17
849 to 850	Reserved	
851	Swimming Pool, Commercial	VIII.18
852 to 855	Reserved	

856	Vehicle Related Uses	VIII.18
856.1	Car and Truck Wash Facilities	VIII.18
856.2	Gasoline Service Stations and Vehicle or Equipment Repair Operations	VIII.19
856.3	Vehicle or Equipment Sales Operations	VIII.19

**ARTICLE IX
NONCONFORMITIES**

	Page
901 Purpose, Applicability, Registration, and Continuation and Change	IX.1
901.1 Purpose	IX.1
901.2 Applicability	IX.1
901.3 Registration	IX.1
901.4 Continuation and Change	IX.1
901.5 Loss of Nonconformity	IX.2
902 Definitions	IX.2
902.1 Nonconforming Lot	IX.2
902.2 Nonconforming Structure	IX.2
902.3 Nonconforming Structure, Alteration or Expansion	IX.2
902.4 Nonconforming Structure, Reconstruction	IX.2
902.5 Nonconforming Use	IX.2
902.6 Nonconforming Use, Change	IX.2
902.7 Nonconforming Use, Extension	IX.3
902.8 Nonconforming Use, Reestablishment	IX.3
903 Nonconformities Under Development	IX.3
904 Nonconformities by Variance	IX.3
905 Normal Maintenance and Repair Activities	IX.3
906 Changes of Nonconforming Uses	IX.3
906.1 Conditional Uses	IX.3
906.2 Conforming Changes and Conversions	IX.4
906.3 Other Standards	IX.4
907 Extension of Nonconforming Uses	IX.4

907.1	Conditional Uses	IX.4
907.2	Extension onto Other Properties of Record in the Same Ownership	IX.4
907.3	Extension Limitation	IX.4
907.4	Prohibited Extensions	IX.4
908	Reconstruction	IX.5
908.1	Time Limit	IX.5
908.2	Procedure - Permits	IX.5
908.3	Reconstruction Prohibited	IX.5
908.4	Dwellings and Buildings in C-1 Districts	IX.5
908.5	Fair Market Value	IX.5
909	Abandonment Nonconformities	IX.5
910	Alterations and Expansions of Nonconforming Structures	IX.6
910.1	Alterations	IX.6
910.2	Procedure - Permits	IX.6
910.3	Nonconforming Setbacks	IX.6
910.4	Increase in Area or Bulk Nonconformity	IX.6
911	Use of Nonconforming Lots of Record	IX.6
911.1	Single Family Dwelling	IX.6
911.2	Commercial Uses	IX.7
912	Review Factors	IX.7

**ARTICLE X
OPEN LAND, RECREATION LAND, DEVELOPMENT IMPROVEMENTS AND
COMMON FACILITIES -- OWNERSHIP AND MAINTENANCE**

	Page
1001 Purpose	X.1
1002 Plan and Legal Documents	X.1
1003 Use Restriction	X.1
1004 Development Plan Designations	X.1
1005 Methods for Use Dedication and Common Area Ownership & Maintenance	X.1
1005.1 Property Owners Association or Condominium Agreements	X.2
1005.2 Transfer to a Private Conservation Organization	X.2

1005.3	Deed Restricted Private Ownership	X.3
1005.4	Deed or Deeds of Trust	X.3
1005.5	Conservation Easements Held by the Borough	X.3
1005.6	Fee Simple and/or Easement Dedication to the Borough	X.3
1006	Failure to Preserve Dedication	X.3
1006.1	Notice	X.3
1006.2	Correction of Deficiencies	X.4
1006.3	Public Hearing	X.4
1006.4	Failure to Correct	X.4
1006.5	Reinstatement of Responsibility	X.4
1006.7	Appeal	X.4
1006.8	Public Costs	X.4

**ARTICLE XI
ADMINISTRATION**

	Page	
1100	Applicability	XI.1
1100.1	Conformance	XI.1
1100.2	Authorization	XI.1
1100.4	Repairs and Maintenance	XI.1
1101	General Procedure for Permits	XI.1
1101.1	Principal Permitted Use	XI.1
1101.2	Reviews	XI.2
1101.3	Appeal	XI.2
1101.4	Timing	XI.2
1102	Permits and Certificates	XI.2
1102.1	Applicability	XI.2
1102.2	Types of Uses	XI.2
1102.3	Applications	XI.2
1102.4	Issuance of Permit	XI.5
1102.5	Revocation of Permits	XI.5
1102.6	Changes to Approved Plans	XI.5
1102.7	Certificate of Use and Occupancy	XI.6
1103	Fees	XI.6
1103.1	Application Fees	XI.6
1103.2	Stenographer Fees	XI.6

1104	Zoning Officer	XI.7
1104.1	Appointment	XI.7
1104.2	Duties and Powers	XI.7
1104.3	Qualifications	XI.7
1104.4	Other Borough Officials	XI.8
1105	Zoning Hearing Board	XI.8
1105.1	Appointment and Qualifications	XI.8
1105.2	Jurisdiction	XI.9
1106	Zoning Hearing Board -- Hearings and Decisions	XI.10
1106.1	Notice of Hearings	XI.10
1106.2	Parties in Hearings	XI.11
1106.3	Oaths and Subpoenas	XI.11
1106.4	Representation by Counsel	XI.11
1106.5	Evidence and Record	XI.11
1106.6	Communications Outside of Hearings	XI.11
1106.7	Advisory Review	XI.12
1106.8	Initiation of Hearings	XI.12
1106.9	Decision/Findings	XI.12
1106.10	Notice of Decision	XI.12
1106.11	Solicitor Conflict	XI.12
1106.12	Hearing Officer	XI.13
1107	Variances	XI.13
1107.1	Standards	XI.13
1107.2	Re-Application	XI.13
1107.3	Variance Conditions	XI.13
1108	Conditional Uses and Special Exceptions	XI.14
1108.1	Applications	XI.14
1108.2	Conditional Uses	XI.14
1108.3	Special Exceptions	XI.15
1108.4	Standards and Criteria	XI.16
1108.5	Limitation of Approval	XI.18
1108.6	Information Required	XI.18
1109	Time Limits on Permits and Variances	XI.18
1109.1	Zoning Permit	XI.18
1109.2	Review Completion	XI.18
1109.3	Extension	XI.18
1109.4	Expiration	XI.18

1109.5	Completion	.....	XI.19
1110	Mediation	.....	XI.19
1111	Time Limits for Appeals	.....	XI.19
1111.1	Zoning Hearing Board -- County Court	.....	XI.19
1111.2	Temporary Permits	.....	XI.19
1111.3	Subdivision or Land Development Approval	.....	XI.19
1112	Appeals to Court and Other Administrative Proceedings	.....	XI.19
1113	Public Utility Exemptions	.....	XI.19
1114	Limited Borough Exemption	.....	XI.20
1115	Amendments	.....	XI.20
1116	Violations	.....	XI.20
1116.1	Compliance	.....	XI.20
1116.2	Enforcement Notice	.....	XI.20
1117	Penalties and Remedies	.....	XI.20
1117.1	Causes of Action	.....	XI.20
1117.2	Enforcement Remedies	.....	XI.21
1118	Liability	.....	XI.21

ORDINANCE NUMBER 2002-01

AN ORDINANCE PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS COURTS, YARDS, AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT UNOCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; CREATING ZONING DISTRICTS AND ESTABLISHING THE BOUNDARIES THEREOF; AUTHORIZING THE APPOINTMENT OF A ZONING OFFICER; CREATING A ZONING HEARING BOARD; AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE, INCLUDING THE IMPOSITION OF PENALTIES.

BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of Clarks Summit Borough, Lackawanna County, Pennsylvania by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the "Pennsylvania Municipalities Planning Code," as follows:

ARTICLE I - GENERAL PROVISIONS

100 Repealer and Conflict

The Clarks Summit Borough Zoning Ordinance of May 7, 1982 (Ordinance 82-7), as amended, is hereby repealed and replaced in its entirety as hereinafter set forth. This Zoning Ordinance is not intended to and shall not be construed to affect or repeal any other ordinance, code or regulation of the Borough of Clarks Summit. If any other ordinance, code or regulation of the Borough of Clarks Summit is in conflict or inconsistent with the requirements of this Zoning Ordinance, the most restrictive standards and provisions shall apply.

101 Title and Short Title

101.1 Title

AN ORDINANCE PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS COURTS, YARDS, AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT UNOCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; CREATING ZONING DISTRICTS AND ESTABLISHING THE BOUNDARIES THEREOF; AUTHORIZING THE APPOINTMENT OF A ZONING OFFICER; CREATING A ZONING HEARING BOARD; AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE, INCLUDING THE IMPOSITION OF PENALTIES.

**CHAPTER 27
ZONING
GENERAL PROVISIONS**

101.2 Short Title

This Ordinance shall be known and may be cited as the "CLARKS SUMMIT BOROUGH ZONING ORDINANCE."

102 Background and Purpose

102.1 Background

The Borough's physical environment, regional location and past development practices have shaped its character into a *mature community* comprised largely of single-family dwellings on small lots dating to the early part of the Century. A number of multi-family dwellings are scattered throughout the Borough, primarily closer to the commercial district. Commercial development in the Borough is best characterized as *retail and service establishments* with limited manufacturing and industrial uses. There is relatively little area for large scale development in terms of meeting regional economic development needs, and few vacant lots for either commercial or residential development. Clarks Summit Borough is perceived as an attractive residential community offering a high quality of life. With its numerous retail and service establishments, the Borough serves to meet the daily living needs of the residents of the larger area. Future development must be controlled and managed with an overriding concern to sustain the Borough's community character in the context of the existing development pattern.

102.2 Purpose

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

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare; coordinated and practical community development; density of population; civil defense and disaster evacuation, airports, and national defense facilities; the provisions of adequate light and air; police protection; vehicle parking and loading space; transportation; natural resources, agricultural land and uses; reliable, safe and adequate water supplies; safe and adequate sewerage disposal, schools, public grounds and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code.
- B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

103 Interpretation

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

**CHAPTER 27
ZONING
GENERAL PROVISIONS**

104 Severability

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

105 Effective Date

This Zoning Ordinance shall take effect immediately upon its adoption.

ARTICLE II - COMMUNITY DEVELOPMENT OBJECTIVES

This Zoning Ordinance has been adopted in part to assist in implementing the Clarks Summit Borough Comprehensive Plan. The Community Development Objectives supplement the Goals and Objectives in the Comprehensive Plan and include, but are not limited to the following:

- A. To achieve the best use of the land within the Borough, insuring that varying land uses will complement one another and thus improve the economic, social, and aesthetic character of the community.
- B. To establish realistic population densities in order to insure health standards, privacy and open space and in order to provide utilities, police protection, and community services and facilities in the most convenient and efficient manner.
- C. To maintain and improve the road system for better internal circulation and movement of through traffic, which will facilitate the efficient and safe movement of people and goods.
- D. To guide the location of future development and establish developmental standards in such a way that negative impacts on the natural environment and natural resources are minimized, and to minimize existing and future water, air, land and noise pollution.
- E. To provide the opportunity for a wide-range and variety of housing types to meet the needs of all Borough residents; newly-formed households, growing families and senior citizens.
- F. To update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and changing conditions.
- G. To expand local business and strengthen the economy by encouraging well-planned commercial, industrial, residential, and recreational growth which will provide for local employment, shopping facilities, and recreational opportunities which in turn will strengthen the local tax base.
- H. To strive for coordination between policies, plans, and programs in the community through cooperation among governing officials, community interest groups, and the general populace.

This statement of the Community Development Objectives is included under the authority of Section 606 of the Pennsylvania Municipalities Planning Code.

**CHAPTER 27
ZONING
DEFINITIONS**

**ARTICLE III
DEFINITIONS**

301. Rules of Construction and Definitions

The following rules of construction shall apply to this Ordinance:

- A. For the purpose of this Ordinance, certain terms and words are herein defined. Whenever used in this Ordinance, they shall have the meaning indicated in this Article, except where there is indicated in context different meaning.
- B. The particular shall control the general.
- C. The word "shall" and "must" are mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for", "designed for", "intended for", and/or "occupied for."
- F. The word "person" includes "individual," "profit or non-profit organization," "partnership," "company," "unincorporated association," "corporation," or other similar entities.

302. Terms, Phrases and Words Not Defined

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

303. Definitions

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

Abandoned or Junked Vehicle: Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition.

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

Adult: One who has attained the legal age of majority which is eighteen (18) years of age.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas". An "Adult Arcade" shall be considered an "Adult Business" for the purpose of this Ordinance.

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

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "Adult Bookstore" or "Adult Video Store". Such other business purposes will not serve to exempt such commercial establishment from being categorized as an "Adult Bookstore" or "Adult Video Store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

The term "Adult Bookstore" shall include but not be limited to an "Adult Novelty Store" and an "Adult Video Store", and all such uses shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Business: Any of the following:

- A. A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.
- B. A use of a building or land for a business which involves the sale, lease, trade, gift or display of drug paraphernalia as a substantial or significant portion of its stock-in-trade.
- C. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas", or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.
- D. Any of the following as defined in this Article III:

**CHAPTER 27
ZONING
DEFINITIONS**

1. adult arcade
2. adult bookstore, adult novelty store or adult video store
3. adult live entertainment use or facility
4. adult motel
5. adult motion picture theater
6. adult theater
7. escort agency
8. massage parlor
9. nude model studio
10. sexual encounter center

Adult Care Facility: See "Health Facility."

Adult Live Entertainment Use or Facility: A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving:

- A. Persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) appearing in a state of nudity; or,
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities"; or,
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"

An "Adult Live Entertainment Use or Facility" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Motel: A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or,
- B. Offers sleeping rooms for rent three (3) or more times in one calendar day.

An "Adult Motel" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas". An "Adult Motion Picture Theater" shall be considered an "Adult Business" for the purpose of this Ordinance.

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

**CHAPTER 27
ZONING
DEFINITIONS**

Agricultural Use: The use of any land for economic gain in the raising of agricultural products, livestock, poultry and/or dairy products. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables and dog kennels; and excluding the disposal or use of sludge, septage or similar waste products.

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

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

Alley: A public or private thoroughfare affording only secondary access to abutting properties.

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

Ambulance: A vehicle whether privately owned or owned by the Borough or the Clarks Summit Fire Company, No. 1, Inc. or other governmental entity or by a non-profit ambulance organization or non profit or for profit organization used to transport injured or sick persons to medical facilities and may provide medical treatment enroute. The definition of ambulance shall include, but not by limitation, emergency type vehicles including MICU type vehicles equipped with emergency lights and siren and vehicles not equipped with emergency lights and sirens but nonetheless providing for the transport of sick and for injured persons to hospital facilities.

Amusement Arcade: A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained. The use of less than five (5) such devices shall be permitted as an accessory use to any lawful principal commercial use.

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

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

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

Antique Vehicle: A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications and which is in good operating and road-worthy condition

Apartment: See "Dwelling."

**CHAPTER 27
ZONING
DEFINITIONS**

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

Auto Service Center: See "vehicle or equipment repair operation."

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

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

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

Bed and Breakfast: Any single-family dwelling in which more than three (3) persons either individually or as families are housed or lodged for remuneration with meals normally included as a part of the services rendered, and shall be restricted to transient visitors to the area.

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

Boarding or Lodging House: Any dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire with meals normally, but not necessarily included as a part of the services rendered.

Borough: The Borough of Clarks Summit, Lackawanna County, PA.

Borough Council: The Borough Council of the Borough of Clarks Summit.

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

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

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

Building Setback Line: See "setback" or "yard."

Bulk Fuel Storage Facility: Any facility where fuel, including but not limited to kerosene, home heating oil, gasoline, and propane, is stored in large volume tanks for distribution to wholesale establishments or individual users.

Bus Terminal: An area and/or building where buses are stored or parked on a regular basis with or without bus maintenance and repair facilities.

Campground or Recreational Vehicle (RV) Park: The division or re-division of a lot, tract or parcel of land, by any means, into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot line for the purpose, whether immediate or future, of lease, rent, sale or transfer of ownership, for the purpose of providing a site for travel trailers, truck campers, camper trailers, motor homes and tents, for temporary occupancy. Campgrounds, recreational vehicle parks, primitive camping facilities and other similar facilities shall fall under this definition.

Carport: A roofed building intended for the storage of one (1) or more motor vehicles, but which is not enclosed on all sides by walls or doors. If any portion of a carport is attached to a principal building, it shall be considered to be part of that building.

Car Wash: Any building or premises or portions thereof used for washing automobiles for commercial purposes.

Cell Site - A tract or parcel of land that contains the cellular phone antenna, its support structure, accessory building(s), and parking, and may include other uses associated with and ancillary to cellular phone service.

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

Church: A meetinghouse, other building, or other actual place of regularly stated religious worship. (See also Semi-public Buildings and Uses).

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

that District and the requirements of that use are met.

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

Collector Vehicle - Any vehicle of limited manufactured production from the present to twenty-four (24) years old, in good operating and road-worthy condition.

Commercial Antenna Site - A tract or parcel of land that contains a commercial antenna for communication service (such as for telephone, television, radio, and two-way radios), its support structure, accessory building(s), and parking, and may include other used associated with and ancillary to the transmission.

College or University: An institution of higher learning authorized to grant associate, bachelor's, master's and/or doctorate degrees. (For non-degree institutions, see "Trade School.")

Commission: The Planning Commission of the Borough of Clarks Summit, Lackawanna County, Pennsylvania.

Comprehensive Plan: The Borough of Clarks Summit Comprehensive Plan including all maps, charts and textual matter.

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

Condominium: A set of individual dwelling units or other areas of building each owned by an individual person(s) in fee simple, with such owners assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which was created under the PA Unit Property Act of 1963 (at the time such law was in effect) or is/was created under the PA Uniform Condominium Act of 1980, as amended. Condominiums shall be regulated based upon the dwelling type as defined by this Ordinance.

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

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

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

Council: The Borough Council of the Borough of Clarks Summit.

Country Club: A recreational property owned and managed by membership organization and including recreational facilities,

**CHAPTER 27
ZONING
DEFINITIONS**

restaurant and meeting rooms.

County: The County of Lackawanna, Commonwealth of Pennsylvania.

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

Day Care Center, Adult: A use providing supervised care and assistance to persons who are not in good physical health or suffering from Alzheimer disease or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. 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.

Day Care, Child: A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school." The following three types of day care are permitted without regulation by Ordinance: 1) care of children by their own relatives, 2) care of children within a place of worship during regularly scheduled weekly religious services and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are relatives of care giver. (See also the definition of "Adult day care center.")

- A. (Child) Day Care, as an Accessory Use: A type of "day care" use that provides care for 4 to 6 children at one time who are not relatives of the care giver.
- B. (Child) Day Care Center, as a Principal Use: A type of "day care" use that provides care for 7 or more children at any one time who are not relatives of the primary operator.

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

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

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

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

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

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

Driveway: A privately owned, constructed, and maintained vehicular access from a street or access drive to only one (1) dwelling unit, commercial unit, institutional or industrial principal use. (See also "access drive.")

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

Dwelling: A structure or portion thereof which is used exclusively for human habitation.

Dwelling, Multi-family: A building or buildings designed for occupancy by three (3) or more families living independently of each other in separate dwelling units. The term "multi-family dwelling" shall include condominium as well as non-condominium housing units including the following construction types:

- A. **Conversion Apartments:** A new dwelling unit created within an existing building.
- B. **Garden Apartment:** A multi-family dwelling not exceeding two and one-half (2 ½) stories in height and containing three (3) or more dwelling units which are located one over the other and which, when more than three (3) units are utilized, are attached side-by-side through the use of common party walls, and which shall have side yards adjacent to each first story end unit. Each dwelling unit is accessible by a common stairwell.
- C. **Townhouses:** A multi-family dwelling of two (2) or more dwelling units of no more than two and one-half (2 ½) stories in height in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire resistant walls without openings.
- D. **Apartment Building:** A multi-family dwelling containing dwelling units having only one (1) floor and typically with an entrance door to a common hallway shared by other dwelling units.

Dwelling, Single-Family: A dwelling unit detached from any other dwelling unit accommodating a single family and having a front, rear and two (2) side yards.

Dwelling, Two-Family: A dwelling accommodating two (2) families either with units which are attached side by side through the use of a party wall, and having one (1) side yard adjacent to each dwelling unit; or upstairs/downstairs units.

Dwelling Unit: A single habitable living unit including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

Earth Disturbance Activity: Any construction or other activity which disturbs the surface of the land including but not

**CHAPTER 27
ZONING
DEFINITIONS**

limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

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

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

Escort Agency: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An "Escort Agency" shall be considered an "Adult Business" for the purpose of this Ordinance.

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

Exercise Club: A facility that offers indoor or outdoor recreational facilities, such as the following: weight rooms, exercise equipment, non-household pool and racquetball courts.

Family: One or more persons living in a single dwelling unit functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling unit is rented, in order to qualify as a family, there shall not be more than one (1) lease among all of the occupants. A family shall not include more than four (4) adults and minor persons who are not "related" to each other (see definition in Article III). (See provisions in §605 regarding maximum number of unrelated persons within a "group home." A "treatment center" shall not be considered a "family" or a "group home." See also the definition of a "dwelling unit.")

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

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

Garage, Private Parking: A building or portion thereof used only for the storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

Garden Center, Retail: A retail establishment engaged in the sale of ornamental trees, shrubs and plants and supplies for gardening and landscaping.

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

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges; but does not include miniature golf courses or golf driving ranges. (See definition of "Recreational Facilities, Private")

Golf Course, Miniature: A novelty version of golf played with a putter and golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Golf Driving Range: A facility arranged with golf tees and used for longer range play of golf balls where balls are supplied for a fee. It may also include a putting green.

Good Operating and Road-Worthy Condition: - A vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than sixty (60) days shall be considered current for the purposes of this definition.

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

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

- A. Involves the care of the maximum number of persons permitted by the "group home" standards of §605, and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other "handicap"* as defined by applicable Federal law.
- D. Does not meet the definition of a "treatment center."
- E. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

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

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

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

Halfway House: See definition of treatment center.

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

Heliport: An area used for the take-off and landing of helicopters, together with any related support facilities such as for maintenance, refueling and storage. This Ordinance is not intended to regulate the non-routine emergency landing and take-off of aircraft to pick-up seriously injured or ill persons.

- A. **Public Heliport:** A heliport that does not meet the definition of a Private Heliport.
- B. **Private Heliport:** A heliport limited to a maximum total of 15 flights or take-offs in any 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public.

**CHAPTER 27
ZONING
DEFINITIONS**

This is also know as a helistop.

Home Occupation: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods, material, solid waste, equipment related to the Home Occupation are publicly displayed or stored in vehicles on the premises other than a sign as provided herein; and may include professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and similar types of uses, excluding commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops and other uses not meeting the requirements of §503.3 of this Zoning Ordinance.

Home Use: Used solely for noncommercial purposes and accessory to a residential dwelling. (See the accessory uses *home gardens, home greenhouses and home nurseries* on the Schedule of Uses in Article IV.)

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

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

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

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

Indoor Archery Range: Any fully enclosed building used for shooting of arrows for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an indoor archery range for the purposes of this Zoning Ordinance. Indoor archery ranges shall be considered private recreational facilities for the purposes of this Zoning Ordinance.

Indoor Shooting Range: Any fully enclosed building used for the discharge of any firearm for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an indoor shooting range for the purposes of this Zoning Ordinance.

**CHAPTER 27
ZONING
DEFINITIONS**

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

Junk: Any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition and meeting the definition of *junk* contained in Chapter 13, Part 8 of the Code of the Borough of Clarks Summit.

Junkyard: An area of land, with or without buildings, used for the storage of junk as defined by Chapter 13, Part 8 of the Code of the Borough of Clarks Summit.

Kennel, Commercial: Any establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. This definition shall also include any veterinary clinic with outdoor animal runs. (See §503.9, Keeping of Pets, and § 822, Kennels, for performance standards.)

Kennel, Private: Any building or buildings or land designed or arranged for the care of dogs, cats or household pets belonging to the owner of the principal use, kept for purposes of show, hunting or as pets, and not involving the commercial sale, barter or gifting of animals.

Land Development: Any of the following activities:

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

The definition of land development shall not include:

- A. The addition of an accessory building on a lot or lots subordinate to an existing principal building;
- B. The conversion of an existing single-family detached dwelling or a two-family dwelling into not more than three (3) residential dwelling units, unless such units are intended to be a condominium.

Landowner: The legal or beneficial owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of a landowner, or other persons having a proprietary interest in land, shall be deemed to be landowners for the purpose of this Ordinance.

Livestock Operation: The raising or keeping of livestock for home use or any commercial purpose. (See §824.)

Livestock: Any animals raised or kept for home consumptive use or profit or any other purpose, including, but not limited

**CHAPTER 27
ZONING
DEFINITIONS**

to horses cattle, bison, sheep, goats, llamas, swine, fowl, rabbits, insects and fur bearing animals.

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

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

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

Lot, Through: A lot that abuts two (2) parallel or approximately parallel streets.

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

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

Lot Coverage: That portion or percentage of the lot area which is covered by buildings, roads, driveways, walkways, parking areas, or other impervious surfaces.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line measured through the approximate center of the lot.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

Lot Width: The average of the width of a lot at the building setback line required by this Ordinance and the rear lot line.

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

Manufacturing and Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new products or materials, including, but not limited to, the assembly of

**CHAPTER 27
ZONING
DEFINITIONS**

component parts, the manufacturing or transformation of products for use by other manufactures, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, and any facility involving processes resulting in the storage of hazardous materials or the generation of hazardous waste products, or other environmentally regulated processes.

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

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

Massage Parlor: An establishment that meets all of the following criteria:

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

A "Massage Parlor" shall be considered an "Adult Business" for the purpose of this Ordinance.

Medical Clinic: An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight. (See also Health Facilities).

Meeting House: See Definition of church.

Methadone Clinic, Methadone Treatment Facility: A facility licensed by the Pennsylvania Department of Health or any successor department or agency of the government, and, required to be licensed or permitted by any other agency of government (Federal, State or Local) to use and/or dispense the drug methadone or other types of drugs in and for the treatment, maintenance or detoxification of persons.

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

Mobile Home Park: A parcel or contiguous parcels of land under single ownership which has been planned and improved for the placement of two (2) or more mobile homes for non-transient use.

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

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

Motor Home: A vehicle designated or converted for use of a person(s) to live in including, but not by limitation, a vehicle specifically designed as a motor home, recreational vehicle (RV), truck campers, converted vans, converted buses, vans designed for a person to live in.

Multi-Family Project: Any development of a single parcel of property that includes one (1) or more buildings containing three (3) or more dwelling units. Any residential development which proposes the construction of two (2) or more two-family dwellings on one (1) parcel of property shall also be considered a multi-family project.

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

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

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

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

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

**CHAPTER 27
ZONING
DEFINITIONS**

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

Nude Model Studio: Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a State of Nudity: The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

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

Nursing Home: A facility licensed by the State for the housing and intermediate or fully-skilled nursing care of 3 or more persons needing such care because of old age or a physical illness or disability or a developmental disability, but not including a "Treatment Center." (See also "Health Facility".)

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

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

Original Zoning Ordinance: Shall mean Ordinance 50-10 adopted August 18th, 1950, Ordinance 64-2, adopted April 1st, 1964 modifying Ordinance 50-10, Ordinance 69-2 adopted May 29th, 1969 modifying Ordinance 64-2, and Ordinance 82-7 adopted July 7th, 1982 modifying Ordinance 69-2, and Ordinance 93-8 adopted December 28th, 1993 modifying Ordinance 82-7.

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

Outdoor Archery Range: Any area not within a fully enclosed building used for the shooting of arrows for recreational or training purposes, including but not limited to, target shooting ranges, and target shooting courses. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an outdoor archery range for the purposes of this Zoning Ordinance.

Parking Area, Private: An open area, other than a street or other public way which has a surface of bituminous, concrete or 2B stone for the same uses as a private garage.

**CHAPTER 27
ZONING
DEFINITIONS**

Parking Area, Public: An open area, other than a street or other public way, which has a surface as described in Section 504.10 used for the parking of vehicles and available to the public whether for a fee, free or as an accommodation for clients or customers.

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

Permanent Foundation: As defined in any Borough adopted National Building Code(s) or by the Borough's Floodplain Ordinance.

Permit: A document issued by the proper Borough authority authorizing the applicant to undertake certain activities.

- A. **Zoning Permit:** A permit that may be issued indicating that a proposed use, building or structure is, to the best knowledge of the Borough Staff, in accordance with this Ordinance and which authorizes an applicant to proceed with said use, building or structure, within all other applicable laws and regulations. For the purposes of this Ordinance, a zoning permit or "a permit under this Ordinance" shall mean the applicable portions of a construction permit, unless a specific system of zoning permits has been established.
- B. **Construction Permit:** A permit indicating that a proposed construction, alteration, or reconstruction of a structure, is to the best knowledge of the Borough Staff, in accordance with the provisions of the Building Code(s) adopted by the Borough.
- C. **Occupancy Permit:** A permit that may be required by the Borough that is issued upon completion of the construction of a structure, or change in use of a structure or parcel of land, or re-occupancy of a structure or land indicating that the premises, to the best knowledge of the Building and Zoning Officers, comply with the provisions of Borough Ordinances. This shall have the same meaning as a "Certificate of use and Occupancy."

Personal Care Home or Center: A residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or the developmentally disabled and that is licensed as a Personal Care Center by the Commonwealth of Pennsylvania and that does not meet the definition of a "Treatment Center."

Pets, Keeping of: The keeping of domestic animals that are normally considered to be kept in conjunction with a dwelling for the pleasures of the resident family. This shall include dogs, cats, birds, hamsters, gerbils, and other animals commonly sold in retail pet shops. (See standards in §503.9.)

Place of Worship: Building, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated for nonprofit and noncommercial purposes. A place of worship may include two (2) dwelling units as an accessory use to house full-time religious leaders and their families. If a religious use is primarily residential in nature, it shall be regulated under the appropriate "dwelling type."

Planning Commission: The Planning Commission of the Borough of Clarks Summit.

**CHAPTER 27
ZONING
DEFINITIONS**

Porch: An attached roofed patio or deck. With the exception of the wall adjoining the principal structure, all walls must be open or screened with a wall no higher than four (4) feet above the floor level. A porch is considered an attached accessory structure and must meet those setback requirements for principal structures.

Principal Building: The building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building shall be considered part of that principal building.

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

Private Ambulance Service: Private ambulance service shall be considered a *Service Establishment* for the purposes of this Ordinance. (See definition of *Service Establishment*.)

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

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

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

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

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

Recreational Facilities, Public: Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Borough, Borough authorized entity, County, school district, state, or federal government.

Recreational Vehicle Park: See Campground and RV Parks.

**CHAPTER 27
ZONING
DEFINITIONS**

Recyclables: Materials intended for reuse, remanufacture or reconstitution and including for the purposes of this Zoning Ordinance only the following materials as defined by the Lackawanna County Recycling Center: aluminum beverage containers; glass beverage and food containers; plastic beverage, food and household product containers but not including plastic film or bags; bi-metal food containers; newsprint, magazines, and office paper; and corrugated paper. Recyclables shall not include, except as specifically authorized by the Borough in accord with §836 of this Ordinance, tires, large appliances such as stoves, refrigerators, washers and dryers, other scrap metal, used motor oil or any other material defined as "junk" or "solid waste" by this Ordinance.

Recycling Facility: A center for the collection and/or processing of recyclable materials. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Any facility accepting or processing waste or other discarded materials which are not recyclables as defined or authorized under this Ordinance shall be considered a junkyard or solid waste facility as regulated by this Ordinance.

- A. **Recyclable Collection Facility:** A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public.
- B. **Recyclable Collection Facility, Small:** A recyclable collection facility which occupies an area of not more than five-hundred (500) square feet (including areas used for containers or other recyclable storage but not parking and loading areas) and may include mobile recycling units, kiosk type units which may include permanent structures and/or unattended containers placed for the deposit of recyclables.
- C. **Recyclable Collection Facility, Large:** A recyclable collection facility which occupies an area of more than five-hundred (500) square feet (including areas used for containers or other recyclable storage but not parking and loading areas) but not more than twenty thousand (20,000) square feet (including areas used for container or other recyclable storage, structure and parking and loading areas) and which may include permanent structures, and limited recyclable processing for shipment or preparation to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning or but not including the remanufacturing or conversion of recyclables to new products or raw materials used for new products.
- D. **Recycling Unit, Mobile:** An automobile, truck, trailer or van, licensed by the Department of Transportation which is used for the collection of recyclable materials, or the bins, boxes or containers transported by trucks, vans or trailers and which are used for the collection of recyclable materials.
- E. **Recyclable Processing Facility:** Any recycling facility which exceeds the area or processing limits of a large collection facility or which involves the remanufacturing or conversion of recyclables to new products or raw materials used for new products.

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

**CHAPTER 27
ZONING
DEFINITIONS**

Residential Housing Area: Any area of the Borough of Clarks Summit or adjoining municipality where four (4) or more dwelling units are located on one (1) lot or two (2) or more contiguous lots.

Restaurant, Fast Food:

- A. An establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises and that does not meet the definition of a "standard restaurant."
- B. A fast-food restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" or nightclub as applicable must be met.

Restaurant, Traditional:

- A. An establishment that serves ready-to-consume food or drink for compensation in which the clear majority of sales involve the following: the customers order their food from a waiter or waitress while seated inside a building and then the food is consumed at the table.
- B. A standard restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" must be met.

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

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

Rowhouse: Same as townhouse.

Rowhouses: Same as townhouses.

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

School, Public or Private Primary or Secondary School: - An educational institution primarily for persons between the ages of five (5) and nineteen (19) that primarily provides State-required or largely State-funded educational programs. This term shall not include "Trade Schools" (such as privately operated schools of trade, vocation or business.)

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

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

Semi-Public Building or Use: Buildings or uses operated by non-profit, community-based organizations for the general use

**CHAPTER 27
ZONING
DEFINITIONS**

of Borough residents, including churches, fire houses, ambulance buildings, private schools, youth centers, senior centers, libraries and the like, but excluding institutional uses such as nursing homes, hospitals, sanitariums and clinics. It shall also include essential services and public utilities that require enclosure within any structure or building.

Senior Day Care Center: Any establishment enrolling five (5) or more adults where fees or other forms of compensation are charged for the care of the adults, such care limited to only a part of each day and the adults do not reside on the premises and no health services are provided.

Service Establishment: Establishments engaged in providing services involving the care or needs of a person or his or her apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, private ambulance services, etc., and which is not otherwise listed as a use in the Schedule of Uses.

Setback: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks, and if applicable, side setbacks and/or rear setbacks shall be measured from the edge of the road and/or cartway right-of-way and other setbacks from property lines (See Section 502.2). In the case of flag lots, the front setback shall be measured from the lot line closest to the public road right-of-way from which access is gained.

Sewage Disposal System: A system to collect, treat and dispose of sewage. No such system shall be permitted that does not comply with local, State and Federal requirements.

- A. **Public Sewer Service:** Service at the time of occupancy of a use by a central sewage treatment plant that is owned by the Borough or a municipal authority.
- B. **On-Lot or Non-Public Sewer Service:** Any form of sewage service permitted under local, State and Federal law that does not meet the definition of "public sewer service."

Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

A "Sexual Encounter Center" shall be considered an "Adult Business" for the purpose of this Ordinance.

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

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

Slaughter House: A use involving the killing of animals for the production of food or some other commercial product. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughter house. This shall not include a custom "butcher shop" that does not

**CHAPTER 27
ZONING
DEFINITIONS**

involve killing of animals (which is a retail sales use.)

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

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

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

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

Special Exception: A use allowed, with permission granted by the Zoning Hearing Board, to occupy and use land and/or a building for specific purposes in accord with this Ordinance.

Specified Anatomical Areas: Any of the following:

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

Specified Sexual Activities: Any of the following:

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

Stable, Commercial: A structure or land where horses are kept for remuneration, hire, sale, boarding, riding or show, and

**CHAPTER 27
ZONING
DEFINITIONS**

which includes the commercial hire of horses to the general public for riding or other purposes. (See §824)

Stable, Private: An accessory structure or use of land where horses are kept for the sole use of the residents of the principal structure, and which includes no remuneration, hire, boarding or other commercial use. (See §503.10)

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

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

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

Structure, Permanent: Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

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

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

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition of the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

Tavern: A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur. (See also the definition of "restaurant".)

Tent: A portable structure comprised of a frame securely anchored to the ground with canvas or other pliable material overlapping and securely attached to the frame on the top and the sides.

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

Townhouse: A dwelling of no more than two and one half (2 1/2) stories in height designed for and occupied exclusively as a residence for a single family with front and rear accesses to the outside and with a fire resistant party wall without openings, on at least one side (on both sides) in common with an attached dwelling of the same or similar construction. No townhouse shall be located over or on top of another townhouse.

**CHAPTER 27
ZONING
DEFINITIONS**

Townhouses: A row of two (2) or more townhouses.

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

Transfer of Ownership of Control of a Sexually Oriented Business Includes any of the following:

- A. The sale, lease, or sublease of the business; or
- B. The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Treatment Center: A use (other than a prison or a permitted accessory use in a "hospital") providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than one (1) year or treats persons on an outpatient basis and who need such facilities because of:

- A. Criminal rehabilitation, such as a criminal half-way house/criminal transitional living facility or a treatment-housing center for persons convicted of driving under the influence of alcohol,
- B. Chronic abuse of or addiction to alcohol and/or a controlled substance, such as a Methadone Clinic as defined in this Ordinance, or
- C. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

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

Truck Wash: Any building or premises or portion thereof used for washing trucks with a gross vehicle weight exceeding five thousand (5,000) lbs.

Unit for Care of Relative: A living area especially created for and limited to occupancy by a person who is "related" (see definition) to the permanent residents of the principal dwelling unit. Such use shall be restricted to a relative who needs such accommodations because of old age, developmental disability, illness, mental illness that does not threaten physical harm to others or physical handicap. (See standards in §606.)

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

Variance: Relief granted pursuant to the provisions of this Ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

**CHAPTER 27
ZONING
DEFINITIONS**

Variance, De Minimus: A variance granted for a minimal deviation from the dimensional requirements of this Zoning Ordinance, without the applicant having established unnecessary hardship, relying on the consideration that the granting of the minimal variance does not thwart the purpose of the Ordinance and the minor deviation does not encroach on the legislative authority of the governing body.

Vehicle - Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land, including, but not limited to, automobiles, trucks, pickup trucks, sports utility vehicles, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, machinery, trailers, farm machinery and implements, and other wheeled equipment; boats; and aircraft.

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

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

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

Wall: See "Fence".

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

Water System: A system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies and the Borough.

- A. **"Public" Water Service.** Central water service by a system owned by the Borough or a municipal authority and which serves more than 30 dwellings or principal uses.
- B. **On-Lot or Non-Public Water Service.** Service by a water system that does not meet the definition of a "public water service." In most cases, this would involve an individual well serving an individual lot, but may also include a common well or another duly approved system.

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

Yard: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by

**CHAPTER 27
ZONING
DEFINITIONS**

any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines.

Yard Sale: Any offering for sale to the public of used and accumulated normal household and other personal items conducted on a temporary, intermittent basis (not to exceed five [5] sales per year for not more than three [3] consecutive days each) as an accessory use to a residential dwelling. The buying and selling of new or used items or surplus material shall be considered a commercial operation and shall be prohibited, except as otherwise permitted and regulated by this Zoning Ordinance.

Zoning Map: The Official Zoning Map of the Borough of Clarks Summit.

Zoning Officer: The administrative officer charged with the duty of enforcing the provision of this Zoning Ordinance. The Zoning Officer may also serve the Enforcement Officer for other Borough ordinances.

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

**CHAPTER 27
ZONING
DISTRICT REGULATIONS**

**ARTICLE IV
DISTRICT REGULATIONS**

401 Designation of Districts

401.1 Designation

For the purposes of this Ordinance, the Borough of Clarks Summit is hereby divided into the following Zoning Districts:

R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
RP	Residential-Professional District
CC	Central Commercial District
HC	Highway Commercial District
HC1	Highway Commercial District - Limited
MI	Manufacturing-Industry District
RU	Railway-Utility District

401.2 Intent

The intent of each District and the uses permitted in each District are set forth on the District Use Schedules contained in §404 of this Ordinance. Bulk and density standards for each District are set forth on the Schedule of Development Standards contained in §404 of this Ordinance.

401.3 Floodplain Regulations

A Floodplain Overlay District is hereby created to be coterminous with the flood hazard areas established by the Federal Emergency Management Agency for the Borough as shown on the most recent Federal Insurance Rate Maps. In addition to all the applicable standards of this Zoning Ordinance the requirements of the Borough Floodplain Ordinance shall apply in the Floodplain Overlay District.

402 Official Zoning Map

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

403 District Boundaries

403.1 Establishment

District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan of record in the Lackawanna County Recorder of Deed's Office

CHAPTER 27
ZONING
DISTRICT REGULATIONS

and on the Lackawanna County Tax Maps at the time of the enactment of this Ordinance, unless such district boundary lines are fixed by dimensions or otherwise as shown on the Official Zoning Map.

403.2 Interpretation

Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

403.3 Uncertainty

In the event of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Officer is authorized to determine the correct district boundary in accord with the guidelines of this Zoning Ordinance. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board. It shall be the duty of the Zoning Hearing Board to render its determination with respect thereto.

404 District Regulations

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

404.1 Use Regulations

District Use Regulations are provided in the following Schedule of Uses.

- A. Permits for principal permitted uses and accessory uses shall be issued by the Zoning Officer provided such uses comply with the standards in this Ordinance.
- B. Conditional uses and special exception uses shall be subject to the additional review procedures and criteria as specified in this Ordinance.
- C. No land and no structure in a particular zoning district shall be used for any use which is not specifically listed on the Schedule of Uses for that particular district, and only in accord with all other requirements of this Ordinance. In cases where this Ordinance provides different requirements for the same use, the most restrictive requirement shall apply.

404.2 Special Exceptions/Uses Not Specified in Schedule of Uses

**CHAPTER 27
ZONING
DISTRICT REGULATIONS**

A. Jurisdiction

Whenever an application is made to the Zoning Officer for a legal and legitimate use which is neither specifically permitted nor specifically denied in any zoning district established under this Ordinance, the Applicant may petition the Borough Council to undertake, or the Borough Council may undertake on its own initiative, an amendment procedure to provide for the use in one or more zoning districts. The amendment procedure shall comply with § 1115 of this Zoning Ordinance and the applicable requirements of Article VI of the Pennsylvania Municipalities Planning Code.

B. Findings

In determining the district location of the proposed use, the Borough Council shall at a minimum consider the following questions:

1. Is the use similar to and compatible with the uses listed for the subject zoning district by the Schedule of Use Regulations?
2. Does the use in any way conflict with the intent of the zoning district and the general purpose and intent of this Zoning Ordinance?
3. Is the use permitted in any other zoning district?

C. Planning Commission Review

Prior to taking action on any amendment, the Borough Council shall submit the same to the Clarks Summit Borough Planning Commission and the Lackawanna County Regional Planning Commission for review and recommendation in accordance with the applicable requirements of Article VI of the Pennsylvania Municipalities Planning Code.

D. Standards and Conditions

The Clarks Summit Borough Council shall include in the amendment such reasonable standards and conditions applicable to the proposed use deemed necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

404.3 Development Standards

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

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

R-1 LOW DENSITY RESIDENTIAL DISTRICT -- SCHEDULE OF USES

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

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Cluster residential development - Forestry - Single-family detached dwellings 	<ul style="list-style-type: none"> - Cemeteries - Country clubs - Golf courses excluding miniature golf and golf driving ranges - Mobile home parks - Places of worship 	<ul style="list-style-type: none"> - Recreational facilities, public - Public and semi-public buildings and uses - Group Homes 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Gardens, greenhouses and nurseries for home use - Home occupations - Pets, keeping of - Private garages, carports, sheds - Private Parking Area - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

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

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT -- SCHEDULE OF USES

INTENT: To delineate those areas which have developed with one and two-family dwellings , and to limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public and semi-public uses compatible with residential neighborhoods.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> • Forestry • Public parks and playgrounds • Single-family detached dwellings • Two-family dwellings 	<ul style="list-style-type: none"> • Bed and breakfast establishments • Places of worship 	<ul style="list-style-type: none"> • Group Homes • Recreational facilities, public • Public and semi-public buildings and uses • Private stables 	<ul style="list-style-type: none"> • Accessory uses customary to approved uses • Essential services • Gardens, greenhouses and nurseries for home use • Home occupations • Pets, keeping of • Private garages, carports, sheds • Private Parking Area • Private swimming pools • Required parking areas • Signs accessory to approved uses • Satellite dish antennae • Yard sales

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

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

R-3 HIGH DENSITY RESIDENTIAL DISTRICT -- SCHEDULE OF USES

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

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> • Conversion apartments • Condominiums • Day care, child • Day care, adult • Forestry • Garden apartments • Group homes • Single-family detached dwellings • Townhouses • Two-family dwellings 	<ul style="list-style-type: none"> • Apartment buildings • Bed and breakfast establishments • Boarding and lodging houses • Clubs/lodges, private • Colleges or universities • Dormitories • Fraternities or sororities • Nursing homes • Personal care homes or centers • Places of worship 	<ul style="list-style-type: none"> • Recreational facilities, public • Public and semi-public buildings and uses 	<ul style="list-style-type: none"> • Accessory uses customary to approved uses • Essential services • Gardens, greenhouses and nurseries for home use • Home occupations • Pets, keeping of • Private garages, carports, sheds • Private Parking Area • Private swimming pools • Required parking areas • Signs accessory to approved uses • Satellite dish antennae • Yard sales

NOTE: Uses not specifically listed by this schedule shall not be permitted in the R-3 District.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

RP RESIDENTIAL / PROFESSIONAL DISTRICT -- SCHEDULE OF USES

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

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Apartment Buildings - Condominiums - Forestry - Garden Apartments - Public parks and playgrounds - Single-family detached dwellings - Townhouses - Two-family dwellings 	<ul style="list-style-type: none"> - Bed and breakfast establishments - Nursing homes - Personal care homes or centers - Places of worship - Professional offices in buildings of a residential appearance consistent with the neighborhood and excluding any sale of goods, warehousing, service establishments, banks and similar uses -- see special standards in §405 - Renovations of existing structures into apartment and/or professional offices (those structures being in existence at the time of the adoption of this Ordinance) 	<ul style="list-style-type: none"> - Group Homes - Recreational facilities, public - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Gardens, greenhouses and nurseries for home use - Home occupations - Private garages, carports, sheds - Private Parking Area - Pets, keeping of - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RP District.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

RP RESIDENTIAL / PROFESSIONAL DISTRICT -- SCHEDULE OF USES

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

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> • Condominiums • Forestry • Public parks and playgrounds • Single-family detached dwellings • Townhouses • Two-family dwellings <p style="font-size: 2em; transform: rotate(-45deg); opacity: 0.5; position: absolute; left: -100px; top: 100px;">Revised 30 Jan 2002</p>	<ul style="list-style-type: none"> • Bed and breakfast establishments • Nursing homes • Personal care homes or centers • Places of worship • Professional offices in buildings of a residential appearance consistent with the neighborhood and excluding any sale of goods, warehousing, service establishments, banks and similar uses -- see special standards in §405 • Renovations of existing structures into apartment and/or professional offices (those structures being in existence at the time of the adoption of this Ordinance) 	<ul style="list-style-type: none"> • Group Homes • Recreational facilities, public • Public and semi-public buildings and uses 	<ul style="list-style-type: none"> • Accessory uses customary to approved uses • Essential services • Gardens, greenhouses and nurseries for home use • Home occupations • Private garages, carports, sheds • Private Parking Area • Pets, keeping of • Private swimming pools • Required parking areas • Signs accessory to approved uses • Satellite dish antennae

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RP District.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

CC CENTRAL COMMERCIAL DISTRICT -- SCHEDULE OF USES

INTENT: To recognize the Borough's original business district and allow for the expansion of retail and service establishments to meet the needs of the residents of the Borough and adjoining communities, while excluding those heavier commercial uses which generate more traffic and other nuisances.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> • Bed and breakfast establishments • Boarding and lodging houses • Clubs/lodges, private • Condominiums • Conversion apartments • Day care, child • Day care, adult • Exercise clubs • Forestry • Garden apartments • Group homes • Office buildings • Professional offices • Public parks and playgrounds • Single-family detached dwellings • Townhouses • Two-family dwellings • Restaurants, traditional • Retail businesses • Service establishments • Taverns 	<ul style="list-style-type: none"> • Abused person shelter • Amusement arcade • Apartment buildings • Banks • Colleges or universities • Dormitories • Fraternities or sororities • Funeral parlors • Health facilities • Nursing homes • Personal care home or center • Public Parking Area • Recreational facilities, private • Treatment centers • Veterinary clinics 	<ul style="list-style-type: none"> • Recreational facilities, public • Public and semi-public buildings and uses 	<ul style="list-style-type: none"> • Accessory uses customary to approved uses • Essential services • Gardens, greenhouses and nurseries for home use • Home occupations • Private garages, carports, sheds • Pets, keeping of • Private Parking Area • Private swimming pools • Required parking areas • Signs accessory to approved uses • Satellite dish antennae • Yard sales

- NOTES:**
1. Uses not specifically listed by this schedule shall not be permitted in the CC District.
 2. See §504.5 for off-street parking in the CC District.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

HC HIGHWAY COMMERCIAL DISTRICT -- SCHEDULE OF USES

INTENT: To provide areas within the Borough for the location of businesses and commercial enterprises of all types catering to the needs of local residents as well as surrounding communities and the region and travelers.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Bed and breakfast establishments - Boarding and lodging houses - Clubs/lodges, private - Conversion apartments - Day care, child - Day care, adult - Exercise clubs - Forestry - Funeral parlors - Garden apartments - Group homes - Medical clinics - Office buildings - Places of worship - Professional offices - Public parks and playgrounds - Recycling units, mobile - Restaurants, traditional - Retail businesses - Service establishments - Single-family detached dwellings - Taverns - Two-family dwellings - Veterinary clinics - Wholesale businesses 	<ul style="list-style-type: none"> - Abused person shelter - Amusement arcade - Apartment buildings - Banks - Betting uses - Bus terminal - Car washes - Cell sites - Colleges or universities - Convenience stores - Dormitories - Flea markets - Fraternities or sororities - Gasoline service station - Golf course, miniature - Greenhouse, commercial - Health facilities - Hotels - Institutional uses - Kennels - Manufacturing, light - Motels - Multi-family projects - Nursing homes - Personal care home or center - Public Parking Area - Recreational facilities, private - Recycling collection facilities, large - Recycling collection facilities, small - Restaurants, fast-food - Shopping centers and malls - Theaters - Townhouses - Trade schools - Treatment centers - Vehicle or equipment sales operations - Vehicle or equipment repair operations 	<ul style="list-style-type: none"> - Recreational facilities, public - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Gardens, greenhouses and nurseries for home use - Home occupations, - Pets, keeping of - Private garages, carports, sheds - Private Parking Area - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

NOTE: Uses not specifically listed by this schedule shall not be permitted in the HC District.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

HC1 HIGHWAY COMMERCIAL DISTRICT - LIMITED -- SCHEDULE OF USES

INTENT: To provide areas within the Borough for the location of businesses and commercial enterprises of limited types catering to the needs of local residents as well as surrounding communities and the region and travelers.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Apartments in combination with business use - Apparel stores - Banks & other financial institutions - Barber shops & Beauty parlors - Bed and breakfast establishments - Book & stationery stores - Drug stores - Dry goods & variety stores - Florists - Forestry - Garden Apartments - Jewelry stores - Medical clinics - Multi-family projects - Office Buildings - Paint & wallpaper stores - Restaurants, traditional - Retail businesses - Single-family - Shoe repair - State liquor stores - Tailors - Townhouses - Two-family dwelling - Wholesale businesses 	<ul style="list-style-type: none"> - Abused person shelter - Apartment buildings - Colleges or universities - Dormitories - Flea markets - Fraternities or sororities - Golf course, miniature - Greenhouse, commercial - Health facilities - Hotels - Institutional uses - Manufacturing, light - Motels - Nursing homes - Personal care home or center - Public Parking Area - Recreational facilities, private - Restaurants, fast food - Trade schools - Vehicle or equipment sales 	<ul style="list-style-type: none"> - Recreational facilities, public - Public and semi-public buildings and uses 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Gardens, greenhouses and nurseries for home use - Home occupations - Pets, keeping of - Private garages, carports, sheds - Private Parking Area - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales

NOTE: Uses not specifically listed by this schedule shall not be permitted in the HC1 District.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

MI MANUFACTURING/INDUSTRY DISTRICT -- SCHEDULE OF USES

INTENT: To reserve those areas in the Borough best suited for manufacturing and industry, uses with potential for greater community impact, and other offensive uses based on location, existing uses and facilities, and the relationship to other land uses.			
PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> • Bus terminals • Crematoria • Fire Companies • Forestry • Gasoline service station • Kennels • Manufacturing, light • Recyclable processing facilities • Recycling collection facilities, large • Recycling collection facilities, small • Recycling units, mobile • Self-storage facilities • Truck washes • Vehicle or equipment repair operation 	<ul style="list-style-type: none"> • Adult businesses • Agricultural products processing • Amusement parks • Bulk fuel storage facilities • Cell sites • Commercial antenna sites • Heliports, private • Heliports, public • Indoor shooting ranges • Junk yards • Livestock operations • Manufacturing and industry • Natural resources processing • Public Parking Area • Slaughter houses • Solid waste facilities, commercial • Solid waste facilities, public • Solid waste staging areas • Stables, commercial • Truck terminals • Warehouses 	none	<ul style="list-style-type: none"> • Accessory uses customary to approved uses • Essential services • Private Parking Area • Required parking areas • Signs accessory to approved uses • Satellite dish antennae

NOTE: Uses not specifically listed by this schedule shall not be permitted in the MI District.

RU RAILWAY-UTILITY DISTRICT-- SCHEDULE OF USES

INTENT: To recognize the existing railroad line and utilities associated with the railroad right-of-way and to reserve the area for such uses by limiting intrusions of incompatible uses.			
PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> • Forestry • Railway lines • Public utility lines 	<ul style="list-style-type: none"> • Cell sites • Commercial antenna sites • Private buildings associated with permitted and conditional uses 	<ul style="list-style-type: none"> • Public and semi-public buildings associated with permitted and conditional uses 	<ul style="list-style-type: none"> • Accessory uses customary to approved uses • Essential services • Required parking areas • Signs accessory to approved uses

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RU District.

SCHEDULE OF DEVELOPMENT STANDARDS

(Note: larger lot sizes, increased setbacks and other more restrictive standards may be required by other Ordinance sections.)

PART 1 -- RESIDENTIAL LOT SIZES AND DENSITY									
Zoning district	R-1 District	R-2 District	R-3 District	RP District	CC District	HC District	HC1 District	MI District	
Minimum lot size (sq. ft.)									
Single-family dwellings	10,000	7,500	6,000	7,500	6,000	6,000	6,000	not permitted	
Two-family dwellings	not permitted	10,000	8,000	10,000	8,000	8,000	8,000	not permitted	
Garden apartments	not permitted	not permitted	12,000	not permitted	12,000	12,000	12,000	not permitted	
Townhouses	not permitted	not permitted	12,000	not permitted	12,000	12,000	12,000	not permitted	
Apartment buildings	not permitted	not permitted	9,000	not permitted	9,000	9,000	9,000	not permitted	
Minimum average lot size for multi-family dwellings (sq. ft. per dwelling unit) SEE ALSO §603									
Garden apartments	not permitted	not permitted	4,000	not permitted	4,000	4,000	4,000	not permitted	
Townhouses	not permitted	not permitted	4,000	not permitted	4,000	4,000	4,000	not permitted	
Apartment buildings	not permitted	not permitted	3,000	not permitted	3,000	3,000	3,000	not permitted	
Mobile home parks SEE ALSO §607									
Minimum parcel size (sg. ft.)	87,120	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted
Minimum site size (sg. ft.)	3,000	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted
Maximum # units per acre	10	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted

SCHEDULE OF DEVELOPMENT STANDARDS
 (Note: larger lot sizes, increased setbacks and other more restrictive standards may be required by other Ordinance sections.)

PART 1 -- RESIDENTIAL LOT SIZES AND DENSITY									
Zoning district	R-1 District	R-2 District	R-3 District	RP District	CC District	HC District	HC1 District	MI District	
Minimum lot size (sq. ft.)									
Single-family dwellings	10,000	7,500	6,000	7,500	6,000	6,000	6,000	not permitted	
Two-family dwellings	not permitted	10,000	8,000	10,000	8,000	8,000	8,000	not permitted	
Garden apartments	not permitted	not permitted	12,000	12,000	12,000	12,000	12,000	not permitted	
Townhouses	not permitted	not permitted	12,000	12,000	12,000	12,000	12,000	not permitted	
Apartment buildings	not permitted	not permitted	9,000	9,000	9,000	9,000	9,000	not permitted	
Minimum average lot size for multi-family dwellings (sq. ft. per dwelling unit) SEE ALSO §603									
Garden apartments	not permitted	not permitted	4,000	4,000	4,000	4,000	4,000	not permitted	
Townhouses	not permitted	not permitted	4,000	4,000	4,000	4,000	4,000	not permitted	
Apartment buildings	not permitted	not permitted	3,000	3,000	3,000	3,000	3,000	not permitted	
Mobile home parks SEE ALSO §607									
Minimum parcel size (sq. ft.)	87,120	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted
Minimum site size (sq. ft.)	3,000	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted
Maximum # units per acre	10	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted	not permitted

SCHEDULE OF DEVELOPMENT STANDARDS

(Note: larger lot sizes, increased setbacks and other more restrictive standards may be required by other Ordinance sections.)

PART 2 -- LOT DIMENSIONS FOR SINGLE-FAMILY AND TWO-FAMILY DWELLINGS IN ALL DISTRICTS						
Where the minimum lot size required in Part 1 in sq. ft. is	6,000	7,500	8,000	9,000	10,000	12,000
Minimum lot width (feet)*	50	60	80	80	90	90
Minimum lot depth (feet)*	100	100	100	100	100	100
Minimum front yard (feet)	30	30	30	30	35	30
Minimum rear yard (feet)	25	25	25	25	30	30
Minimum side yard, each (feet)	10	10	10	10	10	10
Maximum depth to width ratio	3.5 : 1	3.5 : 1	3.5 : 1	3.5 : 1	3.5 : 1	3.5 : 1
MULTI-FAMILY DWELLINGS - §603.2 // MOBILE HOMES - §607						
*NOTE: Minimum lot width and depth shall not be less than the stated standard. The values may be greater in order to comply with the minimum lot size requirement.						

PART 3 -- MAXIMUM BUILDING HEIGHT FOR SINGLE-FAMILY AND TWO-FAMILY DWELLINGS IN ALL DISTRICTS			
Zoning district	R-1 District	R-2 District	R-3 District
Stories	2.5	2.5	2.5
Feet	35	35	35
MULTI-FAMILY DWELLINGS - §603.2			
			RP District
			2.5
			35

PART 4 -- MAXIMUM LOT COVERAGE IN FOR SINGLE-FAMILY AND TWO-FAMILY DWELLINGS IN ALL DISTRICTS

Zoning district	R-1 District	R-2 District	R-3 District	RP District
Percent of lot	25	30	30	30

MULTI-FAMILY DWELLINGS - §603.2

SCHEDULE OF DEVELOPMENT STANDARDS

(Note: larger lot sizes, increased setbacks and other more restrictive standards may be required by other Ordinance sections.)

PART 5 -- NON-RESIDENTIAL USES IN R-1, R-2, R-3 AND RP DISTRICTS (WHERE PERMITTED)								
Use	Minimum Lot Size (sq. ft.)	Minimum Dimensions (feet)		Minimum Yards (feet)			Maximum Building Height	Maximum Lot Coverage (percent)
		Width*	Depth*	Front	Rear	Sides		
<ul style="list-style-type: none"> - Bed and breakfast establishments - Day care, child - Day care, adult - Professional offices in buildings of a residential appearance consistent with the neighborhood and excluding any sale of goods, warehousing, service establishments, banks and similar uses 	same as single-family dwelling requirement for the district	same as single-family dwelling requirement for the district	same as single-family dwelling requirement for the district	same as single-family dwelling requirement for the district			2.5 stories or 35 feet	30
<ul style="list-style-type: none"> - Boarding and lodging houses - College or university - Clubs/lodges, private - Dormitories - Fraternalities or sororities - Nursing homes - Places of worship - Public parks and playgrounds - Public and semi-public buildings and uses - Recreational facilities, public - Schools, public - Personal care homes or centers 	10,000	90	100	35	30	10	2.5 stories or 35 feet	40
<ul style="list-style-type: none"> - Cemeteries - Country clubs - Golf courses excluding miniature golf and golf driving ranges 	43,560	100	200	40	30	15	2.5 stories or 35 feet	40

*NOTE: Minimum lot width and depth shall not be less than the stated standard. The values may be greater in order to comply with the minimum lot size requirement.

SCHEDULE OF DEVELOPMENT STANDARDS

(Note: larger lot sizes, increased setbacks and other more restrictive standards may be required by other Ordinance sections.)

PART 6 -- NON-RESIDENTIAL USES IN CC, HC, HC1, MI AND RU DISTRICTS										
District	Minimum Lot Size (sq. ft.)	Minimum Dimensions (feet)			Minimum Yards (feet)			Maximum Building Height	Maximum Lot Coverage (percent)	
		Width*	Depth*	Front	Rear	Sides				
CC District	7,500	60	100	0	0	0**		3 stories or 40 feet	50	
HC District	7,500	60	100	25	10	10		3 stories or 40 feet	50	
HC1	7,500	60	100	25	10	10		3 stories or 40 feet	50	
MI District Principal Permitted Uses	10,000	90	100	35	30	10		3 stories or 40 feet	70	
MI District Conditional Uses	20,000	100	100	35	30	10		3 stories or 40 feet	70	
RU District	as needed to meet performance standards	Maximum depth to width ratio of 3.5:1			20	20	20		3 stories or 40 feet	85

NOTES:

* Minimum lot width and depth shall not be less than the stated standard. The values may be greater in order to comply with the minimum lot size requirement.
 **The zero side yard setbacks shall apply to lots with a width greater than 60 feet shall not be less than 10 feet.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

405 Professional Offices in the RP District -- Applicant Option

Professional offices are permitted as principal permitted uses in the CC Central Commercial District and the HC Highway Commercial District which provides adequate locations and opportunities for the development of such uses. The intent of these special standards is to provide the business community additional opportunities for business location in the Borough while maintaining the essential residential character of RP District. A developer or business operator has the option of locating professional offices in RP Districts under the terms of this §405. RP Districts are primarily residential in character, but can accommodate professional businesses provided those businesses are adapted to existing residential structures which are maintained to be architecturally compatible with surrounding structures. New structures may be permitted in the RP District for professional offices provided such structures are architecturally compatible with surrounding structures and are consistent with the scale of such structures and compatible with the character of the surrounding area.

405.1 Conditional Uses

- A. Requirements - Professional offices shall be considered conditional uses in the RP District. In addition to all other applicable requirements the standards in this §405 shall apply. Professional offices shall be those uses which meet the definition of *professional office* in Article III of this Zoning Ordinance.
- B. Factors for Evaluation - In addition to the conditional use criteria in §1108.4, the Borough shall consider the following factors and characteristics in evaluating the application:
1. Conformance to other ordinances and regulations.
 2. Logic of design.
 3. Exterior space use.
 4. Architectural character.
 5. Attractiveness.
 6. Material selection.
 7. Compatibility.
 8. Circulation -- vehicular and pedestrian.
 9. Maintenance aspects.

405.2 Parking

Adequate off-street parking shall be provided and in addition to the requirements of §504 of this Zoning Ordinance, the following additional provisions shall apply:

- A. Location - With the exception of off-street parking areas existing at the time of adoption of this §405, all off-street parking area shall be to the rear of the principal structure.
- B. Buffers and Landscaping - Parking area buffers and landscaping shall be required in accord with §504.13 and §701.2 of This Zoning Ordinance with special attention given to maintaining residential character and buffering adjoining residential uses.

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

405.3 Landscaping

An overall landscaping plan meeting the requirements of §701.2 of This Zoning Ordinance shall be submitted by the Applicant for approval by the Borough.

405.4 Building Construction, Exterior Remodeling, and Additions

Specific architectural styles are not prescribed, however the structure shall be consistent with the design, scale and appearance of the surrounding neighborhood.

- A. Existing Structures - In order to preserve the residential character of the RP District, the structural appearance of the building shall not be altered and the building shall be maintained in such manner as to preserve its appearance, style and scale. Alterations to restore or otherwise change a building to its original appearance shall be permitted.
- B. All Building Construction, Exterior Remodeling, and Additions
1. Materials shall have good architectural character and shall be selected for consistency of the building with adjoining buildings.
 2. Materials shall be selected for suitability to the type and design of the building.
 3. Building components, such as windows, doors, eaves, and parapets shall have good proportions and interrelationships.
 4. Colors shall be compatible with the residential neighborhood and only compatible accents shall be used.
 5. Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from public view with materials consistent with the buildings.
 6. Exterior lighting shall be integrated into the architectural concept. Fixtures, standards, and all exposed accessories shall be consistent with building design.
- C. Building Maintenance - All buildings approved for professional offices in the RP District shall be maintained and restrictions as will assure continued maintenance of the building in accord with its existing appearance, style and scale, and the neighborhood character. Said covenants and restrictions shall be approved by the Borough Council with the recommendation of the Planning Commission. Said covenants and restrictions shall also apply to the construction of any additions to the building.

405.5 Signs

Signs for professional offices shall comply with the requirements of §505 of this Zoning Ordinance and the following

**CHAPTER 27
ZONING
DISTRICT REGULATIONS
SCHEDULE OF USES**

additional standards:

- A. Signs shall be wood relief only with external illumination.
- B. Signs shall be designed as an integral architectural element of the building and component of the site.
- C. Sign colors, materials, and lighting shall be restrained and compatible with the building and site.

405.6 Information Required

In addition to the information required for conditional uses by §1108.6, applications for professional offices in the RP District shall include the following:

- A. Elevations - Complete elevations of all proposed renovation and construction, and related elevations of existing structures including:
 - 1. Scale.
 - 2. All signs on the elevations.
 - 3. Designation of the type, color and texture of all primary material proposed.
- B. Section Profiles - Two (2) section profiles through the site including:
 - 1. Scale.
 - 2. Building(s).
 - 3. Lighting fixtures and standards.
 - 4. Signs.
- C. Material Samples - Material samples for all major materials.

ORDINANCE 2003-01

AMENDING ORDINANCE NUMBER 2002-01 ENTITLED "THE BOROUGH OF CLARKS SUMMIT ZONING ORDINANCE" (BY MAKING THE FOLLOWING AMENDMENTS): AMENDING THE BOROUGH OFFICIAL ZONING MAP BY CHANGING AN AREA OF LAND LOCATED ON HIGHLAND AVENUE (A COMPLETED METES AND BOUNDS DESCRIPTION IS SET FORTH HEREIN), CONSISTING OF 6,736 SQUARE FEET FROM R-2 (MEDIUM DENSITY RESIDENTIAL DISTRICT) TO CC (CENTRAL COMMERCIAL DISTRICT).

WHEREAS, the Borough of Clarks Summit is a duly ordained political subdivision (the "Borough"); and

WHEREAS, the Borough has duly enacted Zoning Ordinance No. 2002-01 (the "Zoning Ordinance") as amended by Ordinance No. 2002-03; and

WHEREAS, Highland Real Estate Development Corporation (referred to herein as "Highland") has petitioned Clarks Summit Borough Council for a Curative Zoning Amendment and tendered this Curative Zoning Amendment therewith; and

WHEREAS, Highland has agreed to a subdivision as shown on a plan titled, Subdivision of Lands between Highland Real Estate Development Corporation -- Minor Subdivision Plan -- Lot Line Adjustment", drawing No. S-1, dated September 12, 2002 (revised January 09, 2003 and again revised January 29, 2003, and revised again March 4th 2003. and a final revision on March 6th 2003) and prepared by Acker Associates, Inc.; attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, pursuant to the proposed subdivision, the 6,415 square feet of designated as Parcel A will be conveyed to David A. Wiley, and will retain its R2 zoning designation; and

WHEREAS, pursuant to the proposed subdivision, the 6,736 square feet designated Parcel B will remain the property of Highland and will be rezoned from R2 to CC; and

WHEREAS, the aforesaid parcel of land to be rezoned will not exist as separate tract of land, but will be added to the existing tract of land of Highland; and

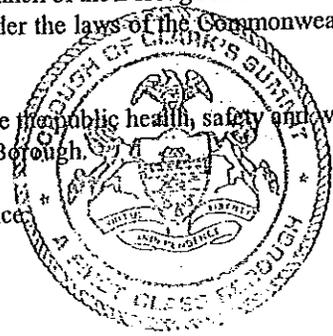
WHEREAS, from time to time the Zoning Ordinance may be amended; and

WHEREAS, for the public good and welfare, it is in the best interest of the Borough to once again amend the aforesaid Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Clarks Summit, and it is hereby enacted and ordained by the authority granted to Boroughs under the laws of the Commonwealth of Pennsylvania, as follows:

SECTION 1: It is the purpose of this Ordinance to protect and promote the public health, safety and welfare through regulation of lands within the geographical boundaries of the Borough.

SECTION 2: Set forth below is the amendment to the Zoning Ordinance.



Tract 1 consisting of 6,736 square feet being changed from Medium Density Residential (R-2) District to Central Commercial (CC) District, more particularly described on Exhibit "B" which is attached hereto and made a part hereof.

SECTION 3: The Zoning Map of the Borough of Clarks Summit shall hereby be amended to reflect the rezoning of the above-described property.

SECTION 4: The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the Borough of Clarks Summit that this Ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.

SECTION 5: In all other respects, Ordinance Number 2002-01 of the Borough of Clarks Summit, as amended, shall remain in full force and effect.

Adopted at the March 2003 Borough Council Special Meeting conducted on Wednesday, March 5th 2003.

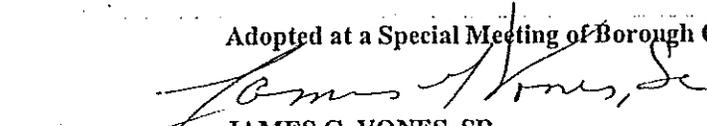

EDWARD M. BUSH, SR.
Borough Council President

EXAMINED AND APPROVED, this 5th day of March 2003.


ROBERT W. KESTER
Mayor

ATTEST:

Adopted at a Special Meeting of Borough Council conducted on Wednesday, March 5th 2003.


JAMES G. VONES, SR.
Borough Manager/Secretary

SEAL

"Notation: The Zoning Map change with accompanying Curative Zoning Amendment are incorporated herein by reference and are on file in the Borough Manager's Office at 304 South State Street, 2nd Floor, Clarks Summit, PA 18411 and is available for public inspection without charge, or a copy may be obtained, daily in the Borough Building on any business day between the hours of 9 AM and 4 PM, unless otherwise modified or changed by the Borough."

606963

Exhibit B

**PARCEL B
HIGHLAND REAL ESTATE DEVELOPMENT CORPORATION**

ALL that certain piece or parcel of land situate in the Borough of Clarks Summit, County of Lackawanna, and State of Pennsylvania bounded and described as follows, to wit:

BEGINNING at a point on the southeasterly line of Highland Avenue, said point also being a common corner of Parcel A and Parcel B as shown on a plan titled, "Subdivision of Lands of Highland Real Estate Development Corp. – Minor Subdivision Plan – Lot Line Adjustment" drawing No. S-1 dated September 12, 2002 and prepared by Acker Associates, Inc.;

Thence leaving Highland Avenue along Parcel A South $74^{\circ} 53' 37''$ East two hundred ten and twenty-seven hundredths (210.27') feet to a point in line of lands of Linda S. Orcutt;

Thence along said lands of Orcutt and along lands of William C. & Helen Ann Hartford South $29^{\circ} 17' 34''$ West thirty-one and eighty-nine hundredths (31.89') feet to an iron pin;

Thence along other lands of Highland Real Estate Development Corporation North $75^{\circ} 22' 40''$ West two hundred thirteen and six tenths (213.60') feet to a point on the southeasterly line of Highland Avenue;

Thence along the southeasterly line of Highland Avenue North $33^{\circ} 54' 00''$ East thirty-four and fifty-seven hundredths (34.57') feet to the point of BEGINNING.

CONTAINING six thousand seven hundred thirty-six (6,736) square feet of land being the same, more or less.

BEING ALL of Parcel B as shown on the above-mentioned plan.

ALSO, BEING PART of the same premises conveyed to Highland Real Estate Development Corporation by deed dated January 29, 1993 and recorded in the Lackawanna County Recorder of Deeds Office in Deed Book 1423 Page 455.

606963



BOROUGH OF CLARKS SUMMIT

ORDINANCE No. 03 of 2002

**AMENDING ORDINANCE NO. 2002-01
ENTITLED "THE BOROUGH OF CLARKS SUMMIT ZONING ORDINANCE"
(BY MAKING THE FOLLOWING AMENDMENTS):**

**(1) AMENDING THE ZONING MAP BY CHANGING TWO AREAS
OF LAND LOCATED ON OR NEAR U.S. ROUTES 6 & 11 AND KNAPP ROAD
(A COMPLETE METES AND BOUNDS DESCRIPTION IS SET FORTH HEREIN)
BEING TRACT I, CONSISTING OF 1,102.42 SQUARE FEET FROM
R-1 (LOW DENSITY RESIDENTIAL DISTRICT) TO H-C1 (HIGHWAY COMMERCIAL
DISTRICT-LIMITED) AND
TRACT II, CONSISTING OF 830.30 SQUARE FEET
FROM HC-1 (HIGHWAY COMMERCIAL DISTRICT-LIMITED) TO R-1 (LOW DENSITY
RESIDENTIAL DISTRICT)**

WHEREAS, the Borough of Clarks Summit is a duly ordained political subdivision (the "Borough"); and

WHEREAS, the Borough has duly enacted Zoning Ordinance No. 2002-01 (the "Zoning Ordinance"); and

WHEREAS, Richard F. Dixon and Catherine A. Dixon, husband and wife, (referred to herein as Dixon) and Gerard Kane and Joan Kane, husband and wife, have petitioned Clarks Summit Borough Council for a Curative Zoning Amendment and tendered this Curative Zoning Amendment therewith; and

WHEREAS, the Kane and Dixon have agreed to an exchange/subdivision as more particularly set forth on a plan of John K Seamans, Professional Engineer and Professional Land Surveyor, dated April 2, 2002, attached hereto and incorporated herein as Exhibit A; and

WHEREAS, pursuant to the proposed exchange and subdivision, the 1,102.42 square feet of Kane land would be rezoned HC1 from R1 and the 830.3 square feet of Dixon land would be rezoned R1 from HC1; and

WHEREAS, the aforesaid parcels of land to be rezoned will not exist as separate tracts, but will be added to the existing tracts of land of Kane and Dixon to be effected by an exchange; and

WHEREAS, from time to time the Zoning Ordinance may be amended; and

WHEREAS, for the public good and welfare, it is in the best interest of the Borough to once again amend the aforesaid Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Clarks Summit, and it is hereby enacted and ordained by the authority granted to Boroughs under the laws of the Commonwealth of Pennsylvania, as follows:

SECTION 1: It is the purpose of this Ordinance to protect and promote the public health, safety and welfare through regulation of lands within the geographical boundaries of the Borough.

SECTION 2: Set forth below are the amendments to the Zoning Ordinance:

Tract I consisting of 1,102.42 square feet being changed from Low Density Residential (R-1) District to Highway Commercial - Limited (HC-1) District, more particularly described on Exhibit B which is attached hereto and made a part hereof.

Tract II consisting of 830.30 square feet being changed from Highway Commercial (HC-1) District to Low Density Residential (R-1) District, more particularly described on Exhibit C which is attached hereto and made a part hereof.

SECTION 3: The Zoning Map of the Borough of Clarks Summit shall hereby be amended to reflect the rezoning of the above-described property.

SECTION 4: The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional, illegal or invalid, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the Borough of Clarks Summit that this Ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.

SECTION 5: In all other respects, Ordinance No. 1 of 2002 of the Borough of Clarks Summit, as amended, shall remain in full force and effect.

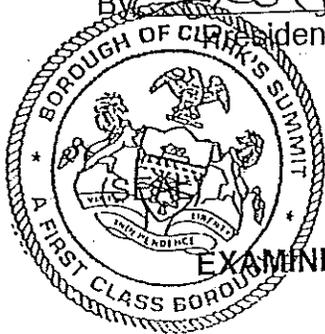
ENACTED this 2nd day of July, 2002.

ATTEST:

By: [Signature]
President

BOROUGH OF CLARKS SUMMIT

By: [Signature]
Secretary



EXAMINED AND APPROVED this 2 day of July, 2002.

[Signature]
Anthony Parry, Mayor

CIVIL ENGINEERING & LAND SURVEYING
POST OFFICE BOX 247
FLEETVILLE, PENNSYLVANIA 18420
(570) 945-5661

Description of Land of Gerard Kane to be conveyed to Richard Dixon
To be conveyed to Richard Dixon in Clarks Summit Borough,
Lackawanna County, Pennsylvania

BEGINNING at a ¼ inch rebar set for a corner on the common line of land of Richard Dixon (DB 1087—P65) and Gerard Kane (DB 906—P 134) and at the northwest corner of other lands of Richard Dixon (RB 449—P 156);

Thence along the common line of Richard Dixon (RB 449—P 156) and Gerard Kane (DB 906—P 134) the following 2 courses and distances:

- 1) South 05°18'26" East 70.00 feet to a ¼ inch rebar set for a corner and
- 2) South 73°03'10" East 100.00 feet to a ¼ inch rebar set for a corner on the northwesterly right-off-way of US Route 6 and 11, this point also being a common corner of land now or formerly of Matthew C. Swientisky (DB 1545—P 376);

Thence along line common to said Swientisky

- 3) North 75°10'29" West 125.08 feet to a ¼ inch rebar set for a corner

Thence through lands of Kane

- 4) North 15°41'32" East 69.43 feet to the point of beginning.

CONTAINING 1,102.42 square feet, gross area.

SUBJECT TO any and all easements (including underground) which may be affecting the land, either recorded or unrecorded, shown or not shown.

SUBJECT TO the same conditions, exceptions, restrictions, reservations, and covenants as are contained in prior deeds forming the chain of title.

BEING A PORTION of lands conveyed to Kane by Deed Book 906 at Page 134.

The above DESCRIPTION was prepared from a survey and plan titled Richard Dixon - Gerard Kane Land Exchange dated December 11, 12, 2001, January 29, February 21, and March 12, 2002 By John K. Seamans, Professional Land Surveyor and Professional Engineer.

EXHIBIT B

JOHN K. SEAMANS PE, PLS

CIVIL ENGINEERING & LAND SURVEYING

POST OFFICE BOX 247

FLEETVILLE, PENNSYLVANIA 18420

(570) 945-5661

Description of Land of Richard Dixon to be conveyed to Gerard Kane
In Clarks Summit Borough, Lackawanna County, Pennsylvania

BEGINNING at a $\frac{1}{4}$ inch rebar set for a corner on the southeasterly side of the pavement of Knapp Road on the common boundary line of land of Gerard Kane (DB 906—P 134) and lands of Dixon (DB 1087—P65);

Thence along or near to edge of pavement of Knapp Road

1) North $37^{\circ}35'13''$ East 15.59 feet to a $\frac{1}{4}$ inch rebar set for a corner,

Thence through lands of Dixon

2) South $65^{\circ}23'09''$ East 109.33 feet to a $\frac{1}{4}$ inch rebar set for a corner in a stonewall on the common line of Kane and Dixon;

Thence along line common to said Kane (DB 906—P 134) and Dixon (DB 1087—P 65)

3) North $73^{\circ}03'10''$ West 113.85 feet to the point of beginning.

CONTAINING 830.30 square feet, gross area.

SUBJECT TO any and all easements (including underground) which may be affecting the land, either recorded or unrecorded, shown or not shown.

SUBJECT TO the same conditions, exceptions, restrictions, reservations, and covenants as are contained in prior deeds forming the chain of title.

BEING A PORTION of lands conveyed to Richard Dixon in DB 1087—P65) designated as "Lot One" and a PORTION of lands conveyed to Richard Dixon in DB 1087—P65) designated in the deed on the second page as an untitled parcel i.e. not called Parcel 2 or Lot 2 etc.

The above DESCRIPTION was prepared from a survey and plan titled Richard Dixon—Gerard Kane Land Exchange dated December 11, 12, 2001, January 29, February 21, March 12, 2002 by John K. Seamans, Professional Land Surveyor and Professional Engineer.

EXHIBIT C



NOTES:

1. No nonresidential traffic shall have access onto Borrett Street. Any residential traffic beyond the present limited use shall be subject to a special exception. Restrictions on use may also exist in the chain of title for the benefit of the municipality.

ZONING MAP

CLARKS SUMMIT BOROUGH • LACKAWANNA COUNTY • PENNSYLVANIA

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

**ARTICLE V
SUPPLEMENTARY REGULATIONS**

500 Introduction

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

501 Deviations From Required Sizes

No part of any structure, whether attached to the principal structure or not; including but not limited to, porches, carports, decks, balconies, chimneys, bay windows or overhangs shall project into any required yard except as permitted in this §501. No lot, yard, or other space shall be so reduced in area or dimension as to make it less than the minimum required by this Ordinance except as follows:

501.1 Nonconforming Lots of Record

See §911 of this Zoning Ordinance.

501.2 Reserved

501.3 Front Yard Exception

Where a vacant lot exists between two (2) improved lots, each of which has a building within twenty (20) feet of the property line separating the parcels, a building may be erected on the vacant lot with a front yard not less than the greater front yard of the two (2) adjoining buildings. However, the front yard shall not in any case be reduced to less than ten (10) feet.

501.4 Height Limitations

Height regulations shall not apply to spires, belfries, cupolas, domes, not used for human occupancy, nor to chimneys, ventilators, monuments, water towers, masts and aerials, television antennae, public utility structures that are not buildings, silos, chimneys, ventilators, and parapet walls extending not more than four (4) feet above the regulated height of the building, skylights, bulkheads, and ornamental or necessary mechanical appurtenances. However, any such structure proposed to be a height in excess of sixty (60) feet shall be treated as a conditional use.

501.5 Extension of Non-Conforming Setbacks

A structure which is non-conforming as to a setback requirement may be extended along the non-conforming setback line a distance not to exceed fifty (50) percent of the length of the structure as it existed at the effective date of this Ordinance.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

501.6 Projections Into Yards

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

- A. Bay windows, fire places, fire escapes, chimneys, uncovered stairs and landings, and balconies and cornices, canopies, eaves, or other architectural features not required for structural support may project into the required front or rear yard not more than a total of three (3) feet provided it does not interfere with pedestrian or vehicular traffic.
- B. Unenclosed decks and porches may project into the required front and rear yards up to ten (10) feet.
- C. Patios may be located in the required side and rear yards not less than seven (7) feet to any adjacent property line, and may project into front yards up to ten (10) feet.
- D. See §503.6 for outdoor swimming pools.

502 Unique Lots, Yards and Building Locations

502.1 Two or More Uses on a Lot

- A. Development Standards - Two (2) or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking, lot coverage, and sewage disposal requirements.
- B. Residential Density - For the purposes of density of residential structures, lot size shall be increased to maintain the density required by this Ordinance. For example, the parcel size required for three (3) single-family dwellings on one parcel would be determined by multiplying the minimum lot size for one (1) dwelling by a factor of three (3).
- C. Non-Residential Uses - In the case of non-residential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this Ordinance are satisfied. This shall not apply to adult businesses, junkyards, natural resource uses, or solid waste facilities where the parcel size shall be increased to provide for the minimum land area for each use on the parcel.
- D. Residential and Non-Residential on the Same Lot
 - 1. R-1, R-2, R-3 and RP Districts - Residential dwellings provided for in the District by the Schedule of Uses shall be permitted on the same lot as a permitted non-residential use provided the lot is of sufficient size to meet the residential unit density required by this Ordinance in addition to the land area needed to meet the density requirement for the non-residential use.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

2. CC, HC, HC1 and MI Districts - One residential unit per property shall be permitted in association with a non-residential use(s) without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal non-residential structure. The residential unit shall be occupied only by the owner or manager of the non-residential use(s). Any additional residential dwelling units, if provided for in the District by the Schedule of Uses, shall be permitted on the same lot as a non-residential use only if the lot is of sufficient size to meet the residential unit density required by this Zoning Ordinance in addition to the land area needed to meet the density requirement for the non-residential use.

- E. Structure Separation - Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than twenty (20) feet unless another applicable building code requires a larger separation. (See §503.1 for accessory structures.)

502.2 Street Frontage

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

502.3 Clear View At Street Intersections

Visual obstructions at street intersection including, but not limited to, structures, opaque fences, vegetation and signs, (excluding an existing building, post, public utility structures, column or deciduous tree) between a height of two and one-half (2.5) and ten (10) feet shall be prohibited on any lot within the triangle formed by the street right-of-way lines and a line drawn between points along the street right-of-way lines thirty (30) feet distant from their points of intersection. More restrictive standards shall be required in cases where intersection alignment, topography or other circumstances dictate same to maintain adequate clear view.

503 Accessory Structures and Uses

503.1 Accessory Structures

All accessory structures shall conform to the minimum regulations established in Article IV except as permitted below.

- A. Unattached Accessory Structures - All unattached accessory structures shall comply with yard requirements for principal structures, except that accessory structures which are not attached to a principal structure and do not exceed ten (10) feet in height and one-hundred (100) square feet in total floor area may be erected within the required side and rear yards of a principal structure, provided that no side or rear yard is reduced to less than five (5) feet. In the case of corner lots, the full yard as specified in §502.2 shall be maintained.
- B. Attached Accessory Structures - An accessory structure attached to a principal building shall be considered to be a part of the principal building and shall conform to the setbacks for principal structures.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

503.2 Fences and Walls

The erection of any fence or wall in all Districts shall require a zoning permit, and shall be subject to the following provisions:

- A. All fences and walls shall comply with §502.3 of this Ordinance for clear sight triangles.
- B. Fences and walls may be erected in front yards; however, no such fence or wall shall encroach upon any public right-of-way and shall not exceed a height of four (4) feet. Any fence erected in a front yard shall be seventy-five (75) percent open area in ratio to structural area.
- C. Fences and walls not greater than four (4) feet in height may be erected up to the property line of adjoining properties.
- D. Fences and walls exceeding four (4) feet in height may be erected on a side or rear property line provided said property line is clearly located and physically marked on the lots by lot line markers placed in accord with a survey conducted by a Registered Land Surveyor, and the owners of said lots present to the Borough a written document executed between said owners establishing agreement for erection of the subject fence or wall.
- E. Fences or walls and not located on the property line in accord with Sub-section D above shall maintain the required front yard setback and shall be set back from side and rear lot lines by at least fifty (50) percent of the side and rear setbacks, respectively, required in the District for principal structures, but in no case less than five (5) feet.
- F. All fence posts and other structural supports shall be located on the side of said fence towards the interior of the property owned by the person erecting the subject fence.
- G. The following fences and fencing materials are prohibited:
 1. Barbed wire except that surmounting a "man-proof" fence and said barbed wire is at least six (6) feet above ground level.
 2. Electrically charged fences.
 3. Broken glass surmounting a wall.
 4. Fabric, junk, junk vehicles, sheet metal, appliances, tanks, barrels or similar material.
 5. Fences which exceed District maximum height requirements.
- H. Engineered retaining walls necessary to hold back slopes are exempted from setback requirements and the regulations of this §503.2.

503.3 Heliports as an Accessory Use

Heliports as accessory uses, in addition to all other applicable Ordinance requirements, shall comply with the following standards.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- A. Allowed only in the MI District as a conditional use.
- B. The applicant shall document compliance with all applicable state and federal regulations.
- C. The landing pad shall be a minimum of two hundred and fifty (250) feet from any existing dwelling or any residential district.

503.4 Home Gardening, Nurseries and Greenhouses

Home gardening, and accessory structures used for nurseries or as greenhouses, are permitted in residential areas, provided they are used by the residents thereof for non-commercial purposes.

503.5 Home Occupations

It is the intent of this subsection to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of the existence of the home occupation. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential nuisances of a proposed home occupation the Zoning Hearing Board may determine that a particular type or intensity of use is unsuitable to be a home occupation or that the proposed lot area or setbacks are not adequate. In addition to the standards for special exceptions in this ordinance, the following standards shall apply:

- A. The home occupation must be conducted entirely inside a building and shall be clearly incidental and secondary to the use of the dwelling as a residence.
- B. The total area used by all home occupations on the premises does not exceed twenty-five (25) percent of the gross floor area of the dwelling unit, including basement, and accessory structures as existed at the effective date of this Ordinance, but not to exceed five hundred (500) square feet in any case.
- C. No outdoor display or display visible from outdoors, or outdoor storage of materials, goods, products, supplies, or equipment used in the home occupation(s) shall be permitted.
- D. There shall be no evidence visible from outside the dwelling (show windows, business displays, advertising, etc.) that the residence is being operated as a home occupation except for a sign, if permitted, and required parking area.
- F. In the R-1 District, the home occupation shall be conducted only by members of the family residing in the dwelling and in all other districts not more than one (1) person other than residents of the dwelling shall be employed on the premises.
- G. Off-street parking for customers, patients, clients, sales persons and other business related vehicular parking customarily associated with the home occupation in addition to the private parking area for the residents of the home shall be provided on the premises as required by this Ordinance to prevent parking on any public or private street right-of-way.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- H. No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.
- I. No goods or items for retail or wholesale sale shall be permitted. Mail-order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises shall be permitted.
- J. The professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, and barbers, and similar types of professional practice uses shall be limited to practitioners who reside on the premises.
- K. 5701, Performance Standards, shall also apply to home occupations.
- L. Signs for home occupations shall not be permitted in the R-1 District. See §505 for home occupation signs in other districts.
- M. The following uses shall not be permitted as home occupations: commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops, retail sales, restaurant, funeral parlor or other uses not meeting the requirements of this §503.3.
- N. The use shall not require the parking or servicing by a vehicle with more than 8,000 pounds registered gross vehicle weight, except for deliveries of a maximum of two (2) time per day. The use shall not involve the parking of more than one (1) truck of any type on the lot or on adjacent streets at any period of time. The use shall not require servicing by, deliveries by, or parking of tractor-trailer trucks.

"Truck" as used in this section is not a defined term. It is the intent to permit a truck or commercial vehicle (see Section 504.18.B.1.a) to be parked as a accessory use to a home occupation. If it is a commercial vehicle it shall be parked off street and not visible from a public street or adjacent dwelling or property.

503.6 Pets, Keeping of

The keeping of pets is a permitted accessory use in all districts subject to the standards in this §503.9 and Zoning Ordinance and any other ordinance or standards adopted by the Borough. (See §822 for "kennels" and §824 for "livestock operations".)

- A. Type Permitted - Only domesticated animals compatible with a residential character shall be permitted, including for example, dogs, cats, lizards, turtles, gerbils and fish. The keeping of bears, exotic cats, wolves, wolf-dog hybrids, venomous snakes and other wild animals, and the keeping of pigeons, chickens, ducks, geese, and similar fowl shall not be permitted in the Borough. The keeping of livestock shall be regulated by §824 unless otherwise specifically addressed by this §503.9.
- B. Dogs and Cats - The combined maximum number of dogs and cats over three (3) months of age shall be six (6). Any number in excess of six (6) and commercial breeding shall be considered a kennel subject to regulation by this Ordinance.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- C. Rabbits - A maximum of two (2) rabbits may be kept as pets provided such animals are kept within the principal building or within a secure fenced or caged area not less than thirty (30) feet from any property line. The keeping of more than a combined total of two (2) such animals shall be considered a livestock operation regulated by §824.
- D. Bees - Any area intentionally used for the outdoor keeping of bees shall be a minimum of one hundred and fifty (150) feet from all lot lines and shall be well marked.
- E. Nuisances - The keeping of any animals shall not create a public nuisance, health hazard or safety hazard. The person responsible for the animal shall collect and properly dispose of all pet fecal matter.
- F. See also Chapter 2 and Chapter 10 of the Code of the Borough of Clarks Summit.

503.7 Private Outdoor Swimming Pools

A permit shall be required for all pools except those noted in §503.6,E, and the following standards shall apply:

- A. A single private outdoor swimming pool per dwelling unit is permitted as an accessory use to a residential structure, provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests, and provided that the pool is not located closer than ten (10) feet to any property line nor located between any principal structure and a public street. Decks around pools shall comply with setbacks for accessory structures. (See §501.6 and §503.1.)
- B. A fence, wall or other enclosure not less than five (5) feet high and of a design to restrict access shall completely surround the area of any ground level swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.
- C. Above ground pools shall include a secure fence, wall or other enclosure a minimum of five (5) feet high above the surrounding ground level. Such pools shall be equipped with an access ladder that can be raised and locked in a position so that it is a minimum of four (4) feet above the surrounding ground level or otherwise completely inaccessible to children when the pool is unattended.
- D. Access to all pools shall be restricted when the pool is not in use whether by fence, wall or integrated in the design of the pool.
- E. A zoning permit or fence shall not be required for wading pools where the water does not exceed eighteen (18) inches in depth and which are not normally filled on a constant basis.
- F. See also Chapter 23 of the Code of the Borough of Clarks Summit.

503.8 Private Parking Areas and Garages

Accessory off-street parking areas or garages serving the residential or non-residential parking demand created by the principal building or use are permitted in accord with §504. Accessory garages shall conform with §503.1.

503.9 Stables, Private

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

Private stables shall be considered livestock operations and shall be governed by §824 of this Ordinance.

503.10 Temporary Uses

- A. **Definition** - A use accessory to another permitted principal use that operates at a fixed location for a temporary period of time.
- B. **Zoning permit required** - No temporary use shall be established unless a zoning permit evidencing the compliance of such use with the provisions of this §503.7 and other applicable provisions of this Ordinance shall have first been issued.
- C. **Particular temporary uses permitted** - The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.
 - 1. **Contractor's office and construction equipment sheds.**
 - a. Permitted in any district where use is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
 - b. Maximum length of permit shall be one (1) year.
 - c. Office or shed shall be removed upon completion of construction project.
 - d. Required water supply and sanitary facilities shall be provided.
 - 2. **Real estate sales office.**
 - a. Permitted in any district for any new subdivision approved in accord with the Borough Subdivision Ordinance. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office.
 - b. Maximum length of permit shall be one (1) year.
 - c. The office shall be removed upon completion of the development of the subdivision.
 - d. Required water supply and sanitary facilities shall be provided.
 - 3. **Temporary shelter.**
 - a. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.
 - b. Required water supply and sanitary facilities must be provided.
 - c. Maximum length of permit shall be twelve (12) months, but the zoning officer may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen (15) days prior to expiration of the original permit.
 - d. The mobile home shall be removed from the property prior to issuance of any occupancy permit for the new or rehabilitated residence.
- D. **Tents** - The following are permitted by right accessory uses: tents erected for a use during a maximum of 5 consecutive days in any calendar year for - 1) routine and customary accessory non-commercial uses (such as

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

weddings in a rear yard) and for 2) a routine and customary accessory use to an existing commercial use; all tents must be securely anchored to the ground, made of at least a two (2) hour fire resistant material, and when persons are under the tent, provide for at least three (3) emergency exits in addition to the main entrance. At no time shall a tent be utilized as a temporary or permanent residence. Sanitary facilities, in the principal use shall be available for use by every person under the tent. This shall apply to a small family camping tent erected on and adjacent to property owned or rented by the user(s).

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

1. **Duration** - The Zoning Officer shall establish a limit on the duration of the use. In the case of a special event, except under special circumstances, this should be a maximum of seven (7) days in any sixty (60) day period. The Zoning Officer may grant a single approval once for numerous occurrences of an event.
2. **Statement from Owner** - The applicant shall present a statement from the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.
3. **Removal** - Such structure or use shall be removed completely upon expiration of the permit without cost to the Borough. If the structure or use is not removed in a timely fashion after proper notification, the Borough may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.
4. **Conditions** - The temporary use or structure shall: 1) be compatible with adjacent uses and 2) clearly be of a temporary nature.
5. **Fee** - The Borough Council may waive and/or return the required application fee if the applicant is an Internal Revenue Service recognized and well-established nonprofit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly primarily serve a charitable or public service purpose.
6. **Nonprofit** - Only a well-established and Internal Revenue Service-recognized nonprofit organization proposing a temporary use to clearly primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use is not permitted.
7. **Special Events** - For a special event that will attract significant numbers of the public, the Zoning Officer shall deny the use if it is determined that the following will not be generally appropriate: sanitary and water service, traffic control, off-street parking and protection of the public health and safety.

F. **Additional Regulations**

1. Documentation must be provided to the Borough that adequate arrangement for temporary sanitary

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

facilities has been made.

2. All uses shall be confined to the dates specified in the permit.
3. Hours of operation shall be confined to those specified in the permit.
4. Access and parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained with a minimum of six (6) inches or as otherwise needed, of bank-run gravel or equal material.

503.11 Conditional Use - Treatment Center

A treatment center provides an important service to communities but is unique in that the recipients of the service may be a threat to health, safety and welfare of residents and children and customary meeting places of resident(s) and children because of the background of the person utilizing such service(s); recognizing the need for treatment center(s), it is intended that the conditional use restrictions are to balance the respective interests.

503.11.1 Prohibiting the Location of Treatment Center Facilities in Certain Locations.

- A. Notwithstanding any other provision of law to the contrary and except as provided in subsection 406.1.B; a treatment center shall not be established or operated within one thousand (1000) feet of an existing school, public playground, public park, residential housing area, child-care facility, church, meeting house, or other actual place of regularly stated religious worship established prior to the proposed treatment center.

The provisions of this subsection shall apply whether or not an occupancy permit or certificate of use has been issued to the owner or operator of a treatment center;

- B. Notwithstanding subsection 406.1.A, a treatment center may be established and operated closer than one thousand (1000) feet to an existing school, public playground, public park, residential housing area, child-care facility, church, meeting house, or other actual place of regularly stated religious worship established prior to the proposed treatment center if, by majority vote of Borough Council, the Borough Council votes in favor of the issuance of an occupancy permit or certificate of use for said facility at such a location. At least fourteen (14) days prior to the Borough Council voting on whether to approve the issuance of an occupancy permit or certificate of use for a treatment center at a location that is closer than one thousand (1000) feet to a school, public playground, public park, residential housing area, child-care facility, church, meeting house, or other actual place of regularly stated religious worship established prior to the proposed treatment center one or more public hearings regarding the proposed treatment center location shall be held within the Borough of Clarks Summit following public notice. All owners of real property located within one thousand (1000) feet of the proposed location shall be provided written notice of said public hearing(s) at least thirty (30) days prior to said public hearing(s) occurring.

503.11.2 Security

In cases where deemed necessary by the Borough of Clarks Summit, the applicant shall provide a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. Such plan shall include a description of the specific services to be offered, types of patients and/or residents to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide for effective separation from adjoining residents and/or structures by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise are controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

503.12 Yard Sales

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

- A. Each individual property location may have a maximum of three (3) yard sales during any one (1) calendar year. Each sale shall last a maximum of three (3) consecutive days.
- B. All items shall be placed and offered for sale within the confines of the property described in the permit.
- C. Yard sales are meant to allow individuals to offer for sale accumulated normal household items or arts and crafts; and the buying and selling of commercial or surplus material shall be considered a commercial operation and shall be prohibited except in Districts where permitted and in accord with the requirements of this Ordinance.
- D. Signs for yard sales shall be permitted in accord with §505 of this Ordinance.

504 Off-Street Parking and Loading

504.1 Availability of Facilities

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

504.2 Size and Design of Parking Spaces

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

504.3 Lighting

Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

504.4 Public Right-of-Ways

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

504.5 Off-Street Parking in the CC Central Commercial District

Off-street parking for uses involving new construction in the CC Central Commercial District shall be provided to the rear of the principal structure. In the case of a change in use in the CC District which does not involve an expansion of a structure or additional floor area, additional off-street parking shall be provided equal to the difference between the number of spaces required by §504.6 for the new use and the number required for the existing use as though parking had been provided in accord with §504.6. The replacement of non-conforming uses in the CC District shall not require parking as required by §504.6.

504.6 Number of Spaces To Be Provided

- A. Any structure or building not exempted by §504.5 and which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off-street parking spaces adequate to serve such use but with not less than the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.
- B. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
- C. Additional parking for the handicapped shall be provided in accord with §504.16.
- D. Should the applicant provide evidence that the number of parking spaces required by this §504 is not necessarily required to meet the immediate needs of the proposed use, the number of spaces provided may be reduced as a conditional use by a maximum of fifty percent (50%) provided sufficient and suitable area is dedicated to future parking to meet the normal standards in this Section 504 and the applicant shall agree in writing to install the parking at the direction of the Borough Council. Reserve parking areas shall be included in the calculation of lot coverage area. Parking facilities used jointly by two (2) or more principal uses may be considered for a parking reduction (See §504.16).

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

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

1. Retail establishments	1 per 200 SFGFA open to the public
2. Wholesale establishments	1 per 800 SFGFA
3. Flea markets	1 per 200 square feet of lot area designated for display or sales
E. Offices, research facilities and services not primarily related to goods	
1. Serving customers or clients on premises such as attorneys, physicians, insurance, banks, service establishments, and travel agents	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
4. Funeral homes	1 per 100 SFGFA open to the public
F. Manufacturing, processing, renovating, assembling goods, merchandise and equipment	1 per 600 SFGFA
G. Educational, cultural, religious, social, fraternal uses	
1. Public schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Trade and vocational schools, colleges	1 per 100 SFGFA open to the public
3. Places of worship	1 per every 4 seats used for services
4. Libraries and museums, social, fraternal clubs and lodges; and similar uses	1 per 300 SFGFA open to the public
H. Recreation, amusement and entertainment	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 3 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums and similar uses with seating accommodations	1 per every 4 seats
3. Public and private outdoor recreation facilities such as golf courses, swimming pools and similar uses	1 per 200 SFGFA open to the public plus 1 per every 3 persons of fully utilized design capacity
4. Docking facilities	1 per every 3 slips
I. Health related facilities	
1. Hospitals, clinics and other medical treatment facilities	1 per bed or 1 per 200 SFGFA, whichever is greater
2. Nursing homes, personal care homes	1 per five resident beds at maximum capacity
J. Restaurants, bars, taverns and other eating establishments	1 per 50 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

K. Vehicle related uses	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car or truck wash	1 per employee plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
4. Truck terminals	1 per 200 SFGFA devoted to office use plus 2 per company vehicle using the facility
5. Bus terminals	1 per 200 SFGFA devoted to office use plus 0.75 per seat of the total capacity of buses serving riders who travel round-trip during the peak twelve-hour period of the day
L. Warehousing and storage	1 per 2,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA
2. Nursery schools and day care	1 per staff member plus 1 per 5 clients at maximum capacity
3. Greenhouses	1 per 200 SFGFA open to the public
4. Emergency services	1 per 200 SFGFA open to the public
5. Junk and scrap yards	1 per 200 SFGFA open to the public
6. Post office	1 per 200 SFGFA open to the public
7. Recycling centers	1 per employee with a minimum of 2
8. Kennels	1 per 400 SFGFA with a minimum of 4
9. Institutional uses	1 per employee plus 1 per 25 inmates/residents
<p>Note: SFGFA means "square feet of gross floor area". Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.</p>	

For uses not specifically provided above, the Zoning Officer is authorized to determine the required number of spaces based upon the similarity of the proposed use to the uses provided. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board. It shall be the duty of the Zoning Hearing Board to render its determination with respect thereto.

504.7 Loading and Unloading Areas

In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital or other non-residential

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

uses, to provide adequate off-street areas for loading and unloading of vehicles. The applicant shall provide, to the satisfaction of the Zoning Officer, Borough Council or Zoning Hearing Board, as the case may be, documentation of the types and frequency of vehicles servicing the proposed use. Each required space shall meet the following dimensions:

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

504.8 Access To Off-Street Parking and Loading Areas

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

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

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

- B. Controlled Access - Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit.
- C. Distance Between Non-residential Driveways - In no case shall one entrance or exit be located within fifty (50) feet of any other on the same property or adjoining property along the same public right-of-way.
- D. Distance From Intersections - At a minimum, the following distance shall be maintained between the centerline of any driveway/access way and the centerline of any street intersecting the same street as the driveway/access way:

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

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

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

504.9 Parking and Loading Area Buffers

All parking and loading areas (not including parking decks) and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall be separated from any public road right-of-way or adjoining property lines by a buffer area not less than three (3) feet in width unless adjoining uses share parking in accord with §504.12. In the case of adjoining R-1, R-2, R-3 or RP Districts, the buffer shall be increased to ten (10) feet. Buffers shall be improved in accord with §504.13.

- A. Measurement - The width of the buffer shall be measured from the curb line or from the legal right-of-way line after development if no curbs will be provided.
- B. Uses Prohibited - The buffer area shall be maintained in natural vegetative ground cover and shall not include:
1. Paving except for approved driveway crossings
 2. Fences
 3. Parking, storage or display of vehicles
 4. Items for sale or rent
- C. Uses Permitted - The buffer area may include the following:
1. Permitted freestanding signs
 2. Pervious storm water facilities
 3. Approved driveway/access way crossings
- D. Sidewalks - If sidewalks exist or will be provided, the buffer area may be provided between the sidewalk and the street or between the sidewalk and the parking lot.
- E. Clear Sight Triangles - All required clear sight triangles at intersections shall be maintained.

504.10 Surfacing

Off-street parking areas and driveways/access ways shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface of concrete or bituminous concrete surface constructed in accord with accepted standards to assure durability.

504.11 Off-Lot Parking

A principal use located within four hundred (400) feet of another use, within the same Zoning District, that has excess of available parking spaces due to the principal use operating at different time(s) or for any other reason, the principal use seeking the shared parking arrangement may, as a conditional use, seek approval of a shared parking arrangement

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

before Borough Council. Council may submit the application to the Clarks Summit Planning Commission for recommendations.

504.12 Joint Use Parking

In cases where two principal uses share a common property line, shared parking facilities may be utilized. The arrangement for joint-use parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The joint-use parking area may span the common property line thereby eliminating the setback required in §504.9. The standards in §504.8 for number of spaces to be provided shall apply to joint-use parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to ten (10) percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)

504.13 Landscaping

All improved off-street parking areas not entirely contained in a garage or building shall comply with the following landscaping standards:

- A. **Buffer Areas** - The buffer area required by §504.9 shall be landscaped to a minimum of thirty (30) inches in height including vegetation; of which a minimum of fifty (50) percent shall be evergreen shrubbery; and shall average at least one shrub for every ten (10) feet of frontage.
- B. **Parking Lot Interiors** - A minimum of five (5) percent of the interior of any parking lot having twenty-five (25) or more parking spaces shall be maintained with landscaping, including trees and shrubs in plots of at least sixty (60) square feet in area. One (1) deciduous tree with a trunk diameter of not less than one (1) inch measured at a height of one (1) foot above finished grade shall be provided for every three thousand (3,000) square feet of paved area. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption within the parking area and to insure safe patterns of internal circulation. In no case shall more than fifteen (15) spaces be permitted in a continuous row without interruption by landscaping, and not more than sixty (60) spaces shall be permitted in one lot, said lots being separated by landscaping plots a minimum of four (4) feet in width.
- C. **Plants** - Plant species shall be of a type proven suitable to local soil and climate conditions and which are resistant to disease, road salt and air pollution as determined by the Borough. All landscaping including plants shall be protected from damage by vehicles and shall be maintained in a good condition with plants that have died being replaced by similar plants.
- D. **Plan** - A landscaping plan showing the arrangement of the landscaping and parking areas and including plant sizes and species shall be submitted by the applicant for approval by the Borough.

504.14 Existing Parking Areas

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

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

504.15 Parking for Residential Use

Off-street parking shall be provided in accord with this §504 for all residential uses in all Districts.

504.16 Handicapped Parking

- A. **Number of Spaces** - Any lot including four (4) or more off-street parking spaces shall include a minimum of one (1) handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is established under the Federal Americans With Disabilities Act (ADA).

Total # of Required Spaces on Parking Lot	Required Minimum # / % of Handicapped Parking Spaces
4 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	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

- B. **Location** - Handicapped parking spaces shall be located where access to the use is via the shortest reasonable accessible distance. Curb cuts with an appropriate slope shall be provided as needed to provide access from the handicapped spaces.
- C. **Minimum Size** - Each required handicapped parking space shall be a minimum of eight (8) feet by eighteen (18) feet. In addition, each space shall be adjacent to an access aisle five (5) feet in width. Such access aisle may be shared by two (2) handicapped spaces by being placed between the spaces. In order to provide for van accessibility, one (1) of every eight (8) required handicapped spaces shall have an adjacent access aisle of eight (8) feet in width instead of five (5) feet.
- D. **Slope** - In accord with ADA requirements, handicapped parking spaces shall be located in areas of less than two (2) percent slope in all directions.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

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

504.17 Non-Residential Parking in Residential Districts RESERVED FOR FUTURE USE.

504.18 Parking of Unregistered Vehicles, Commercial Vehicles and Junk Vehicles

- A. Purpose - To prevent the character of residential areas from being harmed by nuisances, hazards and visual blight, and to prevent the establishment of junkyards in residential districts.
- B. Storage of Unregistered, Commercial or Junk Vehicles.

1. Definitions - For the purposes of this §504.18, the following terms shall have the following meanings:
 - a. Commercial Vehicle - A motor vehicle that has a gross vehicle weight of greater than six thousand (6,000) pounds and is primarily used for business purposes, including but not limited to making service calls, transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material.)
 - b. Tractor of a Tractor-Trailer - A truck with a minimum of three (3) axles that is primarily intended to pull a trailer, as defined below, and not primarily to carry goods itself.
 - c. Trailer of a Tractor-Trailer - A commercial vehicle with a length of 20 feet or more that is not self-propelled, that is intended to haul materials, vehicles, goods, gases or liquids and that is intended to be pulled by a tractor (as defined above), and that is not a "recreational vehicle."
2. Residential District - Within a residential district, no motor vehicle or trailer that does not display current registration and current safety inspection (or safety inspection and registration that expires less than 90 days prior) and no "abandoned or junk vehicle" (as defined by Article III), motor home, recreational vehicle, camper, bus or ambulance shall be parked or stored in any way that is visible from a public street or an adjacent dwelling.
3. Non-Residential District - Within a non-residential district, no motor vehicle or trailer that does not display current registration and current safety inspection (or safety inspection and registration that expires less than 90 days prior) and no "abandoned or junk vehicle" (as defined by Article III), shall be parked or stored in any way that is visible from a public street or an adjacent structure. This §504.18 shall not apply to a permitted auto sales use, auto service station, junkyard or auto repair garage, provided that the regulations for that use are met.
4. Exceptions - This section does not apply to the following, provided they are in an operational condition:

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

- a. Municipally-owned vehicles
- b. Vehicles operated by the U.S. Postal Service or a level of government or a Municipal Authority
- c. Vehicles actively engaged in the construction or repair of buildings, streets, curbs, sidewalks, rehabilitation or utilities in the immediate area
- d. Vehicles actively engaged in making routine household deliveries or rendering routine household services to a property that is adjacent or on the same lot as the vehicle is parked.

5. Commercial Vehicles in a Residential District

- a. In a residential district, a maximum of two (2) "vehicles" which are commercial in nature (having a business name painted on it and/or other advertising on it) may be parked for more than eight (8) hours in any forty-eight (48) hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of transportation between their home and work. No commercial vehicle in a residential district shall have a gross vehicle weight of over eight thousand (8,000) pounds if parked outside of an enclosed building.
- b. In a residential district, the engine of a tractor or a tractor-trailer shall not be idled for more than 10 minutes on the property between the hours of 10 p.m. and 6 a.m. or be repaired, except for clearly emergency repairs.
- c. No trailer of tractor-trailer shall be parked, stored, maintained or kept in a residential district for more than 8 hours in any forty-eight (48) hour period.
- d. See the requirements of the State Motor Vehicle Code that require vehicles parked on a public street to have current registration.

505 Signs

505.1 Intent and Purpose

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

- A. Promote and protect the public health, safety, comfort, morals, and convenience.
- B. Enhance the economy and the business and industry of the area by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public.
- C. Restrict signs and lights which overload the public's capacity to receive information or which increase the

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

probability of traffic congestion and accidents by distracting attention or obstructing vision.

- D. Reduce conflict among signs and signlighting and between public and private signs, and;
- E. Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

505.2 Definitions

The definitions in this §505.2 shall supplement the definitions in Article III of this Ordinance as applicable to the regulation of signs.

ATTRACTION BOARD - A permanent sign on which the information is changed periodically and identifies special, unique, limited activities, services, products, or sale of limited duration.

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

BANNER - A sign intended to be hung either with or without a frame possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems, and insignia are displayed for noncommercial purposes.

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

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

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

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

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

DIRECTIONAL SIGN - A sign, providing no advertising of any kind, which provides direction or instruction to guide persons

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

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

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

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

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

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

GROSS SURFACE AREA - The entire area within a single continuous perimeter composed of a single face enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, together with a material, or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall be included in gross surface area; however, if any portion of the required structural supports become enclosed for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign.

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

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

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

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

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

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

MOVING SIGN - A sign which revolves, rotates, swings, undulates, or otherwise attracts attention through the movement of parts or through the impression of movement, including automatic, electrically controlled copy changes, but not including

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

flags, banners, or pennants.

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

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

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

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

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

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

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

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

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

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

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

SOLID SIGN - A sign in which the area exposed to wind is fifty (50%) percent or more of such sign's aggregate gross surface area.

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

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

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

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

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

505.3 General Provisions

A. Basis of Which Signs are Regulated - The display of signs in the Borough is hereby regulated on the basis of the following factors:

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

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

B. Items of Information Allowed

1. General Rules - Subject to the requirements of all other provisions of this Ordinance, each exposed face of a sign shall contain no more than eight (8) items of information. However, if the name of the occupant of the premises on which the sign is to be affixed contains more than eight (8) items of information, the name may be displayed on each exposed face of a sign, provided no other information is displayed on such sign.
2. Certain Information Not Counted - In calculating items of information, the following shall be excluded;
 - (a) Letters nineteen (19) inches or less in height which are carved into, or securely attached to a building in such a way that they are an architectural detail of the building; provided that the letters are not illuminated apart from the building, are not made of a reflective material, do not contrast sharply in color with the building, and do not exceed a thickness of one (1) inch; or
 - (b) That information pertaining to the date of erection, the sign permit number, the sign permit expiration date, and the voltage of any electrical apparatus to be used in connection with the sign on which it is to be displayed as specified herein.

505.4 Illumination

All signs permitted by this Ordinance may be illuminated, provided that the provisions of this Section are strictly complied with.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

- A. Electrical Permit - In addition to complying with the provisions of this Ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the National Electrical Code.
- B. Illumination of Buildings, Structures, and Areas
1. The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, outdoor sales areas, or outdoor storage area is prohibited except;
 - a. during the months of November and December for areas in which Christmas trees are offered for sale;
 - b. on a temporary basis for areas in which carnivals, fairs, or other similar activities are held;
 2. A building or other structure or parking area or walking area may be illuminated, but all lighting used for this purpose must be designed, located, shielded, and directed in such a manner that the light source is fixed and shielded in such a manner that it does not shine directly on any adjacent publicly dedicated roadway and adjacent and abutting properties.
- C. Glare - All signs shall be so designed located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property.

505.5 Construction Specifications

All permanent signs permitted by this Ordinance shall be constructed in accordance with the provisions of this Section.

- A. Compliance with Applicable Codes - In addition to complying with the provisions of this Ordinance, all signs shall be constructed in accordance with the applicable provisions of the BOCA Building Code and National Electrical Code, latest adopted edition.
- B. Information to be affixed on Signs - All signs erected after the effective date of this Ordinance shall have affixed in a conspicuous place thereon, the following information:
1. the date of erection
 2. the sign permit number
 3. the sign permit expiration date; and
 4. the voltage of any electrical apparatus used in connection therewith.
- C. Auxiliary Specifications - All signs permitted by this Ordinance shall be constructed in accordance with the following provisions:

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

1. Obstruction to Exit - No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
 2. Obstruction to Ventilation - No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
 3. Clearance from Electrical Power Lines and Communication Lines - All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the National Electrical Code. However, in no instance shall a sign be erected or constructed within eight (8) feet of any electrical power line, conductor, or service drop, or any communication line, conductor, or service drop.
 4. Clearance from Surface and Underground Facilities - All signs and supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage or surface or underground water.
 5. No Obstruction to Any Existing Warning or Instructional Sign - No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.
- D. Wind Loads - All signs, except those attached flat against the wall of a building shall be constructed to withstand minimum wind loads as set forth in BOCA Codes.

505.6 Prohibited Signs

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

- A. "A" Frame or Sandwich Board Signs - "A" frame or sandwich board and sidewalk, or curb signs, except as a temporary sign as provided for in §505.8 of this Ordinance.
- B. Banners and Pennants - Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign, are provided for in §505.8 of this Ordinance.
- C. Moving and Flashing Signs - Signs which flash, revolve, rotate, swing, undulate, or otherwise attract attention through the movement or flashing of parts, including automatic, electronically controlled copy changes, or through the impression of movement or flashing except for Time and Temperature indicators whose movement is either digital or analogue.
- D. Portable and Wheeled Signs - Portable and Wheeled signs, except as a temporary sign, as provided for in §505.8 of this Ordinance.
- E. Projecting Signs - Signs which are attached or otherwise affixed to a building and project more than fifteen (15) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- F. Signs and Parked Vehicles - Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property, so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby.
- G. Signs on Trees - Signs which are attached or otherwise affixed to trees or other living vegetation.
- H. Signs Which Imitate Traffic Control Devices - Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device.

505.7 Exempt Signs

The following signs are hereby exempt from the provisions of this Ordinance, excepting for such instances where any sign listed herein is found to be unsafe or unlawful as provided for in other Sections of this Ordinance.

- A. Awning, Canopy, and Marquee Signs - Signs, not exceeding an aggregate gross surface area of four (4) square feet, indicating only the name of the activity conducted on the premises on which the sign is to be located and/or a brief generic description of the business being conducted by the activity. Advertising material of any kind is strictly prohibited on signs affixed to awnings, canopies, and marquees.
- B. Civic and Religious - Civic and religious organization signs indicating only the organization insignia, name, meeting place, and time. Such signs shall not exceed two (2) square feet for each exposed surface and four (4) square feet aggregate gross surface area.
- C. Directional or Instructional Signs - Signs, not exceeding four (4) feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind. Such signs include those identifying rest rooms, public telephones, public walkways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility, but not including those signs accessory to parking areas. Advertising material of any kind is strictly prohibited on directional and instructional signs.
- D. Non-Commercial Signs - Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations providing that such flags, emblems, and insignia are displayed for non-commercial purpose.
- E. Governmental Signs - Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties.
- F. Holiday Decorations - Signs or other materials temporarily displayed on traditionally accepted civic, patriotic, or religious holidays related to observance of the civic, patriotic, or religious holiday.
- G. Interior Signs - Signs which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby court or entrance of

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

any theater.

- H. Memorial Signs - Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events that are non-commercial in nature.
- I. Name and Address Plates - Signs, not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet, indicating the name of the occupant, the address of the premises, and identification of any legal business or operation which may exist at the premises.
- J. No Trespassing, No Hunting, No Fishing, No Dumping, No Parking, No Towing, and Other Similar Signs - No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs (as set forth in Title 75 of the Pennsylvania Vehicle Code and its regulations and as set forth in Title 18 of the Pennsylvania Crimes Code and its regulations) not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet.
- K. Parking Lot Directional and Instructional Signs
1. Directional Signs - Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.
 2. Instructional Signs - Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of sixteen (16) square feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7) feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.
- L. Patron Advertising Signs - Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of thirty-two (32) square feet of gross aggregate surface area. Sponsors advertising on score boards may not exceed twenty-five percent (25%) of the surface area of the score board.
- M. Plaques - Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior walls of a building, not exceeding four (4) square feet in aggregate gross surface area.
- N. Public Notices - Official notices posted by public officers or employees in the performance of the officer's or employee's duties.
- O. Public Signs - Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be on any type, number, area, height, location, or illumination as required by law, statute, or ordinance.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

- P. Signs on Vehicles - Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles and/or trailers, which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or other property.
- Q. Symbols or Insignia - Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two (2) square feet in gross surface area for each exposed face not exceeding four (4) square feet in aggregate gross surface area.
- R. Vending Machine Signs - Permanent, non-flashing signs on vending machines, gasoline pumps, ice or milk containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information as to the use, and other similar information not exceeding four (4) square feet in gross surface area for each exposed face not exceeding an aggregate gross surface area of eight (8) square feet on each machine.
- S. Warning Signs - Signs warning the public of the existence of danger, but containing no advertising material; to be removed within three (3) days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.

505.8 Temporary Signs

Temporary signs may be erected and maintained in accordance with the provisions contained in this §505.8.

A. General Conditions

1. Permit Required - No person shall erect, construct, repair, alter, or relocate within the Borough any temporary sign, except real estate and temporary construction signs, without first obtaining a permit from the Zoning Officer.
 2. Materials and Methods - The Zoning Officer shall impose as a condition of the issuance of a permit for temporary signs such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the health, safety, welfare, and convenience of the public.
 3. Illumination - Temporary signs may be illuminated, subject to §505.4.
 4. Sign Types - Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs as defined herein.
- B. Temporary Business Signs - Temporary business signs identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:
1. Number - There shall not be more than two (2) permits for temporary business signs issued for the same

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

premises within one (1) calendar year. Each temporary business sign permit may be erected and maintained for a period not to exceed thirty (30) days and shall be removed within three (3) days of the termination of the activity, service, project, or sale. Or, alternatively, a temporary business sign permit may be applied for a maximum of five (5) times during one (1) calendar year for the same premises; each permit shall be issued for a maximum of seven (7) days. It is expressly stated that temporary business sign permits shall be issued under one method or the alternative and that the methods may not be used jointly or in combination during any one (1) calendar year.

2. Area

(a) Residential Areas - In residential areas, temporary business signs shall not exceed two (2) square feet in gross surface area for each exposed face not to exceed an aggregate gross surface area of four (4) square feet.

(b) Non-Residential Areas - In non-residential areas, temporary business signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of sixty-four (64) square feet.

3. Location - Temporary business signs shall be located only upon the zoning lot upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

4. Height

(a) Residential Areas - In residential areas, temporary business signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

(b) Non-Residential Areas - In non-residential areas, temporary business signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

C. Temporary Construction Signs - Temporary construction signs identifying the parties involved in the construction to occur or occurring on the premises on which the sign is placed shall be subject to the following:

1. Number - There shall not be more than one (1) temporary, construction sign for each project or development, except that where a project or development abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

2. Area

(a) Residential Areas - In residential areas, temporary construction signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, not exceeding an aggregate gross area of

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

thirty-two (32) square feet.

- (b) Non-Residential Areas - In non-residential areas, temporary construction signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face, not exceeding an aggregate gross surface of sixty-four (64) square feet.
3. Location - Temporary construction signs shall be located only upon the premises upon which construction either is about to occur, or is occurring. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
4. Height - Temporary construction signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
5. Special Conditions - Temporary construction signs shall be permitted only as accessory to an approved building permit for a project or development. Temporary construction signs may be erected and maintained for a period not earlier than sixty (60) days prior to the commencement of construction of the project or development and must be removed prior to an occupancy permit being issued or if no occupancy permit is required, the sign shall be removed upon project completion.
- D. Temporary Event Signs (including Banners) - Temporary event signs announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for non-commercial purposes shall be subject to the following:
1. Number, Area, Height, and Location - The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Zoning Officer with consideration given to the public intended purpose. In any event, no sign may exceed sixteen (16) square feet for each exposed surface or thirty-two (32) square feet in gross surface area. Any temporary event sign shall not be permitted to extend over or onto a public right-of-way.
2. Timing - Temporary event signs may be erected and maintained for a period not to exceed thirty (30) days prior to the date of which the campaign, drive, activity, or event advertised is scheduled to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity, or event.
3. Limit on Number of Permits - No more than two (2) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.
- E. Temporary Political Signs - Temporary political signs announcing political candidates seeking office, political parties, and/or political and public issues contained on a ballot shall be subject to the following:
1. Location - On private property, temporary political signs may be located in any required yard.
2. Height - Temporary political signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

3. Timing - Temporary political signs may be erected or maintained for a period not to exceed sixty (60) days prior to the date of the election to which such signs are applicable and shall be removed within seven (7) days following such election. The candidate is responsible for all political signs of candidates of the party if they are located in the public right-of-way.
 4. Removal - Prior to the erection of any political signs in any public right-of-way, the political candidate or the candidate's representative shall obtain from the Zoning Officer a permit for the general erection of said signs in the Borough. The applicant shall also provide, along with the permit application fee, a refundable bond, letter of credit or other financial guarantee to provide for the removal of the signs following the subject election. Said fee and guarantee amounts and terms shall be as established by resolution of the Borough Council.
- F. Temporary Real Estate Signs - Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:
1. Number - There shall be not more than one (1) temporary real estate sign for each zoning lot except that where a lot abuts two (2) or more streets, additional signs, one (1) oriented to each abutting street, shall be permitted.
 2. Area
 - a. Residential Areas - In all residential areas, temporary real estate signs shall not exceed six (6) square feet in gross surface area of twelve (12) square feet.
 - b. Non-Residential Areas - In non-residential areas, temporary real estate signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of thirty-two (32) square feet.
 3. Location - Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
 4. Height - Temporary real estate signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
 5. Special Conditions - Temporary real estate signs shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.
- G. Temporary Yard or Garage Sale, Open House, or Auction Signs - Temporary yard sale or garage sale, open house, or auction signs advertising the sale of items and the sales location shall be subject to the following:
1. Number - There shall not be more than three (3) temporary yard or garage sale signs for each location of a sale.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

2. Area - In all zoning districts no temporary yard or garage sale signs shall exceed four (4) square feet in size.
3. Location - Temporary yard and garage sale signs may not be located within the street or road right-of-way. No sign may be placed on a utility or municipality owned pole or structure. Any temporary yard or garage sale signs shall be self-supported and shall not create a public hazard.
4. Height - Temporary yard or garage sale signs shall not exceed thirty (30) inches in height.
5. Timing - Temporary yard or garage sale signs may be erected no sooner than seven (7) days before the sale and must be removed no later than three (3) days after the sale. No temporary yard or garage sale signs shall remain erected for a period longer than ten (10) days.

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

- A. Building Name and Address Signs - Name and address signs of buildings containing six (6) or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:
 1. Type - Building name and address signs may be either wall signs or ground signs.
 2. Number - There shall not be more than one (1) name and address sign for each building except that where a building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
 3. Area - Building name and address signs shall not exceed four (4) square feet in gross surface area for exposed face, nor exceed an aggregate gross surface area of eight (8) feet.
 4. Location - Building name and address signs shall not be located closer than one-half the minimum setback required for the zoning district in which the sign is to be erected or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.
 5. Height - Building name and address signs shall not project higher than fifteen (15) feet for wall signs and seven (7) feet for ground signs, as measured from base of sign or building to which the sign is to be affixed or grade of the nearest adjacent roadway whichever is higher.
- B. Residential Development Signs - Residential development signs indicating only the name of the development, the management or developer thereof, and/or the address or location of the development shall be subject to the following:
 1. Type - The residential development signs shall be ground signs.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

2. **Number** - There shall not be more than two (2) residential development signs for each point of vehicular access to a development.
3. **Area** - Residential development signs shall not exceed twenty (20) square feet in gross surface area.
4. **Location** - Residential development signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
5. **Height** - Residential development signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

C. **Exempt Signs** - Exempt signs as specified in §505.7 of this Ordinance.

D. **Temporary Signs** - Temporary signs as specified in §505.8 of this Ordinance.

505.10 **Commercial and Manufacturing Uses** - For all commercial and manufacturing uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted use:

A. **Commercial and Manufacturing Use Signs** - Commercial and manufacturing use signs, other than those subject to special conditions in later parts of this section, shall be subject to the following:

1. **Wall Signs**

- a. **Number** - There shall be not more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
- b. **Area** - The gross surface area of a wall sign shall not exceed ten (10%) percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. The gross surface area of a wall sign may be increased by twenty (20%) percent, except that the gross surface of the sign shall not exceed sixty-four (64) square feet, if such wall sign;
 - (1) consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background, except that provided by the building surface to which the sign is to be affixed; and
 - (2) if illuminated, such illumination is achieved through shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.
- c. **Location** - A wall sign may be located on the outermost wall of any principal building, but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

- d. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.
- e. Special Conditions - Where a principal building is devoted to two (2) or more permitted uses, the operator of each such use may install a wall sign upon his/her proportionate share of the building wall to which the sign is to be affixed. The maximum gross surface area of each such sign shall be determined by calculating the proportionate share of the area of the building wall, including doors and windows, to which the sign is to be affixed and applying such proportion to the total permitted wall sign aggregate gross surface area for the building.

2. Ground Signs

- a. Number - There shall not be more than (1) ground sign for each lot except that where a roof sign is located on the premise, no ground pole sign may be permitted.
- b. Area - The gross surface area of a ground sign shall not exceed thirty-two (32) square feet for each exposed face, nor exceed an aggregate gross surface area of sixty-four (64) square feet.
- c. Location - A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- d. Height - A ground sign shall not project higher than twenty-five (25) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.

3. Awning, Canopy, and Marquee Signs

- a. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregated gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Ordinance, as specified in §505.7.
- b. Area - The gross surface area of an awning, canopy, or marquee sign shall not exceed twenty-four (24) square feet, but limited to not more than fifty (50%) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is affixed.
- c. Height - Any awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

4. Roof Signs

Roof signs shall not be permitted.

5. Attraction Boards

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

- a. Type - Attraction Boards shall be ground signs.
- b. Number - Each retail/wholesale commercial premise may erect a single attraction board identifying special, unique, limited activities, services, products, or sale of limited duration occurring on the retail/wholesale commercial premises on which the attraction board is to be located.
- c. Area - The gross surface area of a retail/wholesale commercial premises attraction board shall not exceed ten (10) square feet in gross surface area for each exposed face, nor exceed twenty (20) square feet in aggregate gross surface area.
- d. Location - A retail/wholesale commercial premise attraction board may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from any zoning lot to a public roadway.
- e. Height - If the attraction board is separate from the main ground pole sign, the attraction board may not project higher than fifteen (15) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher. The attraction board shall be separated by a minimum of twelve (12) inches from the main ground pole sign.
- f. Items of Information - The information displayed by an attraction board, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §505.3.

6. Billboards and Off-Premises Signs

- a. Number - One (1) billboard or off-premises sign may be erected, constructed, or maintained on any premises in a HC Zoning District only in accord with the following criteria:
- b. Area - An off-premises sign or billboard shall not exceed one hundred fifty (150) square feet in surface area, and each such sign shall have only one (1) exposed face.
- c. Spacing - An off-premises sign or billboard shall not be closer than five hundred (500) feet to another off-premises sign or billboard along the same side of any street or highway.
- d. Spacing at Intersections - An off-premises sign or billboard shall not be located within fifty (50) feet of any street intersection.
- e. Location - An off-premises sign or billboard shall only be permitted in the HC Zoning District. The sign shall be located in accordance with the yard setbacks for structures located in the general commercial zoning district.
- f. Height - An off-premises sign or billboard shall not project higher than twenty-two (22) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is lower.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- g. Site Plan - An application for an off-premises sign or billboard shall be accompanied by a site plan and contain all of the applicable requirements as required by this Ordinance.
- h. Engineering Certification - Any applications for an off-premise sign or billboard shall be accompanied by certification under seal by a Professional Engineer that the existence of the off-premises sign or billboard, as proposed, shall not present a safety hazard.

B. Shopping Center Signs - Shopping Center signs shall be subject to the following:

1. Wall Signs

- a. Number - There shall not be more than one (1) wall sign for each principal tenant or use contained in a shopping center except that where a tenant or use abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
 - (1) consists only of individual, outlined, alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and
 - (2) if illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters; or
- b. Area - The gross surface area of a wall sign shall not exceed ten (10%) percent of the tenant's or user's proportionate share of the building wall to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller, -
 - (1) if such wall sign consists only of individual, outlined, alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and if illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters; or
 - (2) when all wall signs located in the shopping center utilize lettering and background uniform in style and coloring.
- c. Location - A wall sign may be located on the outermost wall of any principal building, but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed.
- d. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

2. Ground Signs

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- a. Number - There shall not be more than one (1) ground sign for each shopping center.
- b. Area - The gross surface area of a ground sign shall not exceed a maximum of one (1) square foot of gross aggregate surface area for each one and one-half (1) lineal feet of front footage of the lot not to exceed two hundred (200) square feet of gross aggregate surface area.
- c. Location - A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- d. Height - A ground sign shall not project higher than twenty-five (25) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.
- e. Directory Signs - Each shopping center ground sign may include affixed directly to it a directory indicating only the names of the tenants of the shopping center in which the sign is to be located. The gross surface area of a directory sign shall not exceed ten (10) square feet for each exposed face, nor exceed an aggregate gross surface area of twenty (20) square feet for each tenant located in the shopping center in which the sign is to be located. The information displayed by a shopping center directory sign, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §505.3, B.

3. Awning, Canopy, and Marquee Signs

- a. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregate gross surface area of twenty-four (24) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Ordinance as specified in §505.7.
- b. Area - The gross surface area of an awning, canopy, or marquee sign shall not exceed twenty-four (24) square feet, but limited to not more than fifty (50%) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.
- c. Height - An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

4. Attraction Board

- a. Type - Shopping center attraction boards shall be ground signs.
- b. Number - Each shopping center may erect a single attraction board identifying special, unique, limited activities, services, products, or sale of limited duration occurring within the shopping center in which the attraction board is to be located.
- c. Area - The gross surface area of a shopping center attraction board shall not exceed fifty (50) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of one hundred

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

(100) square feet.

d. Location - A shopping center attraction board may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from any zoning lot to a public roadway.

e. Height - If the sign is separate from the main ground pole sign, a shopping center attraction board shall not project higher than fifteen (15) feet, as measured from the base of sign or grade of the nearest adjacent roadway, whichever is higher. If the attraction board is part of and mounted on the main ground pole sign, the attraction sign shall be separated by a minimum of twelve (12) inches from the main shopping center sign.

f. Items of Information - This information displayed by a shopping center attraction board, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §505.3, B.

C. Service Island Identification Signs - Service island identification signs at gasoline service stations indicating the type of service offered, the price of gasoline and other relevant information or direction to persons using the facility, but containing no advertising material of any kind, shall be subject to the following:

1. Type - Service island identification signs may be either wall signs or ground signs.

2. Number - There shall not be more than one (1) service island or identification sign for each service or pump island located on the premises.

3. Location - Service island identification signs may be located on the outermost wall of any principal building, on the pumps, or within the area of a service island.

4. Area - The gross surface of a service island identification sign shall not exceed six (6) square feet for each exposed face, nor exceed an aggregate gross surface of twelve (12) square feet.

5. Height - A service island identification sign shall not project higher than fifteen (15) feet, as measured from the base of sign or building to which the sign is to be affixed or the grade of the nearest adjacent roadway, whichever is lower.

6. Special Conditions - The information displayed by a service island identification sign which is in compliance with the foregoing requirements shall not be treated as items of information as specified in §505.3.

D. Multiple Uses - Where a principal building is devoted to two (2) or more permitted uses, the operator of each such use may install a wall sign upon his/her proportionate share of the building wall to which the sign is to be affixed. The maximum gross surface area of each such wall sign shall be determined by calculating the proportionate share of the area of the building wall, including doors and windows to which the sign is to be affixed and applying such proportion to the total permitted wall sign aggregate gross surface area of the building.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

- E. Wood Relief Sign Area Bonus - Ground signs permitted under §505.10,A,2 (Commercial and Manufacturing Uses) and §505.10,B,2 (Shopping Centers) shall be eligible for an increase in size of fifty (50) percent provided:
1. Signs shall be wood or simulated wood relief only with external illumination.
 2. Signs shall be designed as an integral architectural element of the building and component of the site.
 3. Sign colors, materials, and lighting shall be restrained and compatible with the building and site.
 4. Signs shall not exceed a height of fifteen (15) feet.

505.11 Permits

- A. Permit Required - Except for the following, no person may erect, alter, or relocate within the Borough any sign without first obtaining a sign permit from the Zoning Officer and paying the required fee:
1. Exempt signs as specified in §505.7.
 2. Real estate and temporary construction signs.
 3. Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, or otherwise render the sign non-conforming.
- B. Permit Application - Applications for sign permits shall be submitted to the Zoning Officer and shall contain or have attached thereto the following information:
1. The names, addresses, and telephone numbers of the applicant, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person to be erecting or affixing the sign.
 2. The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.
 3. A sketch plan of the property involved, showing accurate placement thereon of the proposed sign.
 4. Two (2) blueprints or ink drawings of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, color, materials, and weight.
 5. If required by the Zoning Officer, a copy of stress sheets and calculations prepared by or approved by a registered structural engineer, licensed by the State of Pennsylvania, showing that the sign is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable ordinances of the Borough.
 6. The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

7. Such other information as the Zoning Officer may require to determine full compliance with this and other applicable ordinances of the Borough.
- C. Issuance of Permits - Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If it appears that the proposed sign is in compliance with all the requirements of this Ordinance and other applicable ordinances of the Borough and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void, unless otherwise extended by the Zoning Officer for a single additional ninety (90) day period.
- D. Permit Fees - Each sign required by this Ordinance requiring a sign permit shall pay a fee as established pursuant to a Resolution by the Borough Council.
- E. Annual License Fee - An annual license fee shall be paid in accordance with a resolution setting forth the annual license fee schedule. The annual license fee schedule shall be adopted by the Borough Council.
- F. Penalty Fee - If an annual sign permit renewal fee is paid later than sixty (60) days of the date of the invoice requesting such payment, a penalty fee equal to fifty (50%) percent of the cost of the permit renewal fee shall be assessed.
- G. Revocation of Permit - All rights and privileges acquired under the provisions of this Ordinance are mere licenses and, as such, are at any time revocable for just cause by the Borough. All permits issued pursuant to this Section are hereby subject to this provision.

505.12 Review of Existing Permanent Signs

1. Annual Inspection - The Zoning Officer shall conduct, at a minimum of once each two (2) years, an inspection of all permanent signs being displayed in the Borough on and after the effective date of this Ordinance (which signs are hereinafter called "existing permanent signs" for the purpose of identifying those existing permanent signs which are not in compliance with this Ordinance).
2. Requests for Inspection - Any person may file a written request with the Zoning Officer requesting an inspection of one (1) or more existing permanent signs as identified in the request. In each such instance, the Zoning Officer shall promptly inspect such signs(s) to determine compliance with the provisions of this Ordinance. However, no existing permanent sign need be inspected more than two (2) times annually. The Zoning Officer shall make a written report indicating the findings of the inspection to both the owner of the inspected sign and to the person filing the request for inspection.
3. Notices of Violation - The Zoning Officer shall notify, in writing, each owner of an existing permanent sign found to be in violation of any provision of this Ordinance. The notice shall specifically refer to each section of this Ordinance under which a violation has been found to exist and thereupon describe the features of the inspected sign found to be deficient and the corrections which are required.

**CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS**

505.13 Non-Conforming Signs

- A. Legal, Non-Conforming Signs - Any sign lawfully existing or under construction on the effective date of this Ordinance, which does not conform to one (1) or more of the provisions of this Ordinance, may be continued in operation and maintained indefinitely as a legal non-conforming sign subject to compliance with the requirements of 505.13.B.
- B. Maintenance and Repair of Legal Non-Conforming Signs - Normal maintenance of legal non-conforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the non-conforming features of the sign, shall be permitted. However, no alteration, enlargement, or extension shall be made to a legal non-conforming sign unless the alteration, enlargement, or extension will result in the elimination of the non-conforming features of the sign. If a legal non-conforming sign is damaged or destroyed by any means to the extent of fifty (50%) percent or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.

505.14 Removal of Certain Signs

- A. Non-Conforming Signs - If the Zoning Officer shall find that any non-conforming sign, except for those legal non-conforming signs as specified in 505.13 is displayed, he shall give written notice to the owners, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.
- B. Obsolete Signs - Any sign, whether existing on or erected after the effective date of this Ordinance, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within ninety (90) days upon the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

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

- C. Unsafe Signs - If the Zoning Officer shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction to the condition which caused the Zoning Officer to give such notice shall be effected within ten (10) days after receipt of the notice. If such condition is not corrected

CHAPTER 27
ZONING
SUPPLEMENTARY REGULATIONS

after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding, the foregoing provisions, the Zoning Officer is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.

ARTICLE VI - RESIDENTIAL STANDARDS

601 Cluster Residential Development

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

601.1 Applications

Cluster development applications shall be processed concurrently with the subdivision approval procedures set forth in the Borough Subdivision and Land Development Ordinance and all applicable development requirements of said Ordinance shall apply.

601.2 Minimum Size

A minimum parcel size of two (2) acres shall be required and all lands, including open space, proposed for a cluster development shall be contiguous.

601.3 Individual Lots and Density

Individual building lots may be reduced to a size of five thousand (5,000) square feet; however, the overall density on the parcel shall be maintained as required by this Zoning Ordinance. The number of units permitted shall be determined by one of the following two (2) methods:

- A. The Applicant shall submit a subdivision plan for the parcel as if it were to be developed in accord with all the standards and requirements in this Zoning Ordinance and the Borough Subdivision and Land Development Ordinance for a normal (i.e., non-cluster) single-family residential subdivision served by the Borough water supply and the Borough sewage disposal system. Any lot which, due to slope, soil, wetlands or other limitation, does not contain a suitable area for erecting a dwelling and associated improvements using normal development and building practices, shall not be considered a "buildable lot" for the purposes of this §601; and such determination shall be made by the Borough.
- B. Deduct the following areas
 1. Land contained within public rights-of-way;
 2. Land contained within the rights-of-way of existing or proposed private streets and parking areas (where formal rights-of-way are not involved the width of the street shall be assumed as fifty [50] feet wide);
 3. Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service, and any petroleum products pipeline rights-of-way; and any petroleum products pipeline and railroad rights-of-way;
 4. The area of water bodies including lakes, ponds and streams (measured to the normal high water mark

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

on each side); wetlands; quarries; areas with slope in excess of twenty-four (24) percent or greater; and areas used for improvements, from the total area of the project parcel and multiply the remainder by the applicable density of the District.

601.4 General Planning Criteria

- A. Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural site features.
- B. Cluster open space shall include irreplaceable natural features located in the tract (such as, but not limited to stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).
- C. Individual lots, buildings, and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen area devoted to motor vehicle access.
- D. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and the land.
- E. Special attention shall be given to storm water management due to existing storm water problems in the Borough; and special controls may be required.

601.5 Open Space and Improvements

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

A. Open Space Characteristics

- 1. A minimum of twenty-five (25) percent of the gross area of the project parcel shall remain as open space and the location and configuration of the open space shall be suitable for recreation purposes and shall be approved by the Borough.
- 2. The buffer area required by §601.10 shall be considered open space for the purposes of this §601.5.
- 3. Open space areas shall be part of the project parcel and shall be contiguous and shall be maintained as open space and may not be separately sold, subdivided, developed or used to meet open space requirements for other developments.
- 4. At least fifty percent (50%) of the open space shall be usable for active recreation purposes and shall not include wetlands, quarries, slopes in excess of twenty-four percent (24%) or otherwise unusable areas. Open space areas shall be dedicated and preserved as follows.

B. Dedication and Ownership - Ownership and maintenance of open space, common property and improvements

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

shall be in accord with Article X of this Ordinance.

601.6 Minimum Lot Dimensions

Minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance.

601.7 Water Supply

The cluster development shall be served by the Borough public water supply system.

601.8 Sewage Disposal

The cluster development shall be served by the Borough sewage disposal system.

601.9 Lot Access

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

601.10 Buffer

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

601.11 Accessory Structures

Setbacks for accessory structures shall meet the setbacks for principal structures.

602 Two Family Dwellings

Where permitted by the Schedule of Uses, two-family dwellings shall comply with the requirements of this §602 and other applicable standards in this Ordinance.

602.1 Unit Size

Each unit in a two-family dwelling shall contain a minimum of seven hundred (700) square feet of habitable indoor heated floor area.

602.2 Common Wall

In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The area of each lot shall not be less than fifty (50) percent of the minimum lot size required in Part 1 of the Schedule of Development Standards in Article IV of

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

this Zoning Ordinance and minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance.

602.3 Over/Under Units

In cases where the two-family dwelling consists of two (2) dwelling units constructed with one(1) unit located on the second floor above a first floor dwelling unit, the lot size shall comply with Part 1 of the Schedule of Development Standards in Article IV of this Zoning Ordinance and minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance. If such a two-family dwelling is proposed on two (2) or more separate lots of record, said lots shall be combined into one (1) lot prior to the issuance of a Zoning Permit.

602.4 Conversions -- See §604 of this Ordinance.

603 Multi-Family Dwellings

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

603.1 Procedure

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

- A. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Borough. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- B. Open Space - A schedule or plan, and proposed agreement(s) either with the Borough or a property owners' association for the purpose of dedicating, in perpetuity, the exclusive use and/or ownership of the open space required by this Ordinance to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Borough that maintenance and use of the property, regardless of ownership, be restricted to either (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2)

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

permanent open space as hereinafter provided.

C. Procedure - The application package shall be processed on a schedule concurrent with requirements for review and approval of other Preliminary Plans pursuant to the Borough Subdivision Ordinance.

D. Covenants and Restrictions - A copy of the recorded or to recorded covenants and restrictions that shall run with the land, providing for the maintenance, repair, replacement and reconstruction of common areas, on-site infrastructure, common easements, on-site utilities, buildings, storm water system(s), and such other common items (property owners association, assessments, insurance, etc.) to properly maintain the character of the zone as required by this Ordinance and other ordinances of the Borough of Clarks Summit. See also Article X.

603.2 Bulk and Density Standards

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

STANDARD	Garden Apartments	Townhouses	Apartment Buildings	Two-Family Dwellings*
Minimum size for project parcel (sq ft)	12,000	12,000	9,000	12,000
Density -- minimum square feet of land area per dwelling unit	4,000	4,000	3,000	4,000
Minimum habitable indoor heated floor area per DU (sq ft)	600	700	600**	700
Maximum number of DU's per building	12	8	none	not applicable
Minimum lot dimensions (feet)				
lot width	90	90	90	90
lot depth	100	100	100	100
front yard	30	30	30	30
rear yard	25	25	25	25
side yard	10	10	10	10
Maximum lot depth to width ratio	3.5 : 1	3.5 : 1	3.5 : 1	3.5 : 1
Maximum building height				
stories	3	3	4	2.5
feet	35	35	50	35
Maximum lot coverage (percent)	50	75	75	50
ADDITIONAL TOWNHOUSE STANDARDS				

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

STANDARD	Garden Apartments	Townhouses	Apartment Buildings	Two-Family Dwellings*
Minimum lot size for townhouse units for individual sale				1,200 square feet
Minimum lot width at house location				18 feet
Minimum street frontage				18 feet
Minimum front and rear yard setback			15 feet front / 10 feet rear	
Minimum side yard setback for end unit				15 feet
Maximum lot coverage for individual townhouse parcels				80%

DU = dwelling unit.
 *As part of a multi-family project (See definition of *multi-family project*).
 **May be reduced to 450 sq ft for units specifically limited to persons over 55 years old and their spouses and/or the physically handicapped.

603.3 Design Criteria

The following design criteria shall apply to multi-family projects:

- A. **Road/Parking Setbacks** - No structure in a multi-family project shall be constructed within fifteen (15) feet of the edge of the shoulder of any access road to or through the development or within five (5) feet of any parking area.
- B. **Road Standards** - Access roads through the development shall comply with the street requirements of the Borough Subdivision Ordinance for minor roads.
- C. **Building Separation** - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.
- D. **Buffers** - Buffers, not less than eight (8) feet in width shall be provided in accord with §701.1 of this Ordinance where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any R-1 or R-2 District, or any right-of-way of any arterial street abutting the rear of the project. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Borough.
- F. **Pedestrian Access** - Walkways of such design and construction as approved by the Borough shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Borough Subdivision Ordinance.
- G. **Trash Storage** - Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
- H. **Architectural Renderings** - Preliminary architectural renderings, models or photos should be provided for multi-family projects of more than ten (10) dwelling units

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

I. Townhouses - The following additional standards shall apply to townhouses:

1. Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses. This can be met by varying setbacks between an attached garage and a dwelling, or varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
2. Width - Each townhouse dwelling unit shall have a minimum width of eighteen (18) feet.
3. All townhouses must provide covenants and restrictions applicable to each Townhouse which provides for exterior and common area maintenance, repairs, replacement, separate utility service to each townhouse, townhouse property owners association, separate boundaries for each townhouse, restriction to use of the townhouse for single family residence only, liability insurance for the common areas, building insurance for the townhouse and such other covenants and restrictions as are common to "model townhouse (or condominium) declaration of covenants and restrictions". See also Article X.

603.4 Non-Residential Use

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

603.5 Conversions of Existing Structures

Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve structural alteration, shall be subject to the provisions of this §603, including but not limited to §603.2. (See also §604).

603.6 Common Property Ownership and Maintenance

In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Borough in accord with Article X of this Ordinance. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject project.

604 Conversion to Dwellings

Any conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units shall comply with the standards in this §604 and the other requirements applicable to the dwelling type to which conversion is proposed.

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

604.1 General Requirements

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

604.2 Structural Alterations

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

605 Group Homes

Group homes shall be permitted in any lawful dwelling unit in accord with this §605 and other applicable standards of this Zoning Ordinance.

605.1 Definition

See definition in Article III.

605.2 Supervision

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

605.3 Certification

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

605.4 Registration

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

605.5 Counseling

Any medical or counseling services provided on the lot shall be limited to residents and a maximum of three (3)

CHAPTER 27
ZONING
RESIDENTIAL STANDARDS

nonresidents per day.

605.6 Parking

One off-street parking space shall be provided for each employee on duty at any one time, and every two (2) residents of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than five (5) spaces shall not be visible from any adjacent public road and adjacent property(ies) and otherwise meeting the requirements of §701.1 of this Zoning Ordinance.

605.7 Appearance

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

605.8 Number of Residents

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

- A. Single Family Detached Dwelling with minimum lot area of 10,000 square feet and minimum building setbacks as provided in this Ordinance; eight (8) total persons.
- B. Any other lawful dwelling unit: six (6) total persons.

606 Unit for Care of Relative

606.1 Definition

See definition in Article III.

606.2 Occupancy

The unit shall be restricted to a "relative" (as defined by Article III) of a permanent resident of the principal dwelling unit on the property. A maximum of two (2) persons may inhabit such a unit.

606.3 Care Requirement

Such relative shall need care and supervision because of old age, disability, handicap or illness.

606.4 Unit Design

Such unit shall be designed and installed in such a way that it can easily be reconverted into part of the principal dwelling unit after such relative no longer lives within it. Once such unit is no longer occupied by such relative, the

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

dwelling shall be reconverted into part of the principal dwelling unit or be completely removed within one hundred and eighty (180) days.

606.5 Permit

Such unit shall require a permit, which shall be renewed every two (2) years. The occupants of the principal dwelling unit shall annually report the name and relationship of such occupant to the Zoning Officer.

606.6 Removal of Unit

When any unit permitted under this §606 is required to be removed, there shall be no physical evidence visible from exterior to the lot lines that such apartment existed, other than possibly the expanded size of the dwelling.

606.7 Exterior Appearance

Such unit shall not detract from the single family residential exterior appearance of a dwelling.

606.8 Entrance

The unit shall maintain at least one (1) interior connection to the principal dwelling unit. The unit shall not have its own electric or water meter.

606.9 Structural Connection

Such unit shall be connected to or within the principal dwelling unit.

607 Mobile Home Parks

607.1 Conditional Use

Mobile home parks are considered conditional uses in the R-1 District and shall comply with the requirements of this §607 and the applicable standards in the Borough Subdivision and Land Development Ordinance as amended. In cases where the standards in this §607 and the Subdivision and Land Development Ordinance conflict, the standards in this §607 shall apply.

607.2 Reserved

607.3 Procedures

A mobile home park or expansion of a mobile home shall be considered a land development as defined by the Pennsylvania Municipalities Planning Code and an application for the development of a mobile home park shall be processed in accord with all the procedures established by the Borough Subdivision Ordinance for major subdivisions and land developments in addition to the requirements of §1108 of this Ordinance.

CHAPTER 27
ZONING
RESIDENTIAL STANDARDS

607.4 Parcel Size; Density; Mobile Home Sites

The minimum parcel size for a mobile home park shall be two (2) acres and the overall density of a mobile home park shall not exceed eight (8) units per acre. Each mobile home site shall have a minimum area of three thousand (3,000) square feet for exclusive use of the occupants of the mobile home placed upon the lot. Minimum lot widths and depths shall be forty-five (45) feet. Each mobile home lot shall be defined by metes and bounds on a survey and shall be shown as such on the development plan, and markers shall be installed at each corner of every lot.

607.5 Slope

The longitudinal gradient and cross slope of any mobile home lot shall not exceed five (5) percent, except for terracing at the periphery, and the minimum slope in any direction shall be one (1) percent.

607.6 Mobile Home Placement

Each mobile home lot shall be improved to provide a permanent foundation for the placement and tie-down of the mobile home, thereby securing the structure against uplift, sliding, rotation and overturning.

- A. Stability - The mobile home site shall not heave, shift or settle unevenly under the weight of the mobile home, due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
- B. Anchors - The mobile home site shall be provided with anchors and tie-downs, such as cast-in-place concrete "deadman", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home. Anchors and tie-downs shall be placed at least at each corner of the mobile home site, and each shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.
- C. Skirting - All mobile homes shall be enclosed from the bottom of the mobile home to the ground or paving using industry approved fire resistant skirting material.
- D. Setbacks - Each mobile home shall be located not less than thirty (30) feet from the front lot line of the park; nor less than twenty (20) feet from the side and rear lot lines of the park, from the curb or edge of shoulder of any park street, and from any building or other mobile home; nor less than ten (10) feet from any side or rear mobile home lot line.

607.7 Soil and Ground Cover

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

607.8 Storm Water and Drainage

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

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

607.9 Buffers and Screening

A buffer area shall be provided around the mobile home park. No mobile home lot shall be located closer than twenty-five (25) feet to any public road right-of-way or closer than twenty-five (25) feet to any other exterior property line. All mobile home parks shall be required to provide screening such as fences, or plant materials along the property boundary line separating the park and any adjacent use. Plantings shall provide an effective screen to a height of five (5) feet at the time of planting and an effective screen to a height of eight (8) feet within five (5) years. These buffer strips shall be properly maintained at all times.

607.10 Streets, Parking and Access

- A. **Streets** - Mobile home park streets shall be provided, designed and constructed in accord with the standards for mobile home park streets in the Borough Subdivision Ordinance.
- B. **Parking** - Parking shall not be permitted on roads or drives within the mobile home park, but shall be restricted to designated parking areas either at each mobile home site or at a common location. Off-street parking for two (2) motor vehicles shall be provided at each mobile home lot and off-street, common parking areas for additional vehicles of park occupants and guests shall be provided at a rate not less than one (1) space per five (5) mobile home lots. These spaces shall be improved to a grade not greater than eight percent (8%) and shall be paved with a minimum six (6) inches depth of select material approved by the Borough Engineer.
- C. **Access** - There shall generally be at least two (2) points of ingress and/or egress in each mobile home park from any one (1) public right-of-way (emergency accesses excepted) and all driveways to individual units along a public right-of-way shall front on an interior access drive.
- D. **Lot Frontage** - Mobile home sites and parking spaces shall have direct access to and frontage on the interior park street system. Mobile home sites and parking spaces shall not front or have access directly to public roads or streets or to private roads or streets passing through the mobile home park and providing access to other parcels or developments.
- E. **Illumination** - All mobile home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights, as will provide adequate levels of illumination for the safe movement of pedestrians and vehicles at night.
- F. **Curbs and Gutters** - Curbs and sidewalks shall be provided and constructed according to the basic standards of the Borough Subdivision and Land Development Ordinance, however, curbs may be the rolled type and the width of sidewalks may be reduced to three (3) feet.

607.11 Recreation Area

**CHAPTER 27
ZONING
RESIDENTIAL STANDARDS**

A common recreational area of land, consisting of six (6) percent of the total area of the park, but not less than ten thousand (10,000) square feet shall be maintained within the park for the common use of park residents only. This area shall generally be suitable for active recreation and shall be of suitable configuration, with less than ten (10) percent slope and free of hazards to permit recreational use. Fifty (50) percent of this area shall be designed, equipped and properly maintained for active recreational use in the mobile home park. Plans for development of the recreational area and facilities shall be submitted by the applicant for approval by the Borough.

607.12 Landscaping and Outdoor Living Requirements

- A. Landscaping - Screen planting shall be provided to adequately and effectively screen objectionable views within a reasonable time; views to be screened including laundry drying yards, garbage and trash collection stations, non-residential uses, and rear yards of adjacent properties. Other plantings shall be adequate in size, quantity, and character to provide an attractive setting for the mobile homes and other improvements, to provide adequate privacy and pleasant outlooks for living units, to minimize reflected glare and to afford summer shade. An overall landscaping plan shall be submitted by the developer for approval by the Borough. All landscaping and associated vegetation shall be maintained in a good and healthy condition.
- B. Private Area - Private outdoor living and service space shall be provided for each mobile home and shall be partially paved or otherwise surfaced to provide a durable, mud and dust-free surface. The minimum area shall be not less than three hundred (300) square feet with the smallest dimension of fifteen (15) feet. The paved area shall be not less than one hundred (100) square feet with the smallest dimension of eight (8) feet.

607.13 Non-Residential Uses

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

608 Mobile Homes on Individual Lots

Mobile homes proposed as dwellings which are placed on lots not in a mobile home park shall comply with all Borough regulations applicable to single-family residential dwellings.

609 Reserved

610 Bed and Breakfast Establishments

Bed and breakfast establishments are considered conditional uses in certain districts as set forth in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards in this Zoning Ordinance.

- A. Adequate off-street parking is provided in accord with §504 of this Ordinance with the minimum number of parking spaces provided as follows: one (1) space for each rentable room; one (1) space for each non-resident employee, and two (2) spaces for the dwelling unit.

CHAPTER 27
ZONING
RESIDENTIAL STANDARDS

- B. Not more than five (5) rentable rooms are provided in the establishment.
- C. The owner/manager of the bed and breakfast must reside on the premises.
- D. Not more than two (2) non-resident employees shall be permitted.

611 Hotels, Motels, and Lodging Facilities

This section is intended to provide specific conditional use standards for the development of hotels, motels and other lodging facilities at unit densities that allow full use of the project parcel while at the same time recognizing the limitation of the proposed site. Specific performance standards are provided to allow for flexibility of design and to insure the protection of adjoining properties and the public health, safety and general welfare. Hotels, motels and lodging facilities are considered conditional uses in certain Districts as set forth in the Schedule of Uses.

611.1 Density

Density of units and facilities shall be determined by the character of the project parcel and compliance with the standards in this Section 611 and this Ordinance, and other applicable Borough regulations.

611.2 Design Criteria

- A. Yard, building height, lot width and depth, and lot coverage ratios applicable to the District shall be maintained.
- B. In cases where the project parcel adjoins a Residential District or where a project structure(s) exceed(s) fifteen hundred (1,500) square feet in total floor area, larger front side and rear yards or buffers may be required in accord with §701.1 of this Ordinance.
- C. All facilities in a hotel, motel or lodging facility project shall be on the same parcel of property and shall not contain any commercial facility unless such commercial facility is otherwise permitted in the District where the subject property is located.

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

**ARTICLE VII
PERFORMANCE STANDARDS AND ENVIRONMENTAL PROTECTION**

701 Performance Standards Applicable to All Non-Residential Uses in All Districts

The intent of this §701 is to regulate the development and operation of all development in the Borough and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all commercial, manufacturing and other non-residential uses.

701.1 Yards and Buffers

Unless otherwise regulated by this Ordinance, where a commercial (HC or HC1 District), or a residential professional (RP District) or manufacturing (MI District) or a railway utility (RU District) use is proposed contiguous to any existing residential use or any R-1, R-2, or R-3 District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer not less than ten (10) feet in width shall be provided in accord with this §701.1. This shall not apply in the CC District.

In the case of conditional uses and special exceptions or to meet the requirements of this Ordinance, landscaped buffers may be required by the Borough in any yard in order to assure the protection of adjoining uses by providing visual barriers that block the certain uses or requirements as provided in this Ordinance.

- A. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
- B. The width of the required buffer, as determined by the Borough, shall not be less than ten (10) feet.
- C. A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than six (6) feet in height will be formed within three (3) years of planting.
- D. Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than four (4) feet; however, all clear sight triangles shall be maintained.
- E. In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Borough shall determine that the proposed use and adjoining use(s) are not incompatible.
- F. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for "land developments" in the

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

Borough Subdivision and Land Development Ordinance. It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material.

701.2 Landscaping

A landscaping plan for the proposed project shall be prepared by the developer for review and approval by the Borough. Landscaping shall be considered an improvement for the purposes of regulation by the Borough Subdivision and Land Development Ordinance. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.

- A. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
- B. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
- C. Plants shall be of a type which are proven successful in the Borough's climate.
- D. Where landscaping is required to serve as a buffer (e.g., between the project and adjoining properties or between buildings and parking areas) the plants used shall be of the evergreen type and of adequate size to provide an effective buffer within a reasonable number of years.
- E. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
- F. All unusable areas in and around parking areas shall be landscaped.
- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Plastic landscape materials shall not be used.
- I. All trees to be planted shall have a trunk diameter of at least one (1) inch as measured one (1) foot above the ground.
- J. Ground cover shall be spaced to allow for complete fill-in within one (1) year of the date of planting.
- K. All shrubs not used for ground cover shall be at least five (5) gallons in size.
- L. Adequate soil preparation in accord with accepted landscape industry practices shall be required.

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

M. All landscaping shall be maintained in good growing condition by the property owner.

701.3 Operations and Storage

All facilities and operations of the principal use including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building; or shall, as required by the Borough as a conditional use, be provided with larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way. Storage of equipment, supplies, products or any other materials shall not be permitted in any front yard or side yard except for automobile dealers and similar sales businesses which generally require the outdoor display of items for sale. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted except in the HC and MI Districts, and for temporary storage at construction sites. (See §503.7,C,1.)

701.4 Fire and Explosion Hazards

All activities involving any manufacturing, production, storage transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Borough if the nature of the proposed use as determined by the Borough so requires.

701.5 Radioactivity or Electric Disturbance

No activities shall be permitted which emit dangerous radioactivity, electrical disturbance or electromagnetic radiation adversely affecting the operation of any person or any equipment other than that of the creator of such disturbance. All applicable Federal regulations shall apply.

701.6 Noise

The maximum sound pressure level radiated by any use or facility at any lot line shall not exceed the values in the designated octave bands listed in Table 1, after applying the corrections shown in Table 2. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., as designated by the Borough Council.

- A. Maximum Levels - Maximum permissible sound pressure levels at the lot line for noise radiated continuously from any facility, or activity between the hours of 9:00 p.m. and 7:00 a.m. shall be as listed in Table 1.
- B. Corrections - If the noise is not smooth and continuous, and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one (1) or more of the corrections in Table 2 shall be applied to the decibel levels in Table 1.

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

TABLE 1	
Frequency Band (cycles/second)	Sound Pressure Level (decibels re 0.0002 dyne/cm)
20-75	69
76-150	60
151-300	56
301-600	51
601-1,200	42
1,201-2,400	40
2,401-4,800	38
4,801-10,000	35

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

TABLE 2	
Type of Operation OR Character of Noise	Correction in Decibels
Day time operation only	+ 5
Noise source operation less than: a. 20% of any one-hour period b. 5% of any one-hour period c. 1% of any one-hour period	a. + 5* b. +10* c. +15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, scream, screech, etc.)	-5
* Apply only one of these corrections.	

C. Exemptions - The maximum permissible sound levels of this §701.6 shall not apply to any of the following noise sources:

1. Sound needed to alert people about an emergency or building, equipment, or facility security alarms.
2. Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
3. Household power tools and lawn mowers between the hours of 7:00 a.m. and 9:00 p.m.
4. Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
5. Agricultural activities, but not exempting kennels.
6. Motor vehicles when used on public streets in accord with state regulations.
7. Railroads and aircraft.
8. Public celebrations, specifically authorized by the Borough, the County, state or federal government body or agency.
9. Unamplified human voices.
10. Routine ringing of bells or chimes by a place of worship or municipal clock.

D. Professional Studies and Costs - If the Borough determines that professional analysis is required to enforce this §701.6 for a particular situation, the owner shall reimburse the Borough for such reasonable costs of such analysis. In addition, the Zoning Officer may base a determination under this §701.6 on a written study prepared and certified by a qualified professional and submitted by an affected party. Any such study shall state the methods used and the credentials of the involved professional(s).

701.7 Vibration

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

No vibration shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness. This requirement shall not apply to occasional blasting conducted in accord with applicable regulations that may be necessary during construction of streets, structure and utilities.

701.8 Lighting and Glare

Lighting shall be controlled in both height and intensity to maintain community character; and lighting design should be an inherent part of the project design. The standards of the Illuminating Engineering Society shall be used a guideline for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site; and all required lighting shall be considered improvements for the purpose of regulation by the Borough Subdivision and Land Development Ordinance.

- A. Exemption - This §701.8 shall not apply to street lighting that is owned, financed or maintained by the Borough or State.
- B. Areas to be Lighted - All access ways, off-street parking areas and areas of intensive pedestrian use shall be adequately lighted for safety purposes. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs.
- C. Shielding - No light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source.
- D. Glare - No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the property line.
- E. Nuisances - The intensity, height and shielding of lighting shall provide for adequate and proper safety, and shall not be a nuisance or hazard to drivers and residents of the Borough.
- F. Height - The maximum height of light standards shall not exceed the maximum building height of the district but in no case greater than thirty-five (35) feet. This limitation shall not apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building.
- G. Type - The use of mercury vapor lighting shall be prohibited.
- H. Flashing - Flashing, flickering or strobe lights are prohibited, except for non-advertising seasonal lights between October 25th and January 10th.

701.9 Reserved

701.10 Odors

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the parcel from which the odors are emitted.

701.11 Other Forms of Air Pollution

No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.

701.12 Surface and Ground Water Protection

All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Borough may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Borough. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies. No use shall be permitted which would result in the depletion of ground water supplies.

701.13 Storm Water Management and Soil Erosion Control

A Storm water management plan and soil erosion control plan may be required by the Zoning Officer, Planning Commission, Borough Council or Zoning Hearing Board, as the case may be, for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Borough Subdivision Ordinance or other applicable Borough regulations and County Conservation District standards and shall be based on generally accepted engineering principles appropriate for the proposed use.

701.14 Waste Materials

No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable state and federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir, sewage or storm water disposal system, stream, open body of water or onto the ground.

701.15 Handicapped Access

Access for handicapped persons to all uses shall be provided in accord with all applicable state and federal requirements.

701.16 Architectural Rendering

Applications which include the exterior renovation of non-residential structures or the construction of new non-residential

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

structures shall include a rendering to enable the Borough to assess the effect of the renovation or construction on the character of the district.

701.17 Other Regulations

The Zoning Officer, Planning Commission, Borough Council or the Zoning Hearing Board, as the case may be, may require documentation from the Applicant demonstrating that the project complies with all other applicable local, state and federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including but not limited to the PA Department of Transportation, the PA Department of Environmental Resources, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

702 Placement And Screening of Waste Containers

702.1 Screening

All trash dumpsters shall be screened on three (3) of four (4) sides (not including the side it is to be emptied from) as needed to screen the dumpster from view from public streets or dwellings on abutting lots. A solid wooden fence, brick wall, evergreen plants or structure designed to be architecturally compatible with the principal building shall be used for such screening.

702.2 Setback from Dwellings

If physically possible, any solid waste container with a capacity over fifteen (15) cubic feet shall be kept a minimum of fifteen (15) feet from any window or door of a dwelling unit on an abutting lot.

702.3 Food Sales

Any use that involves the sale of ready-to-eat food for consumption outside of a building shall provide at least one (1) outdoor solid waste receptacle for customer use at a convenient location outside of the main exit door of the property. The operator of such use shall be responsible for regular emptying and maintenance of such receptacle.

702.4 Enclosed Containers

Solid waste receptacles stored outdoors shall be adequately enclosed and covered to control the attraction of rodents and insects.

703 Environmental Impact Statement

The intent of this §703 is to provide the identification of environmental and community impacts and means of mitigation of impacts of development projects in the Borough. The Borough Council, Planning Commission, or Zoning Hearing Board, as applicable, may, based upon the nature of a project and potential impacts on the Borough, require the developer to prepare and submit to the Borough an environmental impact statement (EIS) for the following types of developments and uses:

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

1. Industrial parks
2. Manufacturing or industrial uses
3. Junkyards
4. Natural resource uses
5. Natural resource uses processing
6. Agricultural products processing
7. Solid waste facilities and staging areas
8. Warehouses and trucking terminals
9. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas
10. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas
11. Any use involving development in any floodplain area
12. Any conditional use
13. Any special exception

The requirements of this §703 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Borough, warrants the application of the study required contained herein in order to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Borough Council, Planning Commission, or Zoning Hearing Board, as applicable, may waive certain components of the EIS should such components be deemed unnecessary for certain uses.

703.1 Purpose of EIS

The purpose of this EIS is to disclose the environmental consequences of a proposed action for consideration by the Borough for the determination of approval or denial of the project, and, if the project is approved, for the establishment of conditions of approval. This requirement is made in order to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of all kinds, flooding and waste disposal and to preserve trees and vegetation, to protect water courses, air resources and aquifers.

703.2 Contents of EIS

An Environmental Impact Statement shall include a description of the proposed use including location relationship to other projects or proposals,, with adequate data and detail for the Borough to assess the environmental impact. The EIS shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships.

At a minimum, the EIS shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts; and said proposal shall comply with all other standards included in this Ordinance and other Borough Ordinances:

A. Soil Types

**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

1. U.S.D.A. Soil Types (show on map)
2. Permeability of soil on the site.
3. Rate of percolation of water through the soil for each five acres.

B. Surface Waters

1. Distance of site from nearest surface water and head waters of streams.
2. Sources of runoff water.
3. Rate of runoff from the site.
4. Destination of runoff water and method of controlling down stream effects.
5. Chemical additives to runoff water on the site.
6. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Lackawanna County Conservation District.
7. Said information shall be set forth in a storm water management plan meeting the requirements of the Borough Subdivision Ordinance.

C. Ground Cover Including Vegetation and Animal Life

1. Extent of existing impervious ground cover on the site.
2. Extent of proposed impervious ground cover on the site.
3. Type and extent of existing vegetative cover on the site.
4. Extent of proposed vegetative cover on the site.
5. Type of animal life and effect on habitat.

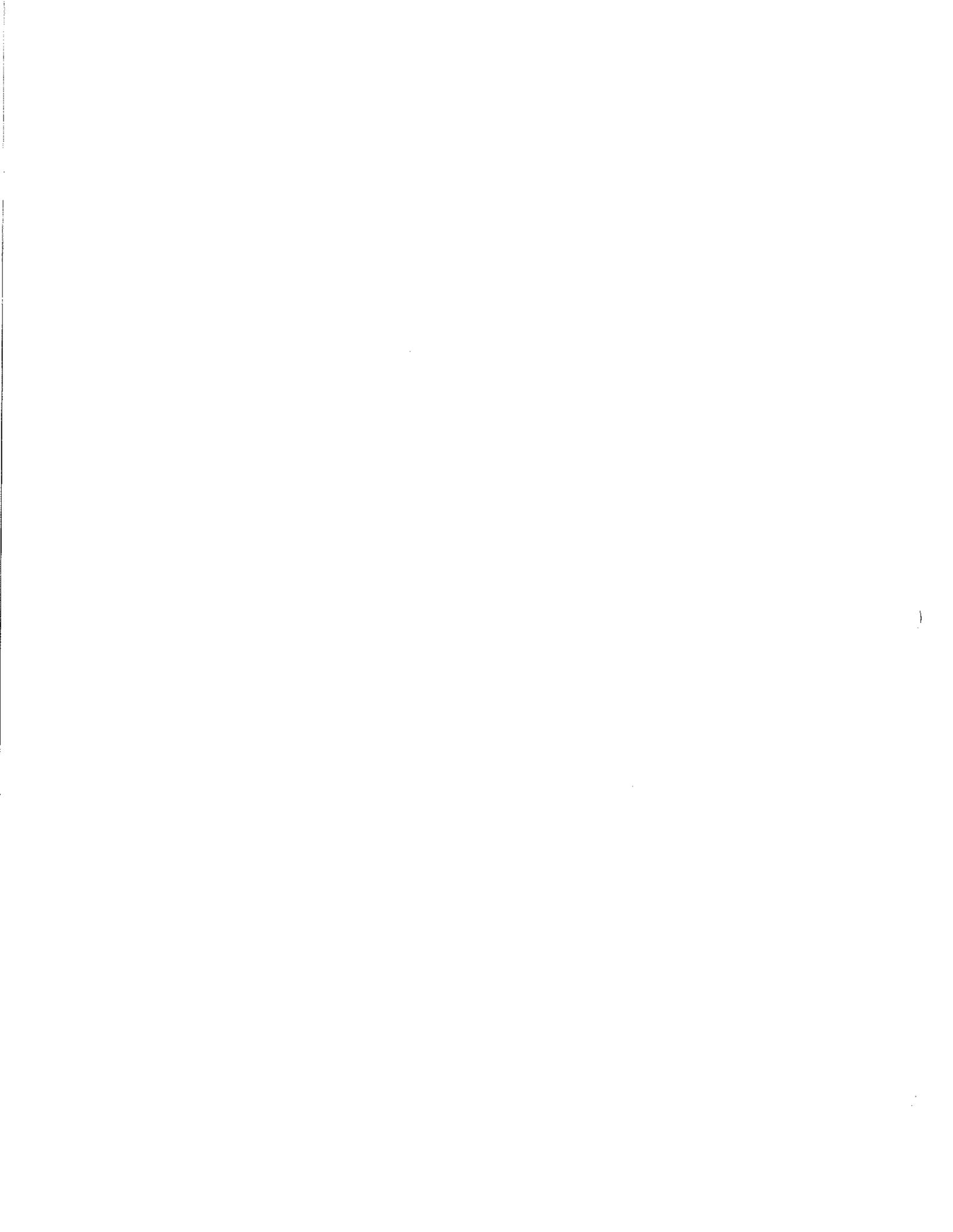
D. Topographic and Geologic

1. Maximum existing elevation of site.
2. Minimum existing elevation of site.
3. Maximum proposed elevation of site.
4. Minimum proposed elevation of site.
5. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
6. Surface and subsurface geology

E. Ground Water

1. Average depth to seasonal high water table.
2. Minimum depth to water table on site.
3. Maximum depth to water table on site.
4. Quality

F. Water Supply



**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

1. The source and adequacy of water to be provided to the site.
2. The expected water requirements (g.p.d.) for the site.
3. The uses to which water will be put.

G. Sewage Disposal

1. Sewage disposal system (description and location on the site, of system).
2. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
3. Expected daily volumes of sewage.
4. Affected sewage treatment plant's present capacity and authorized capacity.

H. Solid Waste

1. Estimated quantity of solid waste to be developed on the site during and after construction.
2. Method of disposal solid waste during and after construction.
3. Plans for recycling of solid waste during and after construction.

I. Air Quality

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

J. Noise

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

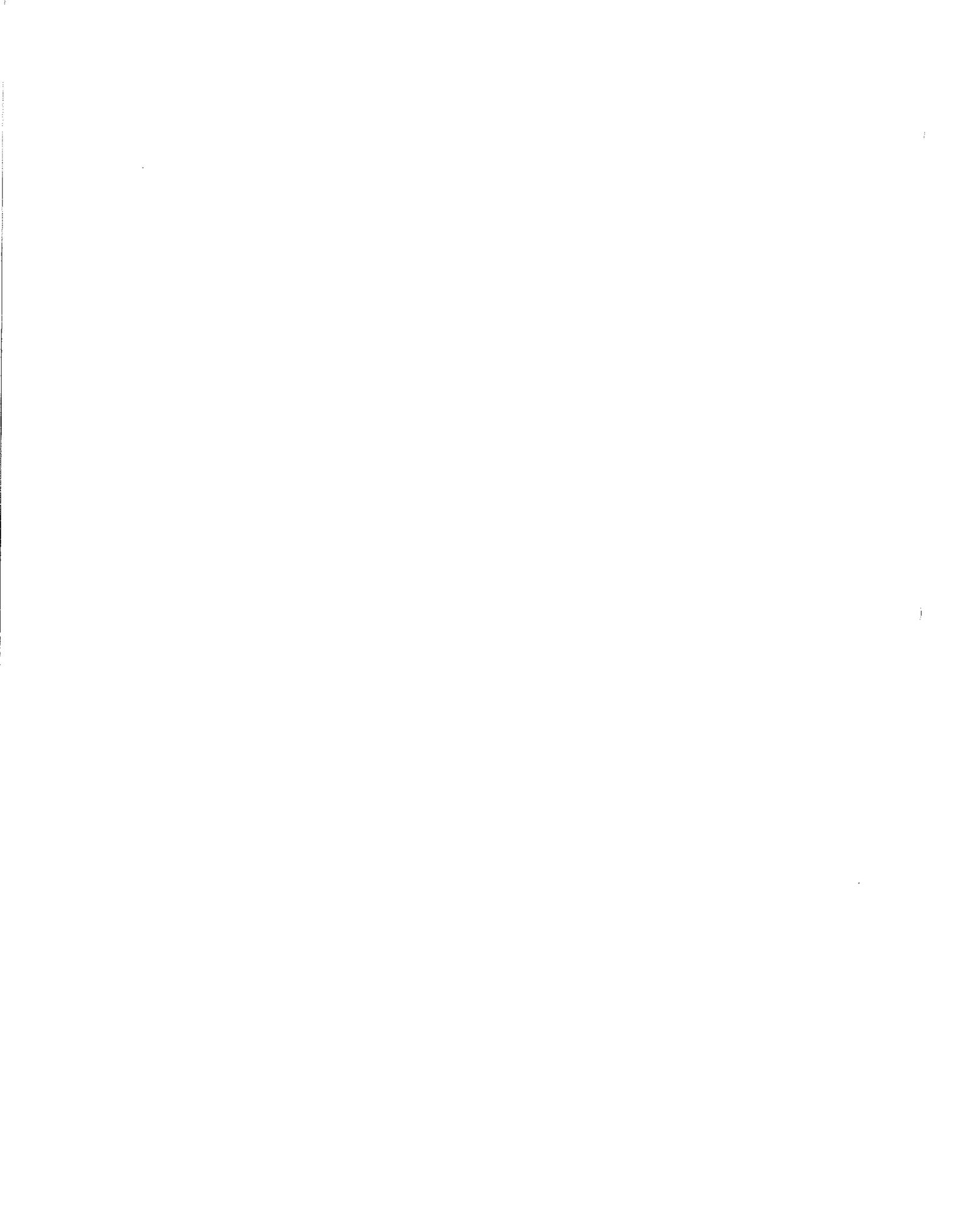
K. Land Use and Community Character

1. Past and present use of the site with particular attention to storage or disposal of toxic or hazardous waste.
2. Adjoining land uses and character of the area.

L. 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%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas

M. Historic Resources - Identification of structures or sites of historic significance and probable effect of project.

N. Transportation Network - Existing network traffic volumes and capacities and need for improvements required



**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

by project.

- O. Law Enforcement - Existing law enforcement capabilities of the Borough 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.
- P. Fire Protection - Existing fire protection capabilities of the Borough and mutual aid fire companies; and assess the impact of the proposed development on said companies along with actions proposed to mitigate any burdens created by the development.
- P. Additional Requirements - In addition to the above requirements the Planning Commission and/or Borough Council or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Borough to evaluate the proposed use for its effect on the community.

703.3 Additional Considerations

The following shall also be addressed:

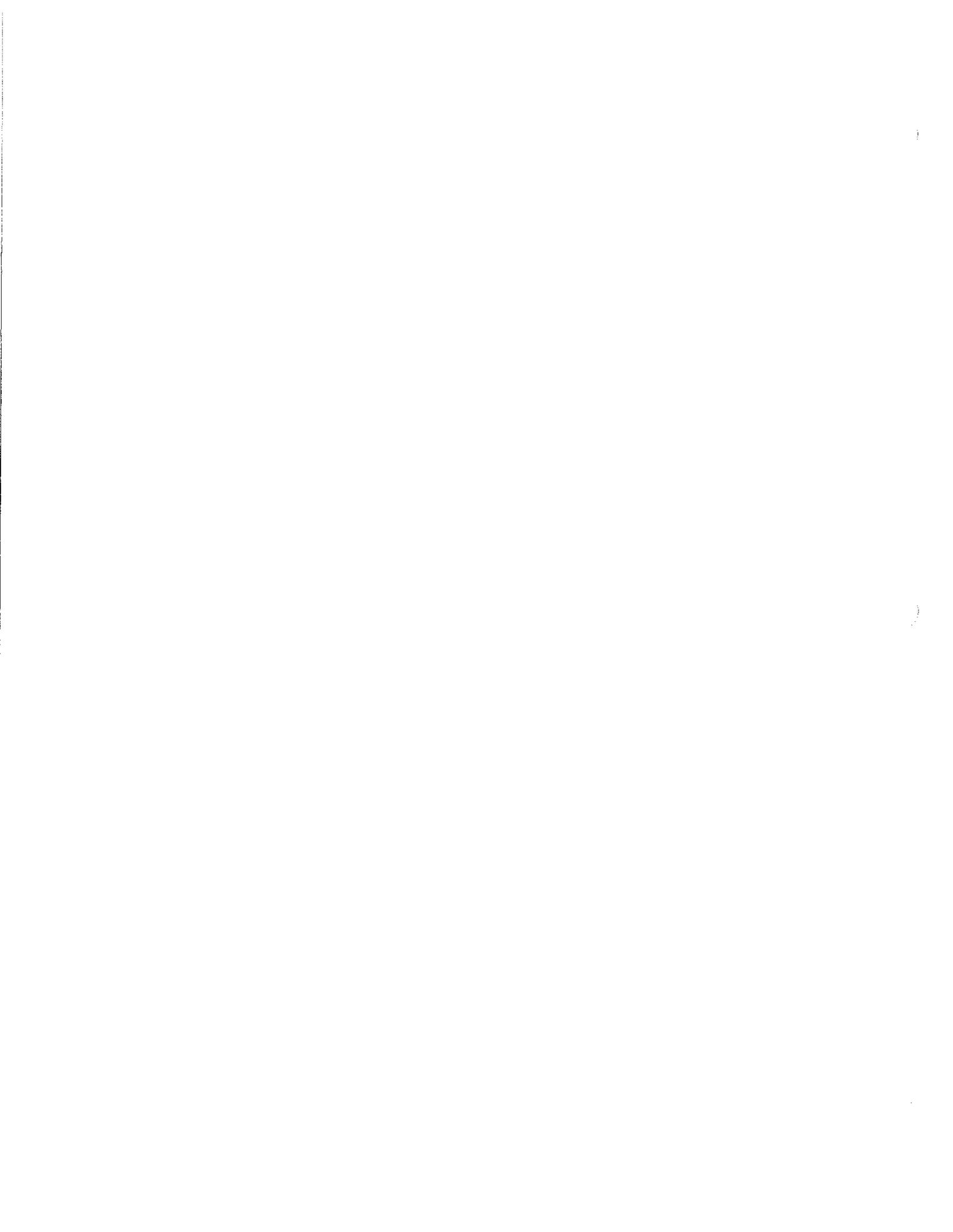
- A. A description of alternatives to the proposed use.
- B. A statement of any adverse impacts which cannot be avoided.
- C. Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.
- D. A list of all licenses, permits and other approvals required by municipal, county or state law and the status of each.
- E. A listing of steps proposed to minimize environmental damage to the site and region during and after construction.

703.4 Qualifications

The EIS shall be prepared by a professional architect, landscape architect, planner, engineer or other qualified individual whose qualifications have been previously approved by the Borough Council.

703.5 Procedures for Evaluating the Environmental Impact Statement Shall be as Follows

- A. Upon receipt of the application the Secretary shall forward the EIS to the Borough Engineer and any other Agency or firm which the Borough may desire for consultation.
- B. The above mentioned Agencies shall review the applicant's EIS and shall report its comments to the Planning Commission and Borough Council or Zoning Hearing Board.



**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

- C. The Planning Commission and/or Borough Council or Zoning Hearing Board may require the opinion of experts in their review of the EIS.
- D. Fees for the costs of such consultation as described in Subsections "A" and "C" above shall be paid by the applicant.
- E. Copies of the Environmental Impact Statement shall be on file and available for inspection in the Borough office.
- F. The Planning Commission shall evaluate the proposed project and the EIS and recommend action on same to the Borough Council or Zoning Hearing Board.

704 Special Conservation Standards

All uses permitted by this Ordinance shall be subject to the following special conservation performance standards which shall apply to any lands that are characterized as steep slopes, wetlands or flood plains. The procedures and standards are as follows:

704.1 Steep Slope Areas

Steep slopes shall be defined as slopes in excess of twenty-five percent (25%) grade as determined by the Zoning Officer, from United States Geological Survey topographic maps or U.S.D.A. Soil Conservation Service maps. In cases where the slope cannot be specifically determined by said means, the Zoning Officer may require the applicant to provide certification from a Professional Engineer or Registered Land Surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Borough Council and Planning Commission shall be satisfied that the following performance standards have been or will be met:

- A. An accurate map prepared by a Registered Surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. Impervious surfaces are kept to a minimum.
- D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
- E. Where fill is used to later support structures, a minimum compaction of ninety (90) percent of maximum density



**CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION**

shall be achieved.

- F. No more than seven thousand (7,000) square feet of area may be totally cleared for building purposes including house, garage, accessory structures, driveway or other impervious areas.
- G. At least fifty (50) percent of the area to be used for any building or construction purposes shall be less than fifteen (15) percent slope.
- H. Soils characterized by the Soil Conservation Service as highly susceptible to erosion shall be avoided.
- I. Roads and utilities shall be installed along existing contours to the greatest extent possible.
- J. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
- K. Natural vegetation shall be preserved to as great a degree as possible.
- L. In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

704.2 Wetlands

If the Borough determines that wetlands may be present or may be impacted by the proposed development, the Borough may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Resources, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, to be delineated on any application proposing a new use or expanded use of land. The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated. If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations; and the applicant shall provide to the Borough evidence of such compliance. No zoning approval granted by the Borough shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations; and the Borough shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

704.3 Floodplain

Floodplain shall be governed by the Borough Floodplain Regulations.

705 Earth Disturbance

705.1 Intent

The intent of this §705 is to regulate earth disturbance, minimize storm water runoff and protect soil resources and water quality.

CHAPTER 27
ZONING
PERFORMANCE STANDARDS AND
ENVIRONMENTAL PROTECTION

705.2 Permit

Any activity, except in cases where zoning or subdivision and land development approval has been otherwise granted, which will result in the initial or cumulative earth disturbance of more than two thousand five hundred (2,500) square feet of land area shall require a zoning permit.

705.3 Plan

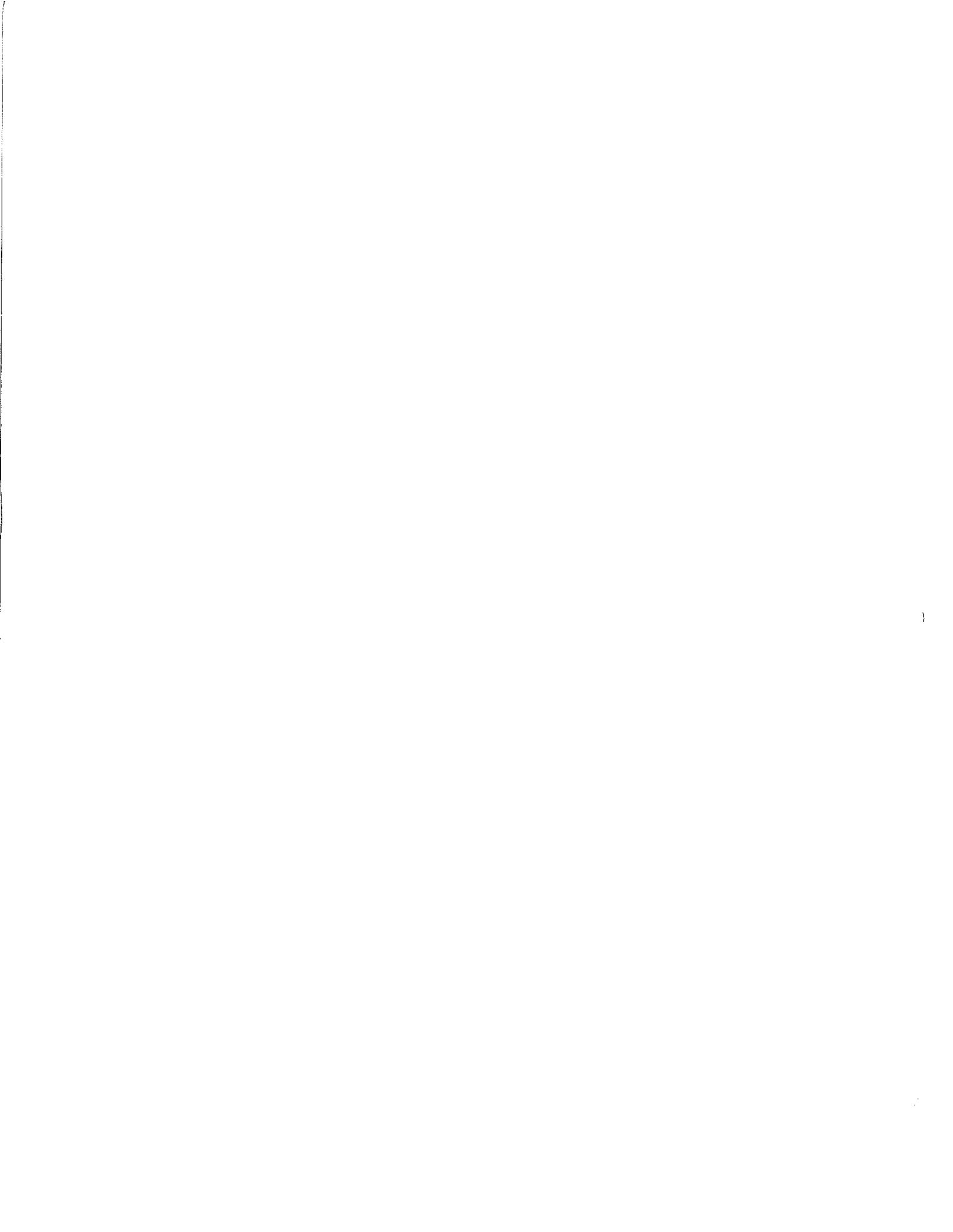
The Applicant shall include with the application for a zoning permit a plan setting forth the details of the earth disturbance or clear cutting activity and including any additional information deemed necessary by the Borough to determine compliance.

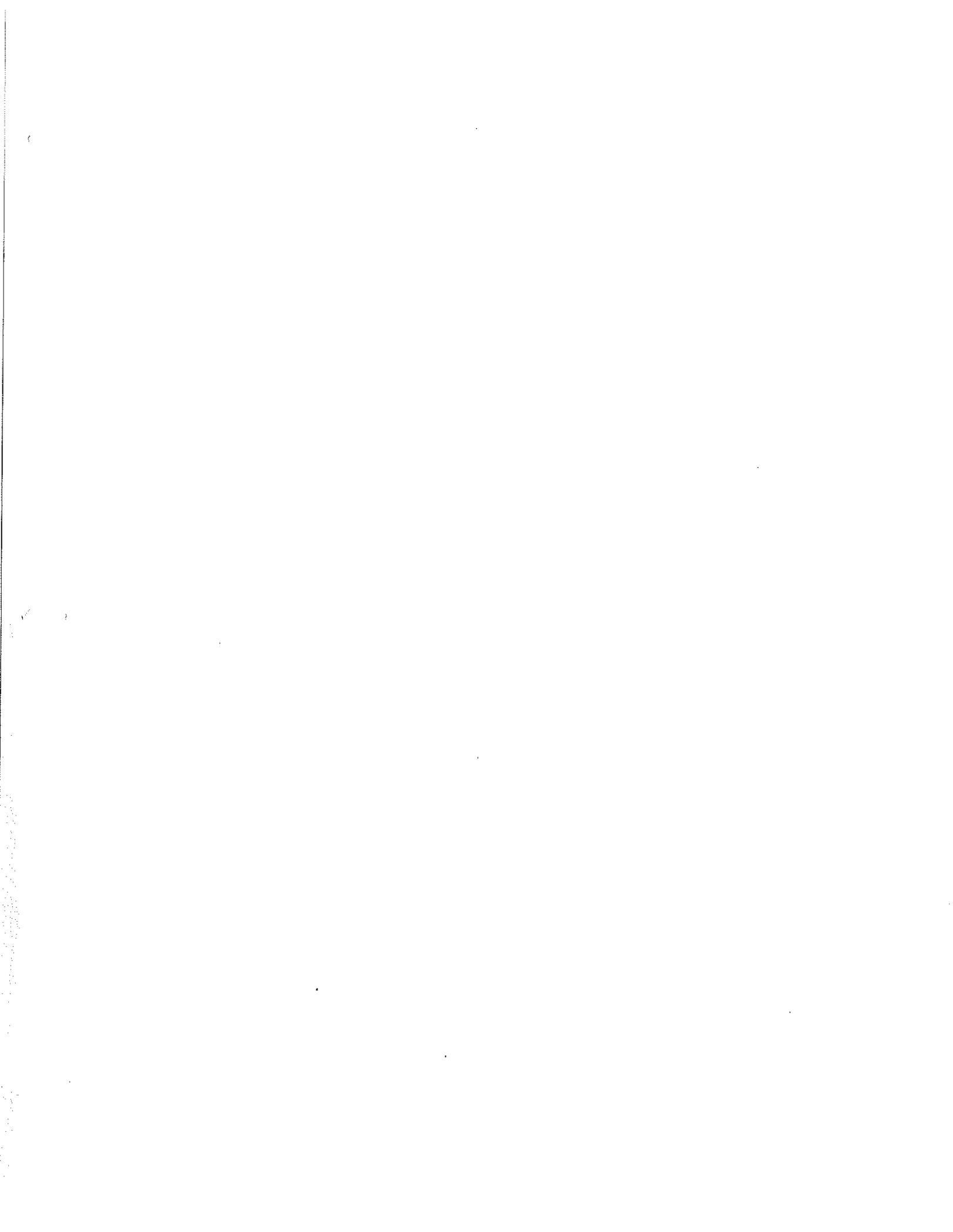
705.4 Soil Erosion and Sedimentation and Storm Water Control

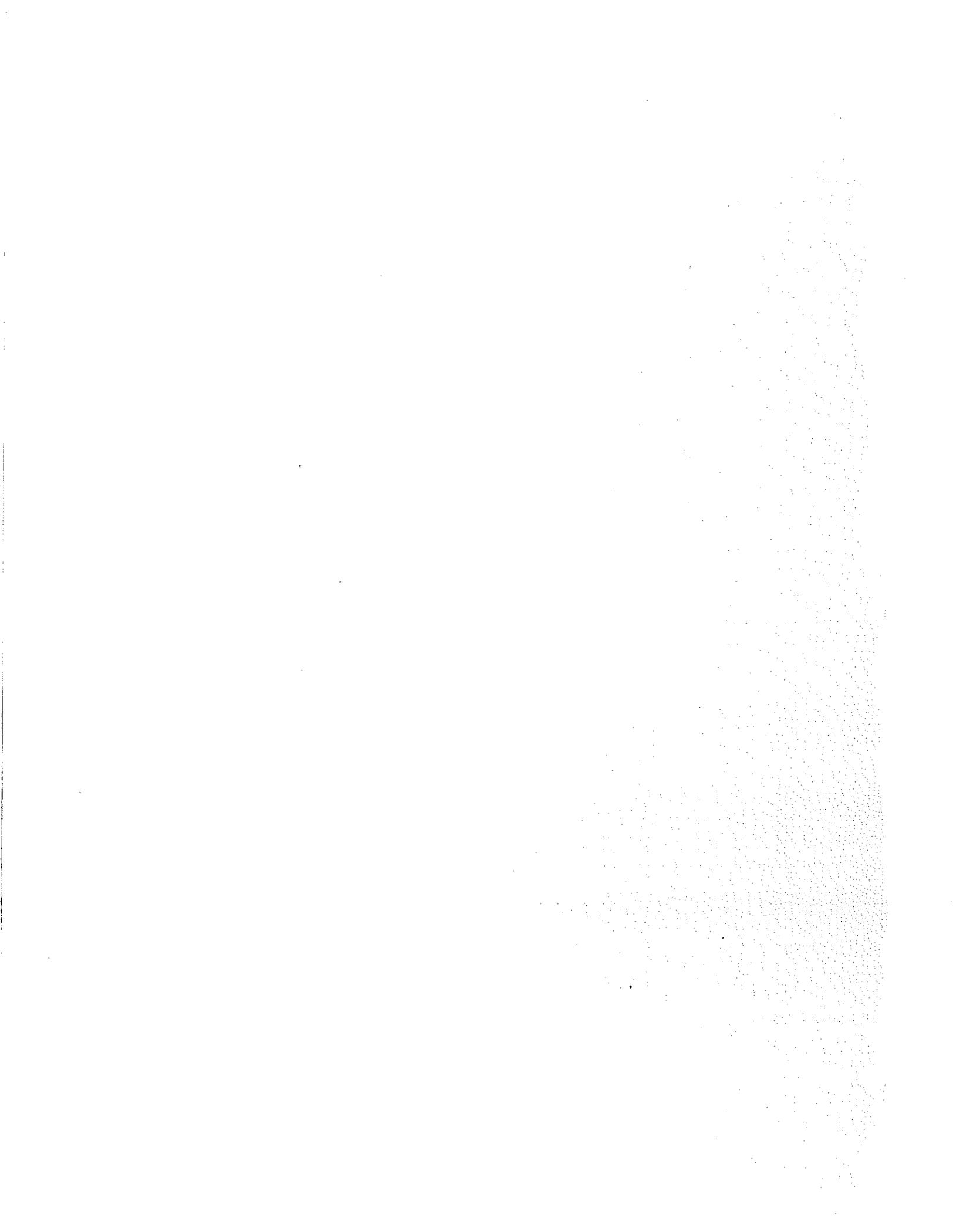
Any earth disturbance or clear cutting activity shall comply with §701.13 of this Ordinance and no earth disturbance or clear cutting shall be permitted within twenty-five (25) feet of any water body or stream.

705.5 Revegetation/Reforestation

The plan shall include provisions for the revegetation and stabilization of any disturbed areas.







**CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES**

**ARTICLE VIII
STANDARDS FOR SPECIFIC USES**

801 Adult Businesses

801.1 Findings

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

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



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

- H. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- I. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- J. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- K. The Borough desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.

801.2 Intent

It is the intent of this §801 to:

- A. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
- B. Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
- C. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
- D. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.
- E. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- F. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

801.3 Conditional Use in the MI District



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

Adult businesses are classified as conditional uses in the MI-Manufacturing/Industry District, which provides a suitable area for the development of such uses away from areas with concentrated residential development.

801.4 Standards

In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:

- A. Setback - Adult businesses shall not be located less than fifty (50) feet from any property line or public road right-of-way, and not less than one hundred (100) lineal feet from any:
 - 1. residence or residential district
 - 2. group care facility
 - 3. commercial enterprises catering primarily to persons under eighteen (18) years of age
 - 4. church or synagogue
 - 5. public or private school
 - 6. public or semi-public building or use
 - 7. public park or public recreation facility
 - 8. health facility
 - 9. any establishment that sells alcoholic beverages.
- B. Similar Businesses - Adult businesses shall not be located within two hundred (200) lineal feet of any existing adult business.
- C. Measurement - The setback distances established in this §801 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Extension - An existing, lawful adult business may be expanded as a conditional use once in total floor area by a maximum of twenty-five (25) percent beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance. Such extension shall comply with the requirements of §907 and other applicable requirements of Article IX.
- E. Limit of One (1) Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
- F. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §801 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except: as permitted in §5E above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

- G. Location of New Neighboring Uses - An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant or renewal of an adult business permit, a use from which an adult business is required to provide a setback under §§A above is developed within the required setback distance. This provision applies only to the renewal of a valid permit, and does not apply when the application for a permit is submitted after a permit has expired or the permit has been revoked.
- H. Reserved
- I. Visibility and Signs: - No sexually explicit material, signs, display, silhouette, or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of §505 of this Ordinance; however, commercial use wall signs shall be limited to a maximum of thirty-two (32) square feet and the freestanding sign shall be limited to a maximum total of thirty-two (32) square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation.
- J. Exemption for Modeling Class: It is a defense to prosecution under this §801 that a person appearing in a state of nudity did so in a modeling class operated:
1. By a proprietary school, licensed by the State, or an academically accredited college or university;
 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
 3. In a structure -
 - a. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - c. where no more than one (1) nude model is on the premises at any one time; or
 4. By an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

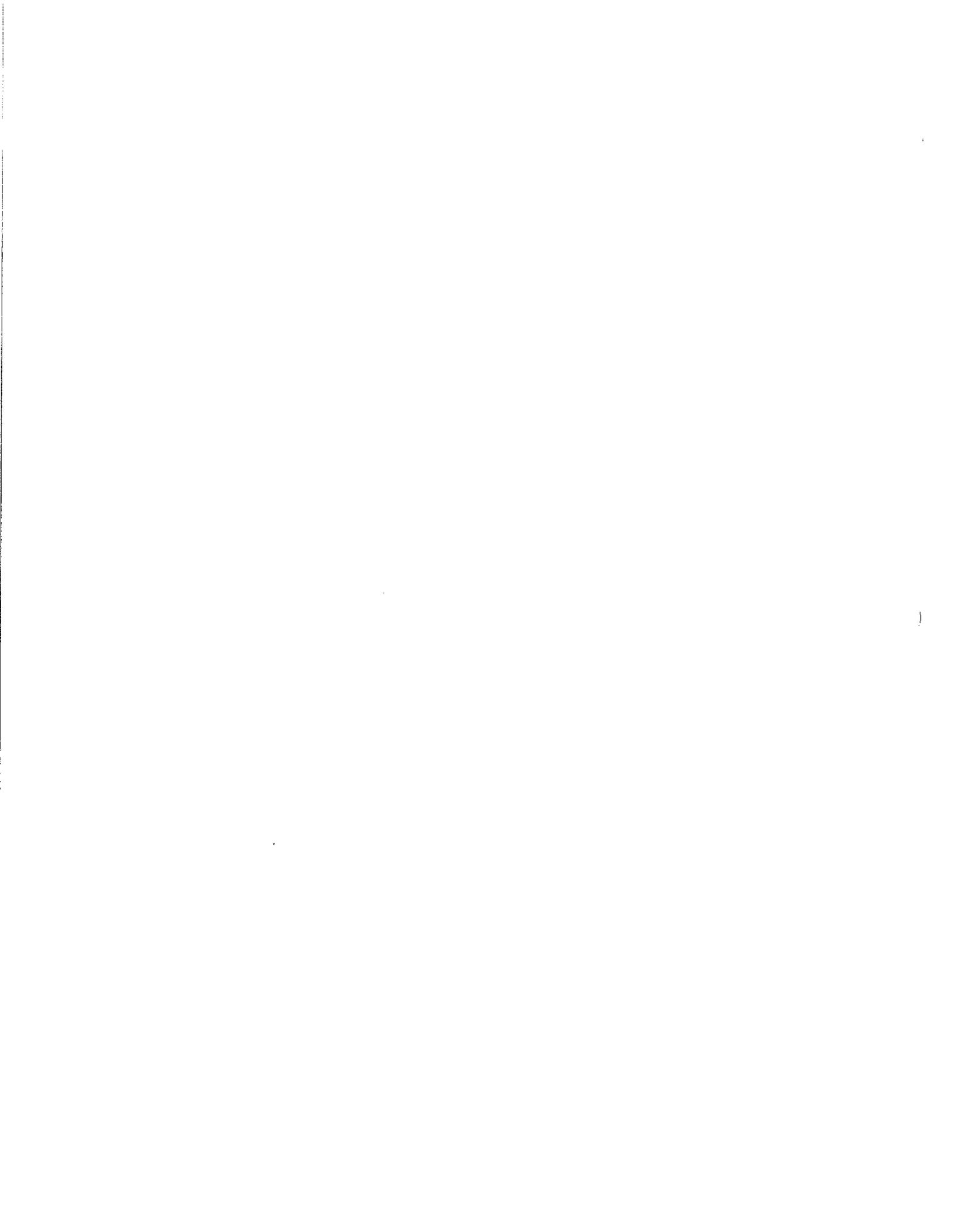
802 to 804 Reserved

805 **Bulk Fuel Storage Facilities**

In addition to all other applicable standards, bulk fuel storage facilities shall be developed in complete compliance with all applicable local, state, federal and insurance regulations and requirements. The Borough shall establish, as part of the conditional use process, such other conditions such as increased setbacks and construction of dikes as necessary to protect the public health safety and welfare.

806 to 808 Reserved

809 **Communication/Reception Antennae**



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

The following regulations shall apply to cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission, other commercial antennae and associated facilities, and certain antennae accessory to residential structures. Such antennae and associated facilities shall be permitted only in the districts as provided on the Schedule of Uses.

809.1 Purposes

- A. To accommodate the need for cellular phone and similar antennae while regulating their location and number in the Borough in recognition of the quasi-public nature of cellular phone systems.
- B. To minimize the adverse visual effects of antennae and antennae support structures through proper design, siting and vegetative screening.
- C. To avoid potential damage to adjacent properties from antennae support structure failure and falling ice, through engineering and proper siting of antennae support structures.
- D. To encourage the joint use of any new antennae support structures and to reduce the number of such structures needed in the future.

809.2 Use Regulations

- A. Existing Structures - An antenna site with an antenna that is attached to an existing communications tower, smoke stack, water tower, or other tall structure shall be considered a principal permitted use and conditional use approval shall not be required. The height of the antenna shall not exceed the height of the existing structure by more than ten (10) feet.
- B. New Structures - An antenna site with an antenna that is either not mounted on an existing structure, or is more than ten (10) feet higher than the structure on which it is mounted shall require conditional use approval in accord with this §809.
- C. Associated Use - All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the antenna site, unless otherwise permitted in the zoning district in which the antenna site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
- D. Antennae Accessory to Principal Structures for Other Permitted Uses - Any antenna accessory to a principal structure which is attached to the structure and which does not exceed the maximum height limitation of the district for principal structures by more than fifteen (15) feet, and any freestanding accessory antenna which does not exceed the maximum height limitation of the district for principal structures by more than fifteen (15) feet shall not be regulated by this §809. Any accessory antenna which exceeds said height shall be considered a conditional use and shall comply with the standards of this §809. No antenna accessory to a residential structure shall exceed a height of one-hundred (100) feet.



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

- E. Antenna as a Second Principal Use - An antenna facility shall be permitted on a property with an existing use subject to the following land development standards:
1. The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
 2. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the facility shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area and other requirements.
 3. Tile vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
 4. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

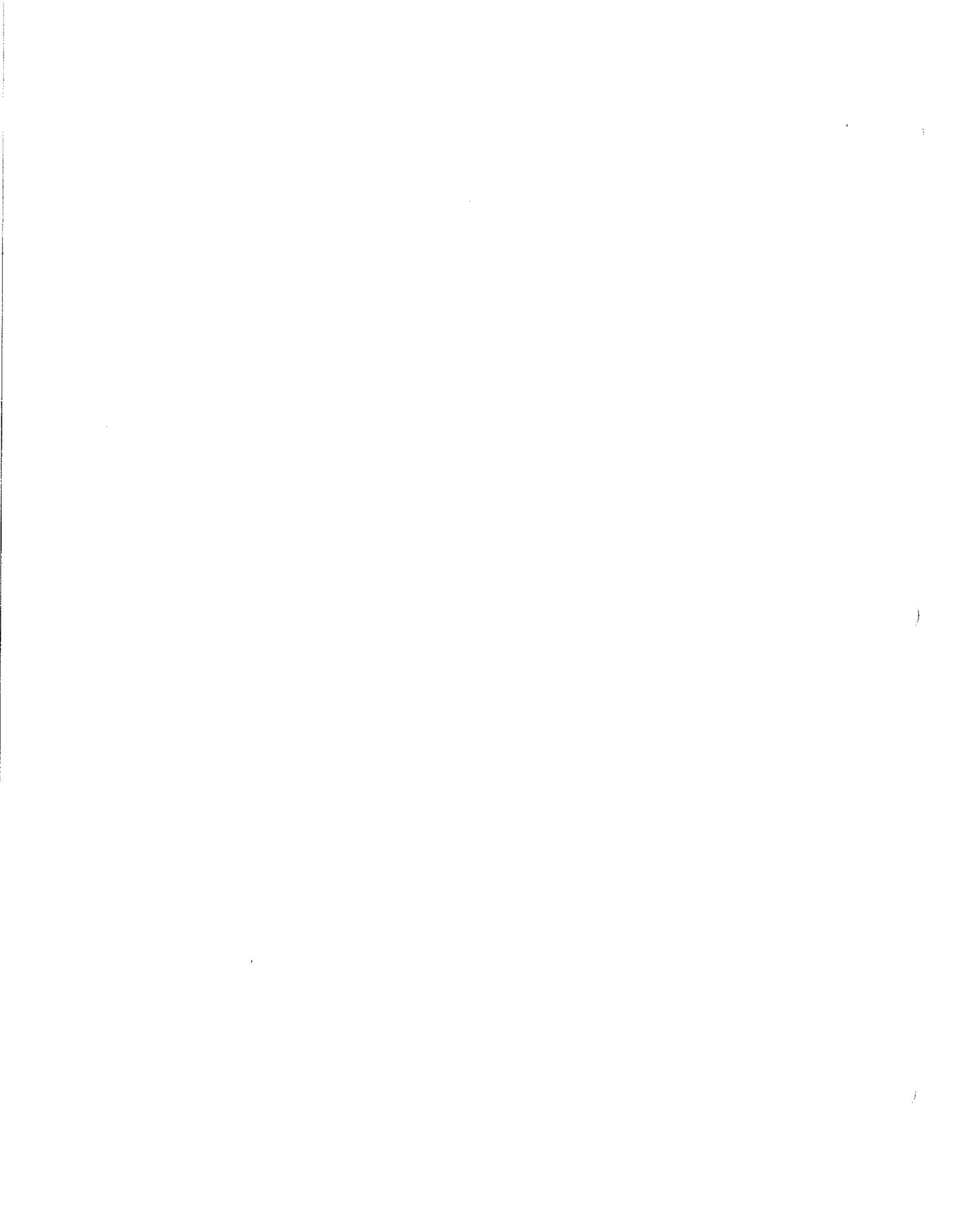
809.3 Standards

- A. Location Requirement - The applicant shall demonstrate, using technological evidence, that the antenna must go where it is proposed, in order to satisfy its function in the company's grid system. The number of antenna to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant must document the need for the additional Antenna to ensure the adequacy of current service.
- B. New Tower - If the applicant proposes to build a tower (as opposed to mounting the antenna on an existing structure), the Borough may require the applicant to demonstrate that it contacted the owners of tall structures within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. This would include smoke stacks, water towers, tall buildings, antenna support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Borough may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.
- C. Antenna Height - The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved. No antenna accessory to a residential structure shall exceed a height of one-hundred (100) feet.
- D. Setbacks from Base of Antenna Support Structure - If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure), the minimum distance between the base of the support structure and property line shall be not less than the height of the antenna. Lesser setbacks may be approved provided the applicant documents to the satisfaction of the Borough Council that the collapse of the antenna will not affect adjoining properties. All guy wire anchors shall be set back a minimum of thirty (30) feet from all property lines.



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

- E. Antenna Support Structure Safety - The applicant shall demonstrate that the proposed antenna 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. The tower and antennae shall be designed and constructed to all applicable and most current standards of the American National Standards Institute, and withstand wind gusts of up to 100 miles per hour. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. Within forty-five (45) days of initial operation, the owner and/or operator of the antenna shall provide a certification from a professional engineer that the antenna and support structure comply with all applicable regulations..
- F. Fencing - A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
- G. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the antenna site from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- H. Co-location; Other Uses - In order to reduce the number of Antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Township for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Township, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- I. Licenses and Other Regulations - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations.
- J. Required Parking - If the antenna site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- K.. Color and Lighting - Antenna support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No antenna support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation, and the antenna shall comply with all FAA and PA DOT requirements.



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

- L. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
- M. Historic Structures - An antenna shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- N. Discontinued Use - Should any antenna cease to be used as a communications facility, the owner or operator or then owner of the land on which the antenna is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Borough to remove the facility and assess the cost of removal to the foregoing parties. The Borough may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
- O. Site Plan - A full site plan shall be required for all Antenna sites, showing the Antenna, Antenna support structure, building, fencing, buffering, access, and all other items required in the Borough Subdivision and Land Development Ordinance. The site plan shall not be required if the Antenna is to be mounted on an existing structure and the antenna does not exceed the height of the existing structure by more than fifteen (15) feet.

810 to 816

817 Institutions

Institutions are considered conditional uses, and in addition to all other applicable standards, institutions shall be in strict conformity with the following specific requirements and regulations.

817.1 Parcel Size

The parcel size shall be adequate to provide the buffer area required by this Ordinance for adjoining private property owners and to meet all other applicable standards.

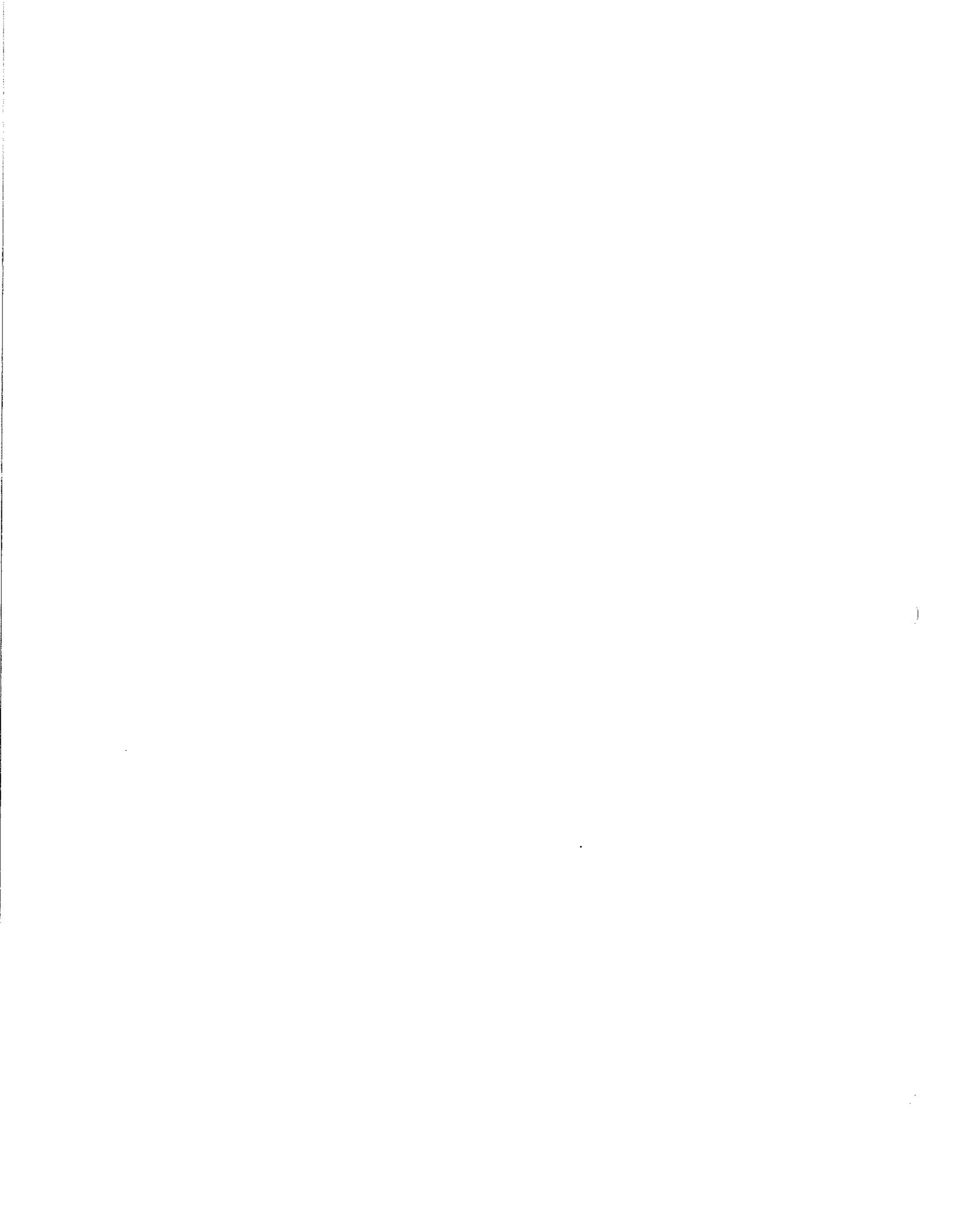
817.2 Site Design Standards

The site shall be improved in accordance with the following minimum requirements:

- A. The building shall not be less than seventy-five (75) feet from any property line and the right-of-way line of any abutting public road.
- B. A perimeter security fence may be required by the Borough.

817.3 Security

All applications for institutions shall include a plan addressing security needs to protect the health and safety of the public as well as residents of the proposed facility. Such plan shall include a description of the specific services to be offered,



**CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES**

types of residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

817.4 Accessory Uses and Ancillary Activities

Accessory uses permitted in conjunction with an institution shall include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other accessory uses ordinarily provided in conjunction with such institutions.

818 to 819 Reserved

820 Junk Yards

Junk yards are considered conditional uses in the MI District. In addition to all applicable requirements of this Ordinance, junk yards shall comply with the requirements of Chapter 10 of the Code of the Borough of Clarks Summit.

821 Reserved

822 Kennels

- A. Parcel Size - A minimum parcel of twenty thousand (20,000) square feet shall be required.
- B. Setbacks - Any structure used for the keeping of animals shall be a minimum of thirty (30) feet from property lines and one hundred (100) feet from any residential use or residential district.
- C. Parking - Adequate off-street parking shall be provided pursuant to the requirements of this Ordinance with one (1) space for each non-resident employee and one (1) space per four (4) animals kept on the premises.
- D. Noise Barrier - Buildings shall be adequately soundproofed so that sounds generated within the building cannot be routinely heard within any adjacent building. A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas not enclosed in a building.
- E. Hours Outdoors - All animals shall be restricted from using kennel areas not fully enclosed in a building from 8:00 p.m. to 8:00 a.m., and runs for dogs shall be separated by visual barriers not less than four (4) feet in height to minimize dog barking.
- F. Nuisances - All animal wastes shall be stored in an area meeting the setbacks in §5B above and shall be



**CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES**

disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

823 Reserved

824 Livestock Operations and Commercial Stables

- A. Parcel Size - A minimum parcel of two (2) acres shall be required for the residence and stable.
- B. Number of Horses - No more than two (2) horses shall be kept except that one (1) additional horse may be kept for each additional full one (1) acre of land.
- C. Building Size - Two hundred (200) square feet of stable building area shall be provided for each horse kept on the property.
- D. Setbacks - No stable building or corral or other indoor or outdoor area used for feeding of animals or manure storage shall be located within one hundred (100) feet of an adjoining or neighboring property line and seventy-five (75) feet from any public or private road.
- E. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means.
- F. Uses Prohibited - The following types of uses shall not be permitted as part of the horse farm operation:
 - 1. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
 - 2. Commercial horse racing.
 - 3. Sale of horses other than the horses raised on the premises.
 - 4. Retail or wholesale sales of any goods or merchandise.

825 to 835 Reserved

836 Recycling Facilities

The intent of this §836 is to encourage recycling and thereby reduce litter, increase the volume of material which is recycled and conserve landfill capacity by the convenient location of community recycling facilities including collection and processing facilities. Standards are provided to assure that said facilities are developed in a manner consistent with the community's character and which will minimize any negative effects on adjoining residential and commercial uses.

Recycling facilities shall be limited to accepting and processing those materials considered recyclable as defined by this Zoning Ordinance. The inclusion of additional materials for recycling may be considered by the Borough as a conditional use provided the applicant provides evidence that the intent and level of control of this §836 are not compromised.

All recycling facilities shall be considered conditional uses and in addition to the conditional use standards, commercial



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

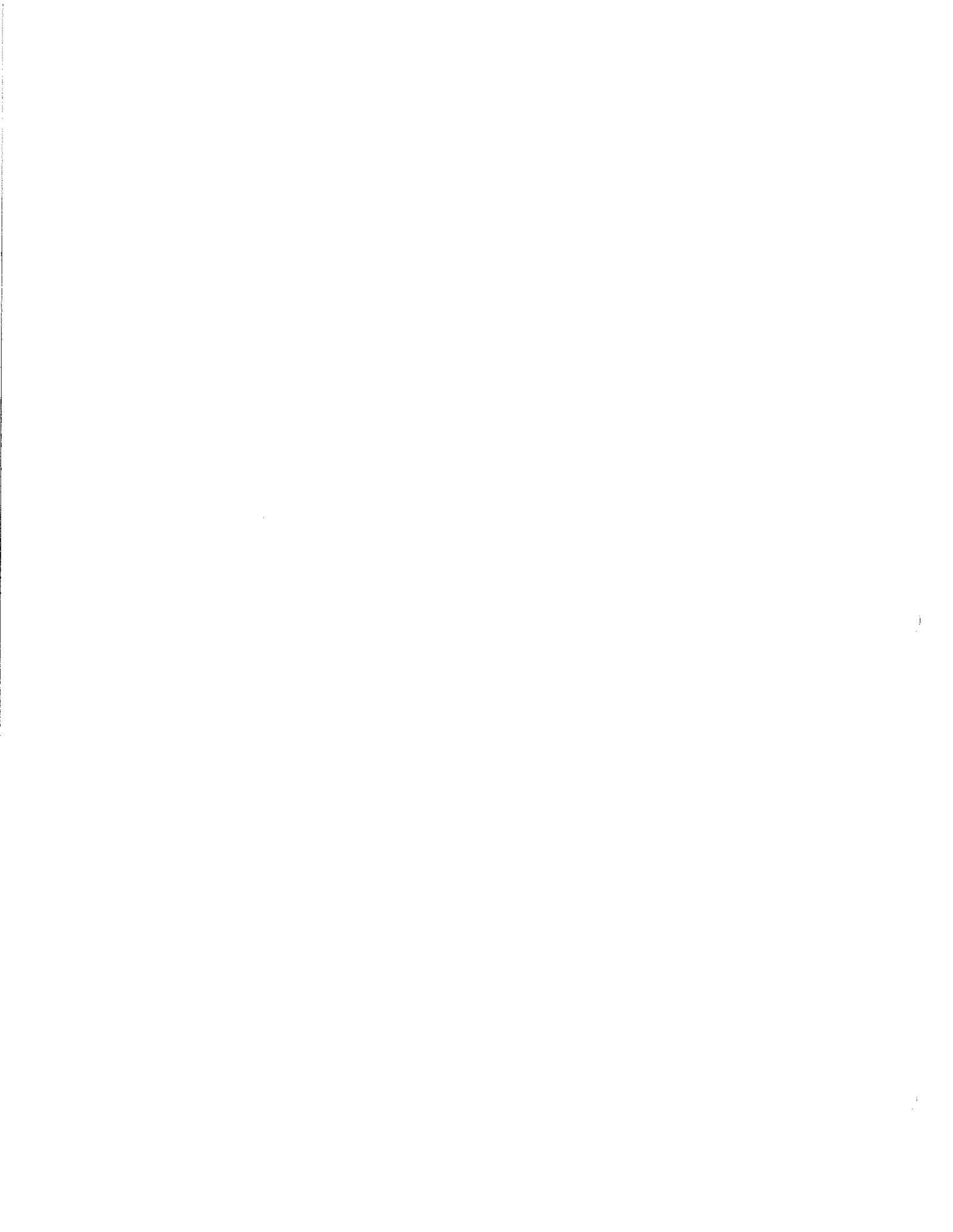
standards, and all other applicable standards in this Ordinance, the standards in this §836 shall apply as indicated. The requirements of this §836 shall not apply to Borough sponsored recycling facilities.

836.1 Small Collection Facilities

In addition to all other applicable standards in this Ordinance, small collection facilities shall comply with the following standards:

- A. Small collection facilities shall be established only in conjunction with an existing commercial use or community service facility which is in compliance with the zoning, building and other Borough Ordinances.
- B. The total area of all containers shall be no larger than five-hundred (500) square feet and occupy no more than five (5) parking spaces, not including space that will be periodically needed for removal of materials or exchange of containers.
- C. All containers shall be set back at least twenty-five (25) feet from any street line and shall not obstruct pedestrian or vehicular circulation.
- D. The facility shall accept only recyclables as defined by this Ordinance.
- E. No power-driven processing equipment shall be permitted.
- F. Containers shall be constructed and maintained with durable waterproof and rustproof material, covered when site is not attended, secured from unauthorized entry or removal of material, and of a capacity sufficient to accommodate materials collected in accord with the collection schedule.
- G. All recyclables shall be stored in containers or in a mobile unit vehicle, and materials shall not be left outside of containers.
- H. The area shall be maintained free of litter and any other undesirable materials, and mobile facilities, at which truck or containers are removed at the end of each collections day, shall be swept at the end of each collection day.
- I. All containers for the deposit of materials shall maintain the setbacks required for the District. Larger setbacks, buffers, or fencing may be required as deemed necessary by the Borough in accord with §701 of this Ordinance.
- J. Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and a notice shall be displayed clearly stating that no material shall be left outside the recycling enclosure or containers.

836.2 Large Collection Facilities



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

A large collection facility is one that is larger than five-hundred (500) square feet but does not exceed twenty thousand (20,000) square feet, or is on a separate property not appurtenant to a host use, and which may have a permanent building. The following standards shall apply in addition to all other applicable standards in this Ordinance.

- A. The facility shall be screened from adjoining properties and the public right-of-way by operating in an enclosed building; or within an area enclosed by an opaque fence at least six (6) feet in height with landscaping.
- B. Setbacks and landscape requirements shall be those provided for the zoning district in which the facility is located; All buildings, structures, containers and stored materials shall maintain the required setbacks. Additional buffers, setbacks, or fences may be required by the Borough in accord with §701 of this Ordinance.
- C. All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition, or recyclables shall be baled or palletized. Storage containers for flammable material shall be constructed of non-flammable material. No storage, excluding truck trailers and overseas containers shall be visible above the height of the fencing.
- D. The site shall be maintained free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis.
- E. Space shall be provided on site for at least six (6) vehicles or for the anticipated peak customer load, whichever is higher, to circulate and to deposit recyclable materials.
- F. Parking shall be provided in accord with the parking regulations contained in this Ordinance; and, at a minimum, one (1) parking space shall be provided for each working employee and for each commercial vehicle operated by the recycling facility.
- G. Any containers provided for after-hours donation of recyclable materials shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials.
- H. All containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.
- I. The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs shall meet the standards of this Ordinance. Directional signs bearing no advertising message may be installed in accord with this Ordinance, if necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way.
- J. Power-driven processing, including aluminum and bi-metal can compacting, baling, plastic shredding, glass crushing, or other light processing activities necessary for efficient temporary storage and shipment of material, may be approved, provided noise and other operational concerns are addressed to the satisfaction of the Borough.



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

836.3 Recyclable Processing Facilities

Recyclable processing facilities, as defined by this Zoning Ordinance, shall comply with all standards applicable to manufacturing uses.

837 to 840 Reserved

841 Self-Storage Facilities

Self-storage facilities shall comply with the following standards in addition to all other applicable standards of this Ordinance.

- A. Minimum lot size, lot width and yards, and maximum lot coverage and building height shall conform to District standards. Minimum distance between buildings shall be twenty (20) feet.
- B. There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).
- C. The facility shall be surrounded by a fence of such height and design as to restrict access to the warehouse, and said fence shall not be less than six (6) feet in height and shall be located between the warehouse and any required vegetative screening.
- D. No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.
- E. No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.
- F. All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.
- G. All storage units shall be fire-resistant and water-resistant.
- H. All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the conditional use application and shall provide specific rules and regulations to insure that the requirements of this §841 are or will be satisfied.

842 to 844 Reserved

845 Shopping Centers, Malls, and Multiple Occupant Commercial Establishments

It is the intent of this §845 to provide standards for the flexibility of design of shopping centers and malls, while at the



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

same time to assure the compatibility of the commercial development with the surrounding character of the Borough. This shall be accomplished by:

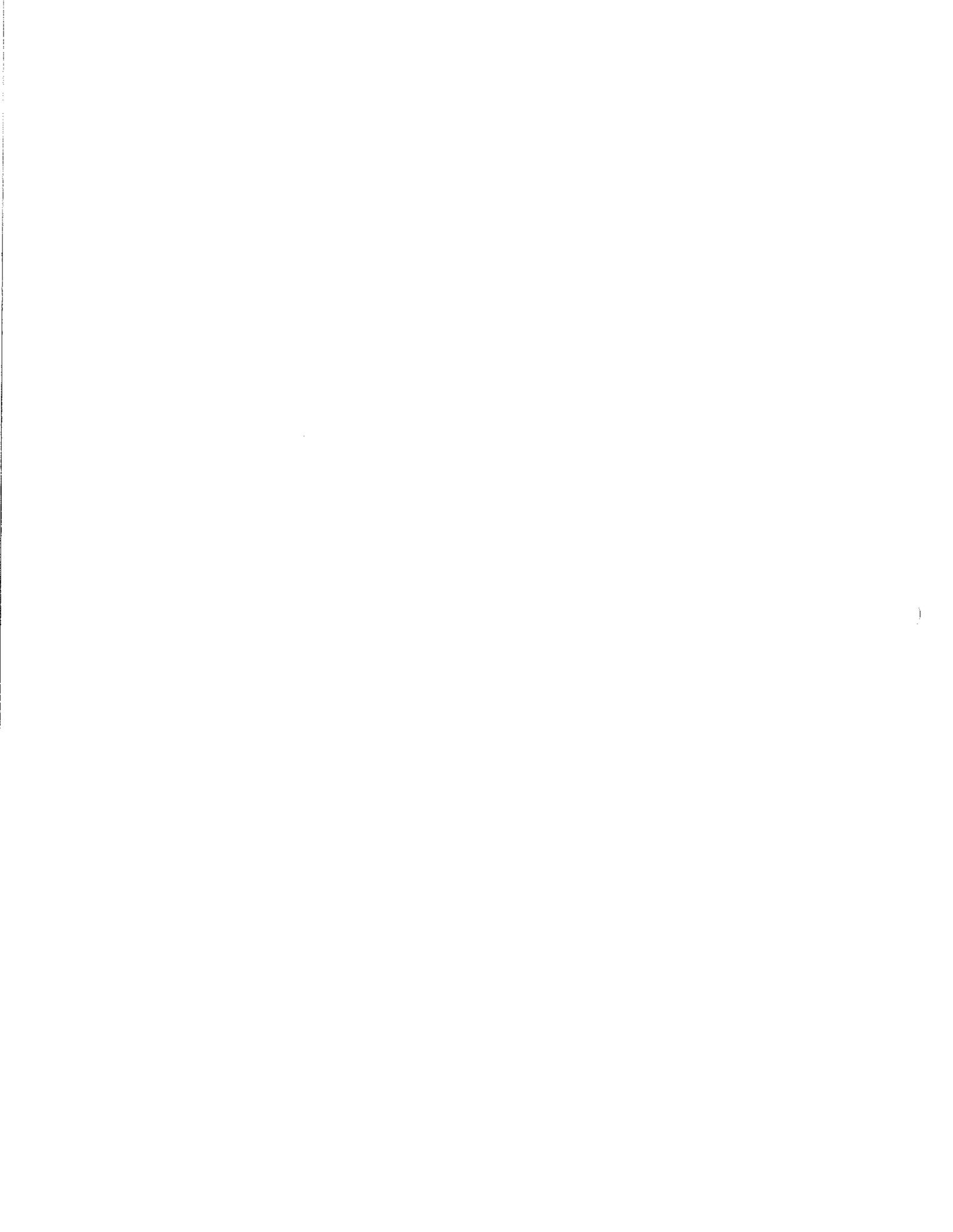
- A. Siting buildings, parking areas and other facilities and improvements based upon the particular topography of development site;
- B. Designing buildings with consideration of architectural style and type of construction material in keeping with the surrounding landscape and development pattern;
- C. Providing safe and convenient access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
- D. Designing parking areas to complement patterns of traffic flow and to provide adequate off-street parking for shopping center patrons;
- E. Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
- F. Considering the impact of storm water, noise, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts;

845.1 Conditional Use and Land Development

Any proposed shopping center or mall shall be considered a conditional use, and in addition to the other applicable requirements of this Ordinance, shall be subject to the requirements of this §845.

Said proposal shall also be considered a "land development" as defined by the Pennsylvania Municipalities Planning Code and the Borough Subdivision and Land Development Ordinance and shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Borough may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Borough Ordinances.)

- A. Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and municipal boundary lines, within five hundred (500) feet of the tract;
- B. A traffic flow chart showing circulation patterns from the public right-of-way and within the confines of the shipping center.
- C. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
- D. Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;



**CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES**

- E. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- F. Location and dimensions of pedestrian entrances, exits, walks;
- G. Location, height, and materials of walls, fences, screen plantings, and other landscaped areas.
- H. Preliminary architectural drawings for all buildings;
- I. Location, size, height, and orientation of all signs other than signs flat on building facades;

845.2 Ownership

The site proposed for any shopping center or mall shall be held in single ownership or in unified control; and the applicant shall provide to the Borough evidence of said ownership and/or control.

846 to 847 Reserved

848 Solid Waste

Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities, shall be considered conditional uses in the MI District only, and shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §848.

848.1 Traffic Study

The applicant shall provide evidence by a professional person or firm competent to perform traffic analysis showing that the traffic generated by the site will not cause a reduction in the level of service on the roads used by said facility. The applicant shall provide copies of the completed traffic analysis to the Chief of Police and the Borough Engineer for review and approval. The Chief of Police and Borough Engineer shall transmit their review in writing to Borough Council, the applicant and other known parties of interest prior to the hearing. If the facility will cause a reduction in the level-of-service approval shall not be granted.

- A. The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any residence, commercial or retail establishment, public school or religious institution.
- B. The traffic impact study and plan shall include proposed remedial actions to be taken in the event of a solid waste spill or accident involving a vehicle transporting solid waste.

848.2 Yards

No part of any facility created after the effective date of this Ordinance shall be located closer than seventy-five (75) feet to an existing public right-of-way, property line or stream. The yard areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than fifty (50) feet in width shall be provided



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

in all yards in accord with §701 of this Ordinance. Additional buffers and setbacks may be required in accord with this Ordinance.

848.3 Fencing

All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing facilities and prior to the issuance of a certificate of-use for a new facility. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.

848.4 Environmental Impact Statement

As part of the conditional use process, the Borough may require the applicant to prepare and submit an Environmental Impact Statement pursuant to §703 of this Ordinance.

848.5 Storage and Loading/Unloading

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

848.6 Effluent Treatment

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

848.7 Dangerous Materials

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

848.8 Water Quality

The owner of any facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the solid waste disposal facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Council, and results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall cease operation until such time as the source of the contamination has been identified and corrected.

848.9 Emergency Access

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

848.10 Hours of Operation

Under the authority granted to the Borough under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, 4th of July, Labor Day, Memorial Day or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.

848.11 Nuisances

Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Borough Council that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of Borough Council that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.

848.12 Attendant and Inspections

An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a Conditional Use Permit, allow access at any time to the facility for inspection by appropriate Borough Officials and provide the Borough with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.

848.13 State and Federal Regulations and Reporting

The operation and day-to-day maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit of the Borough. Violations of this condition shall also be considered to be violations of this Ordinance. All solid waste transfer facilities (as defined by this Ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where no permit is required by DEP, all references to DEP shall be amended to read the



**CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES**

Borough of Clarks Summit. Where a difference exists between applicable State regulations and Borough regulations, it is intended for the purposes of this §848 that the more stringent requirements shall apply. A copy of all written materials and plans that are submitted to DEP by the applicant shall be concurrently submitted to the Zoning Officer.

849 to 850 Reserved

851 Swimming Pool, Commercial

Commercial swimming pools, in addition to all other applicable requirements of this Ordinance, shall comply with the standards in this §851.

- A. The water surface shall be not less than twenty-five (25) feet from any lot line.
- B. The minimum lot area shall be twenty thousand (20,000) square feet.
- C. A fence, wall or other enclosure not less than six (6) feet high and of a design to restrict access shall completely surround the area of the swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.
- D. Access to all pools shall be restricted when the pool is not in use.
- E. Any inlet from a central water system shall be above the overflow level of the pool

852 to 855 Reserved

856 Vehicle Related Uses

Vehicle related uses shall be considered conditional uses in the HC District and, in addition to all other applicable standards, shall comply with the standards in this §856.

856.1 Car and/or Truck Wash Facilities

All car and truck wash facilities shall be subject to the following specific regulations and requirements:

- A. The principal building housing the facility shall be located on the site to meet the requirements of this §856.1, but in no case less than the minimum setback requirements of the district.
- B. Appropriate facilities for the handling of waste water from the washing activities shall be provided including, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather.
- C. The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

seventy-five (75) feet from the intersections of the front and side street right-of-way lines.

- D. The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three (3) vehicles.
- E. Any wash facility located within one hundred (100) feet of any residential district shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

856.2 Gasoline Service Stations and/or Vehicle or Equipment Repair Operations

All gasoline service stations and/or vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:

- A. The principal building housing the facility shall be located on the site to meet the requirements of this §856.2, but in no case less than the minimum setback requirements of the district.
- B. All service and repair activities shall be conducted within in completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- C. Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than three (3) vehicles per service stall outdoors, it shall comply with the junk regulation set forth in this and other Borough Ordinances.
- D. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- E. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- F. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- G. No vehicles shall be stored within five (5) feet if any adjoining residential zoning district or residential property.
- H. The supports for any gas island canopy shall not be less than fifteen (15) feet from and road right-of-way or property line and the canopy overhang shall be not less than five (5) feet from and road right-of-way or property line.
- I. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume



CHAPTER 27
ZONING
STANDARDS FOR SPECIFIC USES

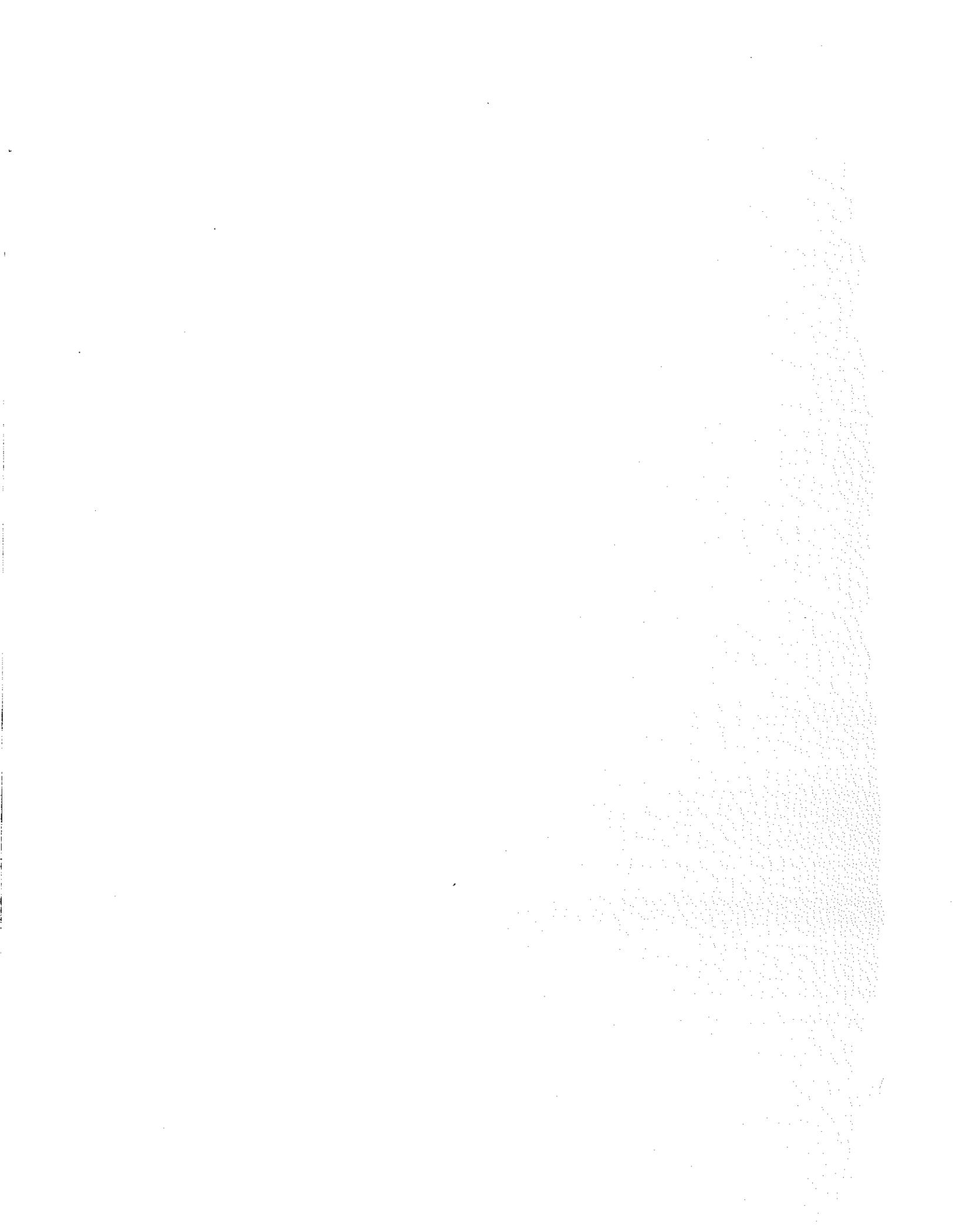
collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

856.3 Vehicle or Equipment Sales Operations

All vehicle or equipment display and sales operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific requirements:

- A. All principal and accessory buildings and structures shall be in accord with the yard setback, building height and lot coverage requirements of the District.
- B. No new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers or other equipment or vehicles shall be stored within five (5) feet of any adjoining residential zoning district or residential property.
- C. Activities which are normally accessory to such sales operations, such as engine tuneup and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards in §856.2 above.
- D. In addition to vehicles for sale, only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four (4) vehicles per service stall in exterior areas, it shall comply with the junkyard regulations set forth in this Ordinance. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- E. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- F. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.





**CHAPTER 27
ZONING
NONCONFORMITIES**

**ARTICLE IX
NONCONFORMITIES**

901 Purpose, Applicability, Registration, and Continuation and Change

901.1 Purpose

It is the purpose of this Article to recognize that if, prior to the adoption of the original Borough of Clarks Summit Zoning Ordinance as amended, reenacted and replaced, property was used for a then lawful purpose or in a then lawful manner which the Zoning Ordinance would render thereafter prohibited and nonconforming, such property is generally held to have acquired a vested right to continue such nonconforming use or nonconforming structure. Nevertheless, this does not preclude the Borough from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law.

It is also the purpose of this Article to limit the injurious impact of nonconforming uses and/or structures on other adjacent properties within a particular district and the community as a whole, while recognizing that the change, alteration, reconstruction, reestablishment, or extension of non-conforming uses and/or structures may not be contrary to the public interest or the general purpose of this Zoning Ordinance; when failure to allow such change, alteration, reconstruction, reestablishment, or extension would itself lead to neighborhood or district deterioration.

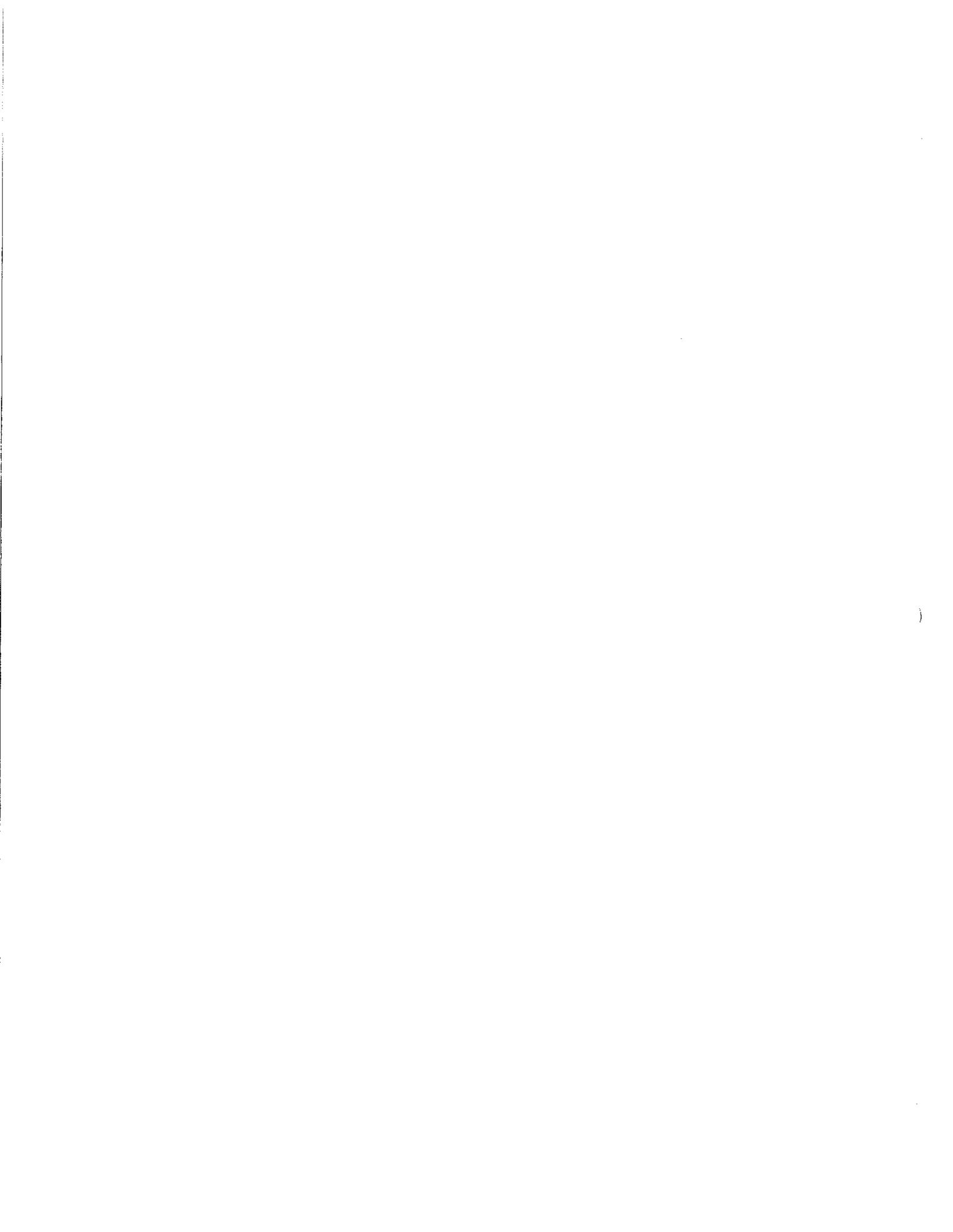
It is further the purpose of this Article to prescribe those standards which are to be applied by the Borough in determining the reasonableness of a proposal to change, alter, reconstruct, reestablish, or extend a non-conforming use. The following are regulations which shall apply.

901.2 Applicability

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

901.3 Registration

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



**CHAPTER 27
ZONING
NONCONFORMITIES**

901.4 Continuation and Change

A lawful nonconforming lot, structure or use as defined by this Ordinance may be continued and may be sold and be continued by new owners. Any expansion, alteration, extension or change in a nonconformity shall only proceed in compliance with this Article.

901.5 Loss of Nonconformity

In the case where any nonconforming lot, structure or use which is changed, altered or reestablished to become conforming, the nonconformity shall be deemed abandoned, and thereafter, the said lot, structure or use shall not revert to any nonconformity.

902 Definitions

902.1 Nonconforming Lot

Any lot which does not conform with the minimum width, depth or area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Lackawanna County Recorder of Deeds prior to the effective date of the original Borough of Clarks Summit Zoning Ordinance, as amended, reenacted and replaced.

902.2 Nonconforming Structure

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

902.3 Nonconforming Structure, Alteration or Expansion

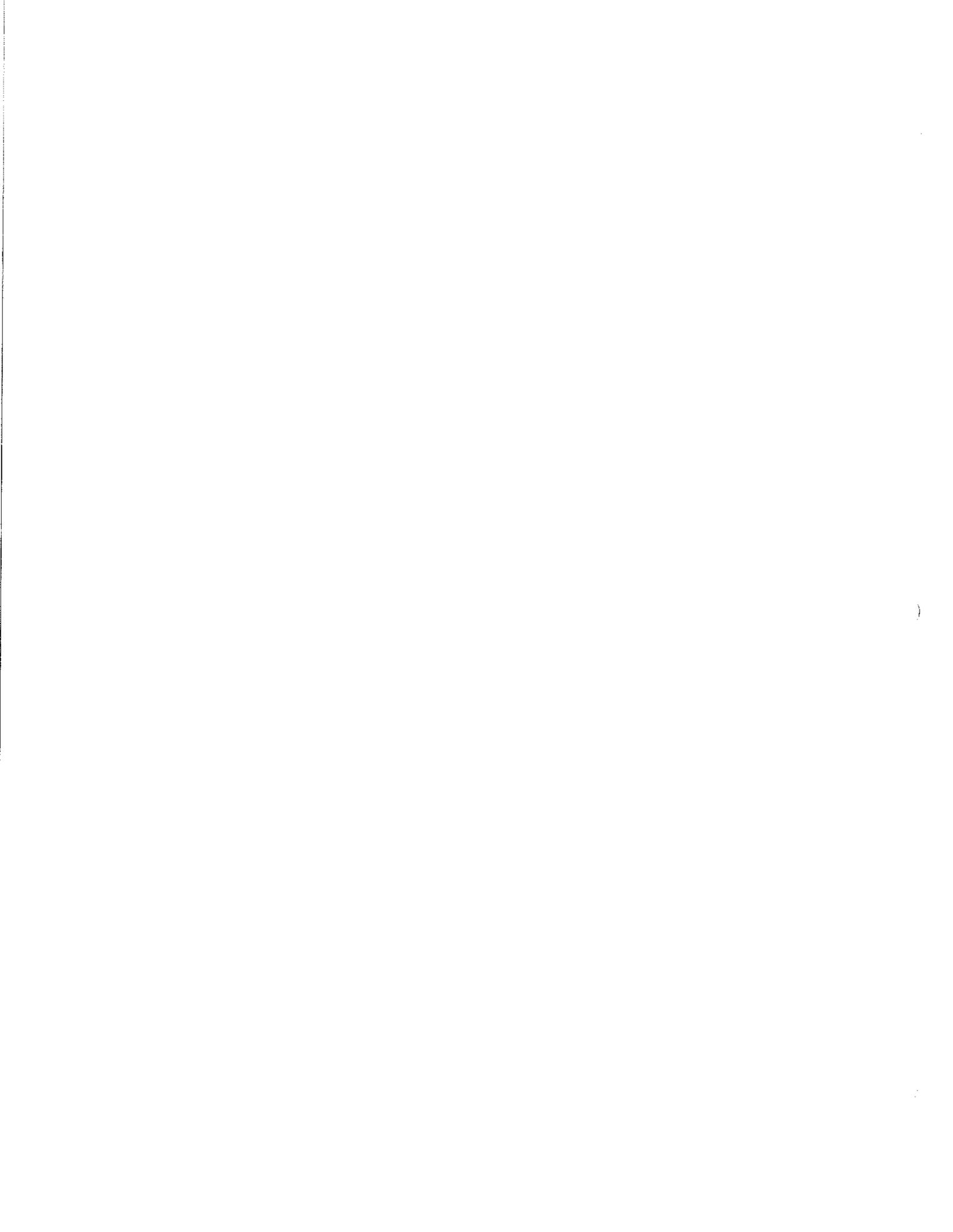
As applied to a nonconforming structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

902.4 Nonconforming Structure, Reconstruction

The rebuilding of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.

902.5 Nonconforming Use

A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments hereto, where such use was Lawfully in existence prior to the enactment of the original Borough of Clarks Summit Zoning Ordinance, as amended, reenacted and replaced.



**CHAPTER 27
ZONING
NONCONFORMITIES**

902.6 Nonconforming Use, Change

The conversion of a nonconforming use to a different use classification as enumerated on the Schedule of Uses of this Zoning Ordinance.

902.7 Nonconforming Use, Extension

The expansion of a nonconforming use throughout the structure which the said use partially occupies; or the expansion of a nonconforming use onto property not already occupied by the said use.

902.8 Nonconforming Use, Reestablishment

The reopening or reinstatement of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Zoning Ordinance.

903 Nonconformities Under Development

For the purposes of this Article IX, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing Ordinances prior to the effective date of this Ordinance, or any amendment hereto, and completed within a one-year period after the effective date of this Ordinance or amendment hereto, shall be considered nonconforming.

904 Nonconformities by Variance

A building, structure or use allowed by variance in a district where it is non-conforming with any regulations of this Ordinance, as amended, reenacted and replaced, shall be considered nonconforming for the purposes of this Ordinance.

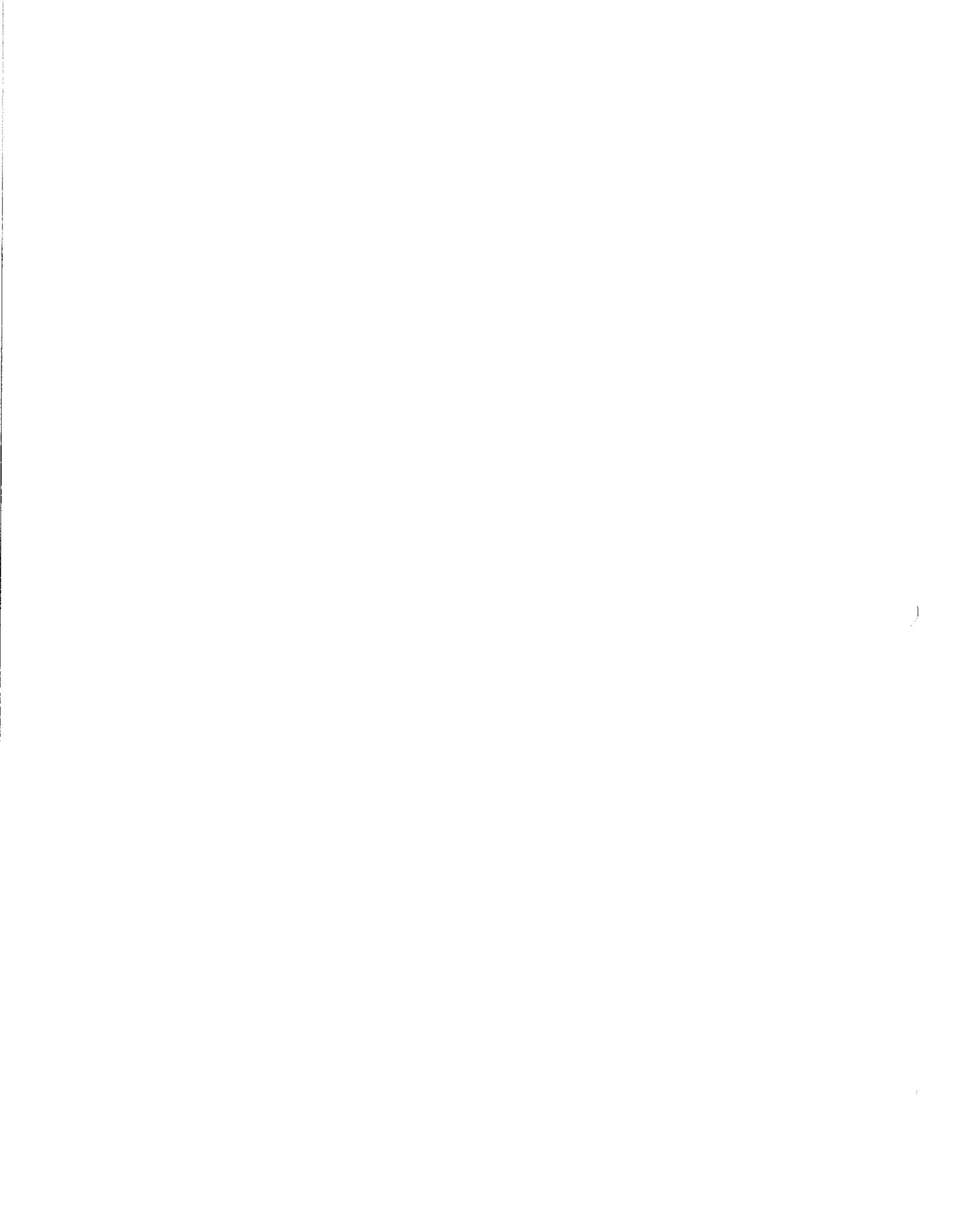
905 Normal Maintenance and Repair Activities

Normal maintenance and repair, such as painting, replacement of siding, and similar activities is allowed, as well as those interior renovations which do not structurally alter the building or area or result in increased use of the building or area, or a change of nonconforming, or otherwise create more incompatibility with the surrounding permitted uses. Such maintenance and repair activities shall, however, shall comply with all other applicable standards and permit requirements of this Ordinance.

906 Changes of Nonconforming Uses

906.1 Conditional Uses

All changes of nonconforming uses shall be considered conditional uses subject to the specific procedures and review criteria contained in Article XI of this Ordinance and the review factors in §912 of this Article. A nonconforming use may only be changed to a use of equal or less nonconformity (i.e. more restrictive classification) as determined by the Planning Commission and Council in accord with classification of the uses in the Schedule of Uses of this Ordinance.



**CHAPTER 27
ZONING
NONCONFORMITIES**

The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative affects on the community and the long term application of the Zoning Ordinance to eliminate incompatible uses from specific zoning districts. For example, a change from a nonconforming retail store in R-1 District to a bank may be permitted; however, a change to a manufacturing use would not be permitted.

906.2 Conforming Changes and Conversions

A change in a nonconforming use to a conforming use shall not be considered a conditional use unless the proposed use is classified as a conditional use by the Schedule of Uses in this Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.

The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a conditional use. For example, a nonconforming retail establishment selling groceries proposed for conversion to a shoe store would not be considered a change in nonconforming use.

906.3 Other Standards

All changes to nonconforming uses shall also be subject to all other applicable standards in this Ordinance.

907 Extension of Nonconforming Uses

907.1 Conditional Uses

All extensions of nonconforming uses into more area of a structure or onto more area of property shall be considered conditional uses subject to the specific procedures and review criteria contained in Article XI of this Ordinance, and the review factors in §912 of this Article.

907.2 Extension onto Other Properties of Record in the Same Ownership

A nonconforming use may only be extended onto a new property of record if that property is contiguous to the existing location, the properties were both under the same ownership as of the effective date of this Ordinance, as amended, the owner has clearly exhausted the alternatives available for expansion on the existing property, and the use is not one which has been altogether prohibited as a new use under this Ordinance.

907.3 Extension Limitation

A nonconforming use shall not be extended more than fifty (50) percent beyond the area of land or structure legally occupied by the use.

907.4 Prohibited Extensions

Should the use proposed for extension be one which is specifically prohibited as a new use in the Borough or is a use



CHAPTER 27
ZONING
NONCONFORMITIES

judged by the Borough to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this Ordinance, the requested extension shall be denied. The Council shall consider past operating performance in making its decision.

908 Reconstruction

908.1 Time Limit

If any nonconforming structure or use (see Subsections 908.4 below for exception) is damaged up to a maximum of seventy-five (75) percent of its appraised fair market value as a result of a casualty, it may be restored or reconstructed to its preexisting condition of nonconformity provided:

- A. The application for a building permit is submitted within eighteen (18) months of the date of the casualty.
- B. The nonconformity is not increased and no new nonconformity is created.

908.2 Procedure - Permits

All applicable permits for the reconstruction of a nonconforming use shall be required. Such reconstruction shall be considered a conditional use if the reconstruction involves a change or extension of use as regulated by §906 and §907 of this Ordinance, respectively.

908.3 Reconstruction Prohibited

A nonconforming structure that has been damaged or destroyed by more than seventy-five (75) percent of its appraised fair market value by any cause shall not be rebuilt in any nonconforming manner except as provided for dwellings in §908.4.

908.4 Dwellings and Buildings in CC Districts

A destroyed or damaged nonconforming building containing not more than two (2) dwelling units and any building in a CC District may be reconstructed regardless of the percentage of destruction provided:

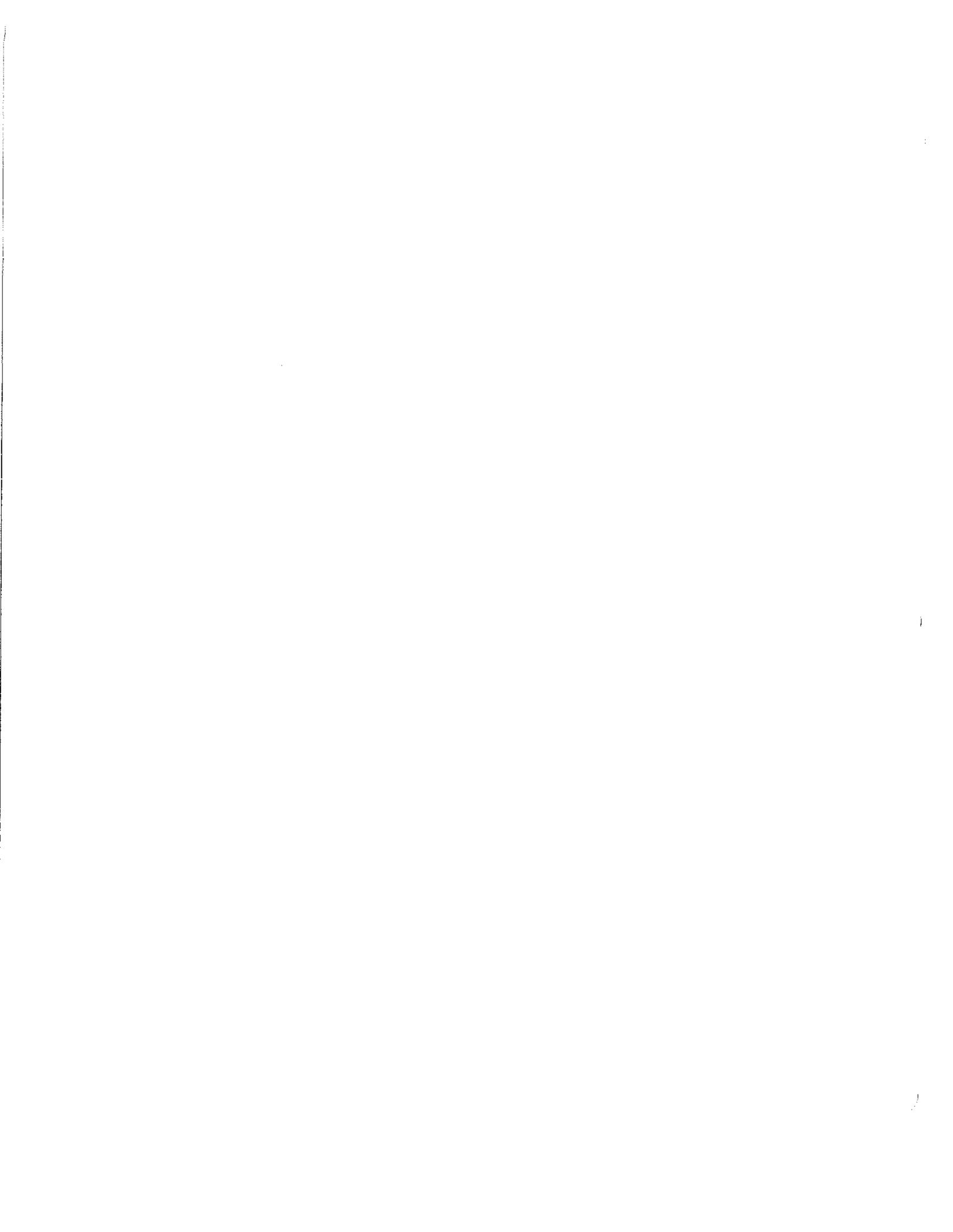
- A. The application for a building permit is submitted within eighteen (18) months of the date of the casualty.
- B. The nonconformity is not increased and no new nonconformity is created.

908.5 Fair Market Value

The applicant shall have the burden of proof to document the percent of the fair market value that was damaged. Such proof shall require an appraisal by a licensed real estate broker with substantial appraisal experience. Fair market value shall be as generally defined by real estate practice.

909 Abandonment of Nonconformities

If a non-conforming use of a structure or land is discontinued, razed, removed or abandoned for twelve (12) months or



**CHAPTER 27
ZONING
NONCONFORMITIES**

more, subsequent use of such structure or land shall conform to the regulations of the zoning district in which it is located, except for reconstruction in accord with §908.

910 Alterations and Expansions of Nonconforming Structures

910.1 Alterations

The alteration or expansion of nonconforming structures shall be permitted only in accord with this §910.

910.2 Procedure - Permits

All applicable permits for the alteration or expansion of a nonconforming structure shall be required. Such alteration or expansion shall be considered a conditional use if the alteration or expansion involves a change or extension of a nonconforming use as regulated by §906 and §907 of this Ordinance, respectively. Alterations to reduce the nonconformity of setbacks may be permitted by the Zoning Officer provided the Zoning Officer determines the nonconformity is being reduced as intended by this Zoning Ordinance and in accord with the physical features of the lot.

910.3 Nonconforming Setbacks

Should a building have a lawful nonconforming side or rear building setback, the structure may be altered to increase the height above such setback or to extend other portions of the building up to such nonconforming setback line provided no additional nonconformity is created. However, such additions shall not be permitted to any non-residential structure which abuts a residential use.

910.4 Increase in Area or Bulk Nonconformity

In the case where a proposed alteration or expansion of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required from the Zoning Hearing Board.

911 Use of Nonconforming Lots of Record

911.1 Single Family Dwelling

A single-family dwelling may be erected or expanded on any lawful nonconforming lot of record in any District, provided:

- A. Adjoining Property - The lot owner does not own adjoining property, nor has owned such property within the twelve (12) months preceding the effective date of this Ordinance, which can be combined to make the lot conforming.
- B. Front Yard - The required front yard setback is maintained as required for the District in which the lot is located.



**CHAPTER 27
ZONING
NONCONFORMITIES**

- C. Rear Yards - No rear yard setback is reduced to less than fifteen (15) feet.
- D. Side Yard - Each side yard may be reduced by the same ratio as the ratio of the width of the subject lot to the lot width required for the district, but in no case shall a side yard be reduced to less than five (5) feet.
- E. Other Standards - All other applicable standards in this Ordinance are satisfied.
- F. Sewage Disposal - Sewage disposal is provided in accord with applicable Borough and PA DEP requirements.

911.2 Commercial Uses

A commercial use may be developed on any lawfully existing nonconforming lot where permitted by the Schedule of Uses provided:

- A. Adjoining Property - The lot owner does not own adjoining property, nor has owned such property within the twelve (12) months preceding the effective date of this Ordinance, which can be combined to make the lot conforming.
- B. Setbacks - All setbacks normally required in the District are maintained.
- C. Lot Size Requirement This Ordinance does not require an increased lot size for the specific use.
- D. Other Standards - All other applicable standards in this Ordinance are satisfied.
- E. Sewage Disposal - Sewage disposal is provided in accord with applicable Borough and PA DEP requirements.

912 Review Factors

The Borough shall consider any nonconformity conditional use application in terms of the effect on the following factors:

- A. Traffic generation.
- B. Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- C. Amount and nature of outdoor storage
- D. Hours of operation.
- E. Compatibility with the character of the surrounding neighborhood.
- F. Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.



**CHAPTER 27
ZONING
COMMON FACILITIES -
OWNERSHIP AND MAINTENANCE**

**ARTICLE X
OPEN LAND, RECREATION LAND, DEVELOPMENT IMPROVEMENTS AND
COMMON FACILITIES -- OWNERSHIP AND MAINTENANCE**

This Article X shall apply to any development which involves the ownership and maintenance of open land, recreation land, common facilities and development improvements (referred to as "common area" in this Article) as required by this Ordinance and the Borough Subdivision and Land Development Ordinance.

1001 Purpose

The requirements of this Article X are intended to assure in perpetuity the ownership, use and maintenance of common areas. The general principle shall be to assign ownership and maintenance responsibility to that entity which is best suited for the same and which will allocate any associated costs to the individuals which directly benefit from the use of the common area.

1002 Plan and Legal Documents

The developer shall submit a plan and proposed legal documents for the purpose of dedicating, in perpetuity, the use, ownership and maintenance of the approved common area. The Plan shall be approved by the Council with the recommendation of the Borough Solicitor. The provisions of the approved Plan shall be incorporated into a development agreement with the Borough, deed covenants and restrictions, or other legal document which will effect the Plan and which can be enforced by the Borough.

1003 Use Restriction

The use of any common area shall be limited to those uses which are specifically permitted or required by the applicable sections of this Ordinance and the Borough Subdivision and Land Development Ordinance.

1004 Development Plan Designations

The subdivision/land development plan which will be recorded following final approval of the development shall clearly show all common areas and specifically note the use, ownership and maintenance responsibility of the same. Reference to the legal document(s) governing the use, ownership and maintenance of common areas shall be noted on the plan. The plan shall also contain the following statement: *Open land, recreation land, common facilities and development improvements shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development.*

1005 Methods for Use Dedication and Common Area Ownership and Maintenance

The use of common areas and common area ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of the Borough Council that the chosen method(s) will preserve the common area use rights established in accord with this Article and provide for the perpetual ownership and maintenance of all open land, recreation land, common facilities and development



**CHAPTER 27
ZONING
COMMON FACILITIES -
OWNERSHIP AND MAINTENANCE**

improvements.

All methods shall establish a mechanism for the Borough to effect the use dedication and require operation and maintenance of common areas, should the means established by the developer fail to provide the same.

All methods for use dedication and common area ownership and maintenance, and any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of the Council. Operation and maintenance provisions shall include, but not be limited to, capital budgeting for repair and/or replacement of development improvements and common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

1005.1 Property Owners Association or Condominium Agreements

All common areas may be owned and maintained by a property owners association (POA) or condominium agreements (CA) including all lot owners in the development provided:

- A. The POA/CA is established by the developer as a non-profit corporation for the express purpose of ownership and maintenance of the common area, or as otherwise may be required by state statute.
- B. Participation in the POA/CA is mandatory for all lot owners.
- C. Provision is made for the maintenance of common areas during the lot sale period and the orderly transition of responsibility from the developer to the POA.
- D. The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common area responsibilities.

1005.2 Transfer to a Private Conservation Organization

In the case of open land and recreation land, the landowner may transfer fee simple title to the said areas, or parts thereof, to a private, non-profit organization among whose purposes is the conservation of open land and/or natural resources; provided that:

- A. The deed contains the necessary covenants and restrictions in favor of the Borough to effect the use dedication and common area ownership and maintenance standards of this Article and this Zoning Ordinance.
- B. The organization proposed is a bona fide, operating and stable conservation organization with a perpetual existence, as approved by the Borough Council.
- C. The conveyance of title contains the necessary provisions for proper retransfer or reversion should the organization is unable to continue to execute the provisions of title.
- D. A maintenance agreement between the developer, organization and Borough is executed to the satisfaction of



**CHAPTER 27
ZONING
COMMON FACILITIES -
OWNERSHIP AND MAINTENANCE**

the Borough Council.

1005.3 Deed Restricted Private Ownership

Deed restrictions on privately held lands used for agriculture, forestry enterprises and other uses permitted in accord with §1003 (Use Restriction) may be used to preserve open land provided such restrictions include a conservation easement in favor of the Borough, with provisions for reversion to the Borough, POA or trustee holding the remainder of the common area. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.

1005.4 Deed or Deeds of Trust

The landowner may provide, as approved by the Council, for the use, ownership and maintenance of common area by establishing a trust for the same via a deed or deeds. The trustee shall be empowered to levy and collect assessments from the property owners for the operation and maintenance of the development.

1005.5 Conservation Easements Held by the Borough

In the case of open lands and recreation lands, the Borough may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA or condominium, while the development rights are held by the Borough. The lands may be used in accord with §1003 (Use Restriction) and title to such lands may be transferred to other parties for use as restricted by the conservation easement.

1005.6 Fee Simple and/or Easement Dedication to the Borough

In the case of open lands or recreation lands, the Borough may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public use and maintenance, provided:

- A. There is no consideration paid by the Borough.
- B. Such land is freely accessible to the public.
- C. The Borough agrees to and has access to maintain such lands.

1006 Failure to Preserve Dedication of Use and Operation and Maintenance of Common Area

Should the method established for the dedication of use and operation and maintenance of common area fail to do so in reasonable order and condition in accord with the approved development plan, the Council shall have the right and authority to take all necessary legal action to effect such use dedication, operation and maintenance. The action of the Council shall be in accord with the following:



CHAPTER 27
ZONING
COMMON FACILITIES -
OWNERSHIP AND MAINTENANCE

1006.1 Notice

The Council shall serve written notice on assigned entity or the property owners in the development setting forth the details of the failure of the entity with regard to use dedication and operation and maintenance of common areas.

1006.2 Correction of Deficiencies

The notice shall include a demand that the deficiencies be corrected in a reasonable period of time which shall be stated in the notice.

1006.3 Public Hearing

A public hearing shall be conducted subsequent to the notice and shall be advertised in accord with the definition of "public notice" contained in this Zoning Ordinance. At such hearing, the Council may modify the terms of the original notice as to the deficiencies and may extend the time for correction of the deficiencies.

1006.4 Failure to Correct

In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, the Council may enter upon the common area and maintain the same and/or correct the deficiencies. The Council shall continue such action for such time as may be necessary to correct the deficiencies. Said action shall not constitute a taking or dedication of any common areas, nor vest in the public the right to use any common area.

1006.5 Reinstatement of Responsibility

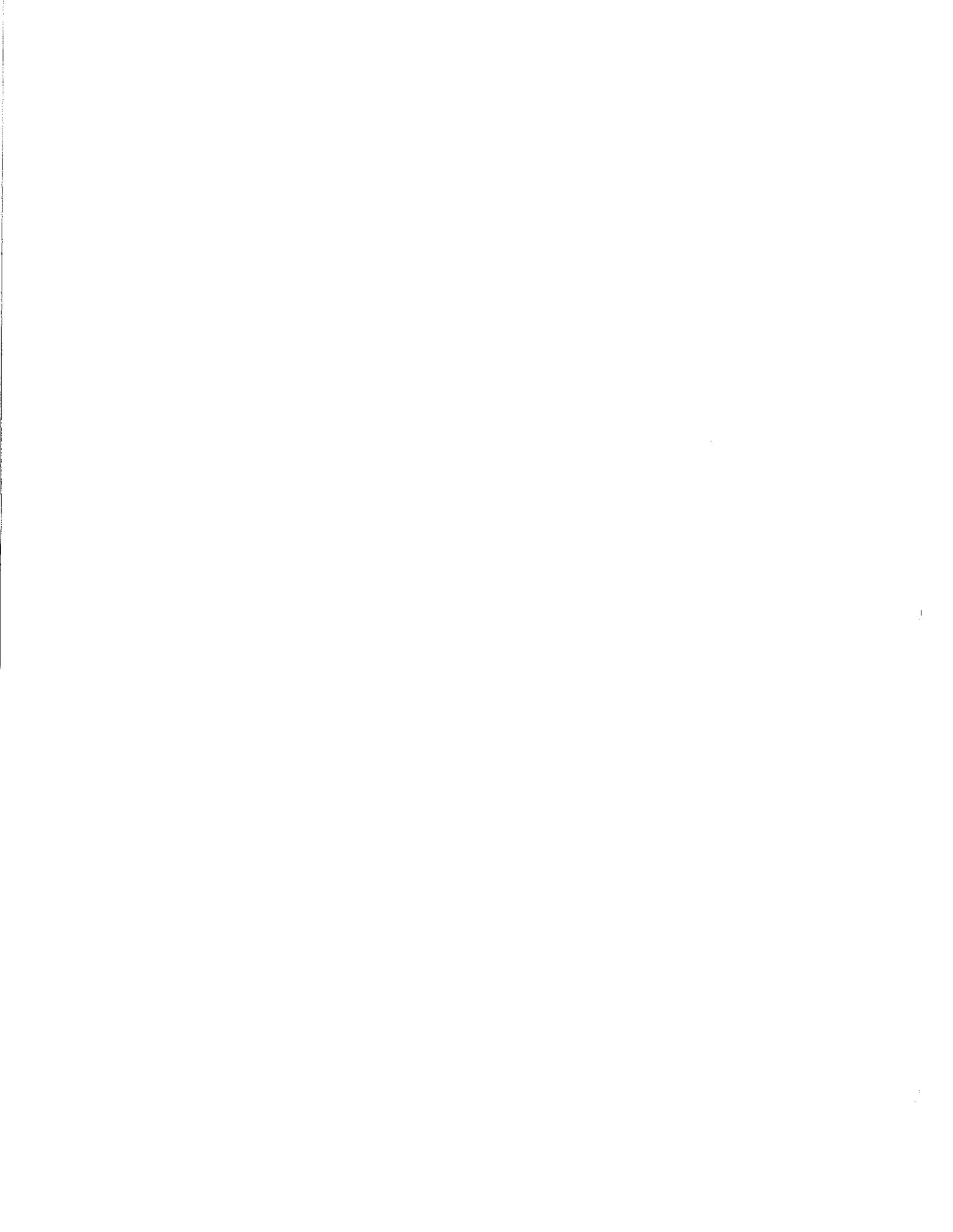
The responsibility of operation and maintenance shall not be reinstated to the assigned entity until such time as the entity has demonstrated to the Council that the proper steps have been effected to modify the terms of use dedication, operation and/or maintenance; and/or to reorganize or replace the responsible entity so that use dedication and operation and maintenance established by the approved development plan will be assured.

1006.7 Appeal

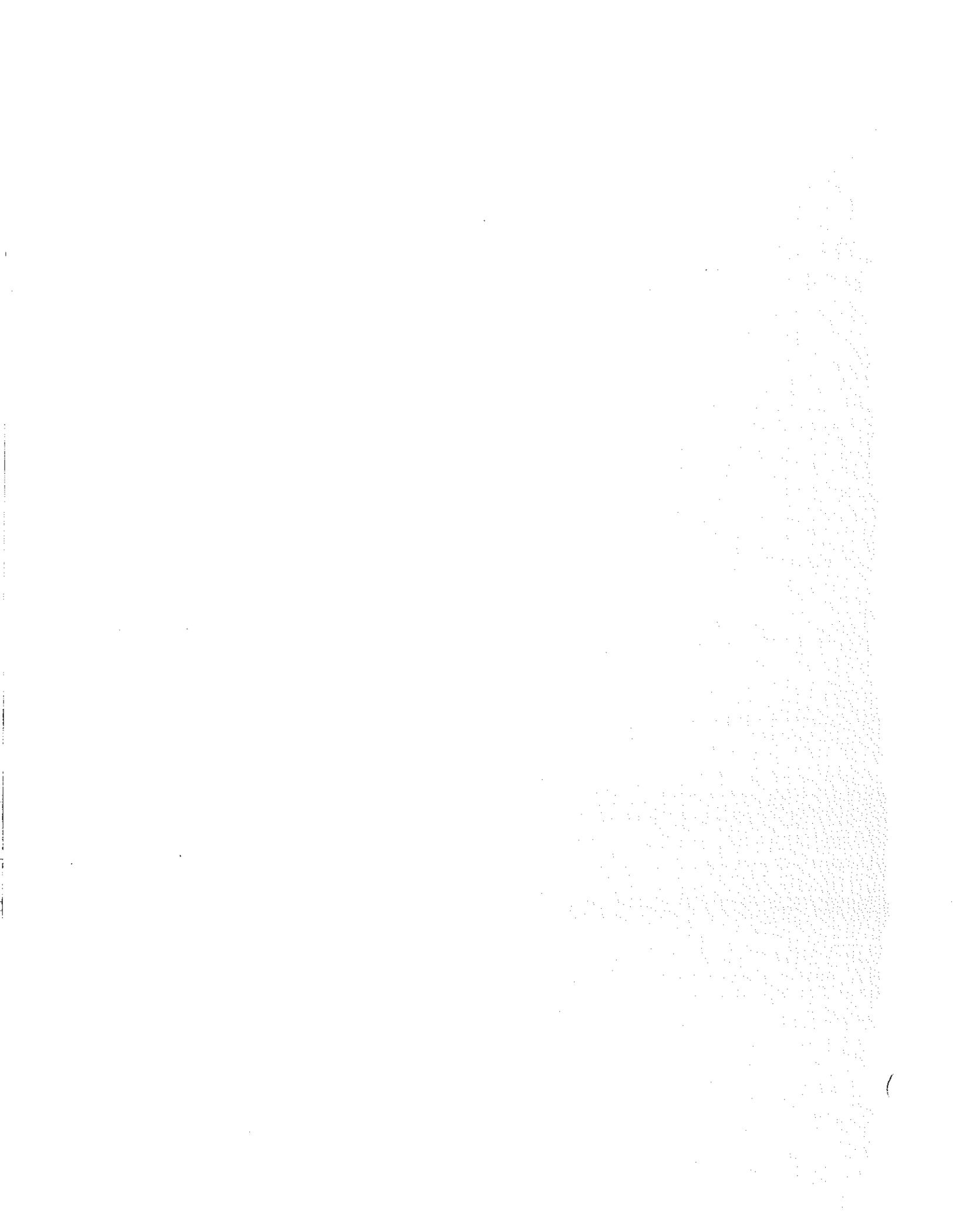
Any party to the action of the Council may appeal such action to court as provided for zoning appeals in the Pennsylvania Municipalities Planning Code, as amended.

1006.8 Public Costs

The costs of the preservation of use dedication and the cost maintenance and operation of any open land conducted by the Borough in accord with this Article, and including any administrative and legal costs, shall be assessed ratably against the properties in the subject development which have a right of enjoyment and/or use of the common areas. The assessment shall be made a lien on the properties, and the Borough Council shall, at the time of the notice in §1006.1 above, shall file the required notice of lien against the properties.







**CHAPTER 27
ZONING
ADMINISTRATION**

**ARTICLE XI
ADMINISTRATION**

1100 Applicability

1100.1 Conformance

Any activity regulated by this Ordinance shall only occur, be undertaken, or continue in conformance with the requirements of this Ordinance.

1100.2 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania municipalities Planning code, as amended.

1100.3 Regulated Activities

Any of the following activities or any other activity or matter regulated by this Zoning Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:

- A. Erection, construction, movement, placement or extension of a structure, building or regulated sign;
- B. Change in the type of use or expansion of the use of a structure or area of land; and/or,
- C. Creation of a lot or alteration of lot lines.

1100.4 Repairs and Maintenance

Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provide such activity does not involve 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or any other activity regulated by this Ordinance.

1101 General Procedure for Permits

1101.1 Principal Permitted Use

After receiving a proper and complete application for a principal (permitted by right) use, the Zoning Officer shall either:

- A. Issue the permit under this Ordinance; or,
- B. Refuse the permit, indicating the reason(s) in writing to the applicant or his/her representative.



**CHAPTER 27
ZONING
ADMINISTRATION**

1101.2 Reviews

Certain activities require review and/or approval of the Zoning Hearing Board and/or of the Borough Council, and/or the recommendations of the Planning Commission. In such case, the Zoning Officer shall not issue a Zoning Permit until such required review or approval occurs.

1101.3 Appeal

See §1105.2 which governs the appeal of Zoning Officer actions to the Zoning Hearing Board.

1101.4 Timing

After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Ordinance provided the work complies with other Borough Ordinances. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this thirty (30) day appeal period shall be at the risk of the applicant. (See occupancy permit process in §1102.7)

1102 Permits and Certificates

1102.1 Applicability See §1100.

1102.2 Types of Uses

- A. Principal Permitted Uses (Permitted by Right Uses) - If a use is listed as a principal permitted use by this Ordinance and meets the requirements of this Ordinance, the Zoning Officer shall issue a permit in response to a complete application.
- B. Special Exception Use or Application Requiring a Variance - A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board after a hearing.
- C. Conditional Use - A permit under this Ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Borough Council, after the Planning Commission has been given an opportunity to review the application.

1102.3 Applications

- A. Applications - Any request for a decision, interpretation or variance by the Zoning Hearing Board, application for a conditional use, or for a permit under this Ordinance shall be made in writing on a form provided by the Borough and in accord with the procedures established by the Borough. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Borough employee responsible for processing such application. The applicant is responsible to ensure that a responsible Borough official notes the date of the official receipt on the

**CHAPTER 27
ZONING
ADMINISTRATION**

application.

- B. Number of Copies - Unless waived by the Zoning Officer, five (5) copies of a site plan, drawn to scale, shall be submitted if an application requires action by the Zoning Hearing Board or Borough Council, and two (2) copies shall be submitted if action by the Zoning Hearing Board or Borough Council is not required.
- C. Information Required - Any application to the Zoning Officer, Zoning Hearing Board, Planning Commission or Borough Council shall include the following information.

In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §1102.3 shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

In the case of an application which does not involve the construction of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this section. However, a plot plan, as required by §56 which follows, shall not generally be required unless the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

In any case, the Zoning Officer, Planning Commission, Borough Council, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.

1. Names and address of the applicant, or appellant; and the name and address of the owner of the affected property
2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
3. A description of any proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards.
4. If a principal non-residential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
5. A listing of any specific sections of this Ordinances being appealed, with the reasons for any appeal and
6. A plot plan legible in every detail and drawn to scale but not necessarily showing precise dimensions, and including the following information:
 - a. Name of the development.
 - b. Name and address of land owner and/or land developer. (if corporation give name of officers.)
 - c. Location map.
 - d. North arrow, true or magnetic.
 - e. Graphic scale.

**CHAPTER 27
ZONING
ADMINISTRATION**

- f. Written scale.
 - g. Date plot plan was completed.
 - h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
 - i. Proposed and existing street and lot layout including street names and right-of-way widths.
 - j. Existing and proposed man-made and/or natural features:
 - 1. Water courses, lakes and wetlands (with names).
 - 2. Rock outcrops, ledges and stone fields.
 - 3. Buildings, structures, signs and setbacks required by the Zoning Ordinance.
 - 4. Approximate location of tree masses.
 - 5. Utility lines, wells and sewage system(s).
 - 6. Entrances, exits, access roads and parking areas including the number of spaces.
 - 7. Drainage and storm water management facilities.
 - 8. Plans for any required buffer plantings
 - 9. Any and all other significant features.
 - 7. Location of permanent and seasonal high water table areas and 100 year flood zones.
 - 8. Tract boundaries accurately labeled.
 - 9. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
 - 10. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
 - 11. A statement of the type of water supply and sewage disposal proposed.
 - 12. The present zoning district and major applicable lot requirements.
- D. Other Laws - The Zoning Officer may withhold issuance of a permit under this Ordinance if there is clear knowledge by him or her that such a use would violate another Borough, State or Federal law or regulation.
- E. Ownership - No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application. (See definition of "landowner" in Article III.)
- F. Advisory Reviews - The Zoning Officer may submit a copy of any plan and application to any appropriate agencies and/or individuals (such as the Planning Commission, the Lackawanna County Regional Planning Commission, the County Conservation District or Borough Engineer) for review and comment.
- G. Subdivision Approval - Applications for uses which also necessitate approvals under the Borough Subdivision Ordinance shall be processed in the manner provided for plat approval under that Ordinance. Such applications shall also contain all information or data normally required for a submission under the Subdivision Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under the Subdivision Ordinance. However, no building or property shall be occupied or used until final subdivision approval has been granted and a Certificate of Use has been properly issued pursuant to §1102.7 of this Ordinance.

**CHAPTER 27
ZONING
ADMINISTRATION**

1102.4 Issuance of Permit

- A. At least two (2) copies of any permit required under this Ordinance shall be made.
- B. One (1) copy of any such permit shall be retained in Borough files and one (1) copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request. One (1) copy of a submitted site plan should be returned to the applicant after approval/disapproval, with such action certified on the plan with the signature of the Zoning Officer.
- C. The Zoning Officer shall issue or deny a permit for a principal permitted or accessory use within a maximum of ninety (90) days after a complete, duly filed application and fees are submitted.
- D. No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this Ordinance unless a valid zoning permit has been issued for such work, nor shall such persons conduct such work after notice that a zoning permit has been revoked.

1102.5 Revocation of Permits

The Zoning Officer shall revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of:

- A. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based: (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties); or,
- B. Upon violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
- C. Any work being accomplished or land or structures being used in such a way that does not comply with this Ordinance or an approved site plan or approved permit application; or,
- D. For any other just cause set forth in this Ordinance.

If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer.

1102.6 Changes to Approved Plans

- A. After the issuance of a permit and/or approval under this Ordinance by the Borough, such approved application shall not be changed without the written consent of the Borough, as stated in subsection "B" below.
- B. Changes to an approval by the Zoning Hearing Board as a special exception use or by the Borough Council as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Hearing Board or the Council is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the

**CHAPTER 27
ZONING
ADMINISTRATION**

intensity of the use, as determined by the Zoning Officer.

- C. A copy of such adjustment or correction shall be provided in writing to the Chairperson of the Planning Commission, the President of Borough Council or the Chairperson of the Zoning Hearing Board if the change concerns a plan approved by such bodies.

1102.7 Certificate of Use and Occupancy (or "Occupancy Permit")

- A. A Certificate of Use and Occupancy shall be required by the Borough upon a change of use or completion of work authorized by a permit or approval under this Ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such Certificate has been issued. A new Certificate of Use and Occupancy shall be required if a change in use of the property is proposed, and then such Certificate shall be issued only after all required approvals are obtained.
- B. An application for such Certificate shall be made on an official Borough form. If such use is in conformance with Borough ordinances and approvals, such Certificate should be issued in duplicate within ten (10) days of a properly submitted and duly filed application. A minimum of one (1) copy shall be retained in Borough records.
- C. The Zoning Officer shall inspect such structure or land related to an application for such Certificate. If the Zoning Officer determines, to the best of his/her current knowledge, that such work conforms with this Ordinance and applicable Borough codes, approvals and permits, then the Certificate of Use and Occupancy shall be issued.
- D. The applicant shall show a valid Certificate of Use and Occupancy to the Zoning Officer upon request.

1103 Fees

1103.1 Application Fees

As authorized by §617.2(e) and §908(1.1) of the Pennsylvania Municipalities Planning Code, the Council shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after fees have been paid in full, and the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

1103.2 Stenographer Fees

The appearance fee for a stenographer shall be shared equally by the applicant and the Borough. The cost of the original transcript shall be paid by the Borough if the transcript is ordered by the Borough or shall be paid by the person appealing the decision of the Borough if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

**CHAPTER 27
ZONING
ADMINISTRATION**

1104 Zoning Officer

1104.1 Appointment

The Zoning Officer(s) shall be appointed by the Borough Council. The Zoning Officer(s) shall not hold any elective office within the Borough, but may hold other appointed offices not in conflict with the Pennsylvania Municipalities Planning Code.

1104.2 Duties and Powers

The Zoning Officer shall:

- A. Administer the Zoning Ordinance.
- B. Provide information to applicants regarding required procedures.
- C. Receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits within this Ordinance, based upon his/her interpretation of this Ordinance.
- D. Receive complaints of violation of this Ordinance, and issue a written notice of violation to any person violating any provision of this Ordinance.
- E. Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exception granted by the Zoning Hearing Board, of conditional uses approved by the Borough Council, of complaints received, of inspections made, of reports rendered, and of notice or orders issued.
- F. Make all required inspections and perform all other duties as called for in this Ordinance.
- G. Not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances of the Borough known to the Zoning Officer.

1104.3 Qualifications

Pursuant to §614 of the PA Municipalities Planning Code, the following minimum qualifications shall apply to any Zoning Officer(s) appointed to serve the Borough after the adoption of this Ordinance, unless such mandatory qualifications are waived by motion of the Borough Council.

- A. The person shall demonstrate a working knowledge of zoning.
- B. The person shall have one of the following combinations of education and experience:
 - 1. An high school diploma or equivalent and a minimum of four (4) years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
 - 2. An high school diploma or equivalent and two (2) additional years of continuing education, such as an

**CHAPTER 27
ZONING
ADMINISTRATION**

Associate Degree (such continuing education preferably should be in a field such as law enforcement, community planning, engineering and/or public administration) and a minimum of two (2) years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,

3. A college or university Bachelor's degree in a field related to zoning (such as law enforcement, community planning, engineering and/or government administration) and a minimum of 8 months responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances.

- C. The person shall be familiar with issues concerning search and seizure and with the process of filing actions with the District Justice.
- D. The person shall exhibit an ability to thoroughly evaluate site plans and building plans.
- E. The person shall demonstrate excellent oral and written communication skills.
- F. The person shall be familiar with the PA Municipalities Planning Code.

1104.4 Other Borough Officials

Police officers, firefighters, construction inspectors, other Borough staff and Borough officials and the general public may report possible zoning violations to the Zoning Officer for his/her determination. All such reports shall be in writing.

1105 Zoning Hearing Board

1105.1 Appointment and Qualifications

- A. Appointment - The Borough Council shall appoint a Zoning Hearing Board, which shall have the number of members and alternate members with such powers and authority, and which shall conduct all proceedings as set forth in Article IX of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended.
- B. Recommended Qualifications - Each Zoning Hearing Board member should:
 1. Demonstrate a working knowledge of zoning prior to appointment.
 2. Become familiar with the PA Municipalities Planning Code.
 3. Attend at least one (1) seminar and/or workshop pertaining to municipal planning and/or zoning within each calendar year.
- C. Vacancies. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- D. Removal of Members. See §905 of the PA Municipalities Planning Code.

**CHAPTER 27
ZONING
ADMINISTRATION**

E. Organization.

1. **Officers** - The Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.
2. **Quorum** - For the conduct of any hearing and taking of any action a quorum shall be not less than a majority of all members of the Board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided by the PA. Municipalities Planning Code. The quorum may be met by alternate members, serving as permitted by the PA Municipalities Planning Code.
3. **Rules** - The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Borough ordinances and State law.

1105.2 Jurisdiction

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 (Curative Amendments) and §916.1(a) (2) (Ordinance Validity) of the Pennsylvania Municipalities Planning Code.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or an enforcement notice or the registration or refusal to register any nonconforming use, structure or lot.
- D. Applications for variances from the terms of the Zoning Ordinance pursuant to §910.2 of the Pennsylvania Municipalities Planning Code.
- E. Applications for special exceptions under the Zoning Ordinance pursuant to §912.1 of the Pennsylvania Municipalities Planning Code and the requirements of this Ordinance.
- F. Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the Pennsylvania Municipalities Planning Code.
- G. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development

**CHAPTER 27
ZONING
ADMINISTRATION**

applications.

- H. The Zoning Hearing Board shall not, under any circumstances, have the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular district, except as provided in this Ordinance.

1105.3 Appeal Procedure

All appeals to the Clarks Summit Zoning Hearing Board shall be on forms provided by the Borough of Clarks Summit, with the applicable sections completed, signed by the landowner(s) and filed with the Borough of Clarks Summit within the applicable time period.

1106 Zoning Hearing Board -- Hearings and Decisions

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

1106.1 Notice of Hearings

Notice of all hearings of the Board shall be given as follows:

- A. Advertisement - Public notice shall be published, as defined by §107 of the PA. Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature and property address of the matter to be considered.
- B. Posting - Notice of such hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Such notice shall state the time and place of the hearing and a general description of the request.
- C. Persons Given Notices - All notice under this sub-section should be intended to be received or posted at least five (5) days prior to the hearing date.
1. Written notice shall be mailed or personally delivered to the Applicant or his/her representative listed on an official application form.
 2. Notice may be delivered or mailed to the Chairperson of the Planning Commission, the Mayor, the Clerk of Borough Council, and the last known address of owners of record of property abutting or directly across the street from the boundaries of the subject property. The applicant shall provide the Borough with a list of such property-owners. Failure of the Borough to notify all such persons shall not invalidate any action by the Board.
 3. Also, such notice shall be mailed or delivered to the address of any other person or group (including civic or community organizations) who has made a written timely request (including an address) for such notice.

**CHAPTER 27
ZONING
ADMINISTRATION**

- D. Adjacent Municipalities - In any matter which relates to a lot which lies within two hundred and fifty (250) feet of the boundary of another municipality, and where the Zoning Officer determines the proposed activity may have significant impact on that municipality, the Borough staff may transmit to the offices of the adjacent municipality a copy of the official notice of the public hearing on such matter prior to the hearing date. Representatives of such adjacent municipality shall have the right to appear and be heard at the public hearing. Failure of the Borough to notify such municipality shall not invalidate any action by the Board.
- E. Fees - The Borough Council may, by resolution, establish a reasonable fee schedule, based on cost, to be paid by: a) the Applicant for any notice required by this Ordinance and b) those persons requesting any notice not required by the Ordinance.

1106.2 Parties in Hearings

The Zoning Hearing Board shall have the authority, if it chooses to exercise it, to determine who has standing on each case before the Board. (Note-Standing generally means a party being sufficiently affected or threatened by affects by a controversy to obtain judicial resolution of that controversy.)

- A. The parties to a hearing shall be the Borough Council, the Borough Planning Commission, any person affected by the application who has made timely appearance of record before the Board, representatives of any legitimate civic or community organization, and any other person permitted to appear before the Board.
- B. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- C. The Board shall determine that a person or business does not have standing if the Board finds that such person or business is apparently motivated primarily by an attempt to inhibit competition in an area of business, and that such person or business would not otherwise be threatened with substantive harm from the application.

1106.3 Oaths and Subpoenas

The Chairperson of the Board or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents reasonably needed by and requested by the parties.

1106.4 Representation by Counsel

The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on relevant issues.

1106.5 Evidence and Record

Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded. The Board or the Hearing Officer, as applicable, shall keep a record of the proceedings as required by State law.

**CHAPTER 27
ZONING
ADMINISTRATION**

1106.6 Communications Outside of Hearings

- A. The Board shall not meet with, visit the site with or directly communicate specifically on the matter with the applicant or any officially protesting party or their representatives in connection with any issue involved, except if opportunity is provided for the applicant and any officially protesting party to participate.
- B. The Board shall not take notice of any communications, reports, staff memoranda, or other materials directly affecting a proposed application unless the parties are afforded an opportunity to examine and contest the material so noticed or unless such materials are already a matter of public record. This restriction shall not apply to advice from the Board's solicitor.

1106.7 Advisory Review

The Zoning Hearing Board may request that the Planning Commission, County Conservation District or Borough Engineer provide an advisory review on any matter before the Board.

1106.8 Initiation of Hearings

A hearing required under this Ordinance shall be initiated within sixty (60) days of the date of an applicant's request for a hearing, unless the applicant has agreed in writing to an extension of time. A request for a hearing by an applicant shall not be accepted prior to submission of a duly filed application.

1106.9 Decision/Findings

- A. The Board shall render a written decision or make written findings (when no decision is called for) on each application within forty-five (45) days after the last hearing on that application before the Board, unless the applicant has agreed in writing to an extension of time.
- B. The decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for such conclusions.
- C. Any conclusion based on any provision of the PA Municipalities Planning Code or of this Ordinance shall contain a section reference to that specific provision.

1106.10 Notice of Decision

A copy of the final decision or a copy of the findings (when no decision is called for), shall be personally delivered or mailed to the applicant or his or her representative at their last known address not later than the time limit established by §908 of the PA Municipalities Planning Code.

1106.11 Solicitor Conflict

- A. The Zoning Hearing Board Solicitor shall not represent private clients in cases before the Zoning Hearing Board.

**CHAPTER 27
ZONING
ADMINISTRATION**

- B. If a conflict of interest exists for the Zoning Hearing Board Solicitor on a particular application, the Zoning Hearing Board Solicitor shall notify the Chairperson of the Board at least seven (7) days before the scheduled hearing date.
- C. Borough Council may appoint an Alternate Solicitor to the Zoning Hearing Board to serve as needed for a specific application or for a term of office.

1106.12 Hearing Officer

The Zoning Hearing Board may appoint a hearing officer to conduct hearings and perform other such duties of the Zoning Hearing Board as authorized by Article IX of the Pennsylvania Municipalities Planning Code.

1107 Variances

The Board shall hear requests for variances filed with the Board in writing by any landowner (or any tenant with the permission of such landowner).

1107.1 Standards

The Board may grant a variance only within the limitations of the Municipalities Planning Code. **The applicant shall have the burden of proof to show compliance with such standards.** As of 1993, the Municipalities Planning Code provided that all of the following findings must be made, where relevant in a particular case:

- A. There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located; and,
- B. 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 a variance is therefore necessary to enable the reasonable use of the property; and,
- C. Such unnecessary hardship has not been created by the appellant; and,
- D. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare; and,
- E. 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.

1107.2 Re-Application

**CHAPTER 27
ZONING
ADMINISTRATION**

The Zoning Officer shall refuse to accept a proposed application that is not materially or significantly different from an appeal on the same property that was denied by the Board within the previous year.

1107.3 Variance Conditions

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Municipalities Planning Code and this Ordinance, and to protect the public health, safety and welfare.

1108 Conditional Uses and Special Exceptions

1108.1 Applications

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §1108.6. The Borough Planning Commission, Borough Council, or the Zoning Hearing Board shall require any other information deemed necessary for the review of the proposal.

1108.2 Conditional Uses

Uses specified as conditional uses shall be permitted only after review and approval pursuant to the express standards as provided for specific conditional uses in this Ordinance and in §1108.4 and any other applicable standards in this Ordinance.

A. Expansions - Expansions or additions to uses classified as conditional uses shall also be considered conditional uses unless said expansion or addition involves an increase of less than twenty-five (25) percent of the floor area or lot area devoted to the use, as measured cumulatively from the effective date of this provision. The addition of an accessory structure shall not be considered a conditional use.

B. Procedure

1. Submission - The applicant shall submit the application as follows:

a. Five (5) complete copies of any required plan shall be submitted to the Zoning Officer.

b. The Zoning Officer shall refuse to accept an incomplete application which does not provide sufficient information to determine compliance with this Ordinance.

2. Distribution - The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Borough Council. A minimum of one (1) copy shall be retained in the Borough files. The Borough Fire Company should be given an opportunity for a review, if deemed appropriate by the Zoning Officer.

3. Zoning Officer Review - The Zoning Officer shall report in writing or in person to the Planning Commission or Borough Council stating whether the proposal complies with this Ordinance. The Zoning Officer may request a review by the Borough Engineer.

**CHAPTER 27
ZONING
ADMINISTRATION**

4. Planning Commission - The Planning Commission shall be given an opportunity to review the conditional use application and submit a recommendation to the Borough Council.
5. Council Action
 - a. The Borough Council shall not act to approve or deny a conditional use application unless: 1) the Council has received the reports of the Zoning Officer and the Planning Commission or 2) unless a period of at least forty-five (45) days has passed from the date of the application.
 - b. The Borough Council shall approve, conditionally approve or disapprove the conditional use submission within a maximum of forty-five (45) days after the conclusion of the last hearing, unless the applicant has agreed to a written time extension.
 - c. In granting a conditional use, the Borough Council may require such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines are necessary to implement the purposes of the Municipalities Planning Code and this Ordinance, and to protect the public health, safety and welfare.
 - d. The decision of the Borough Council shall be in writing and shall be directly communicated to, delivered to or mailed to the last known address of the applicant or his/her representative.

1108.3 Special Exceptions

Uses specified as special exceptions shall be permitted only after review and approval by the Borough Zoning Hearing Board pursuant to the express standards as provided for specific special exceptions in this Ordinance and in §1108.4.

- A. Expansions - Expansions or additions to uses classified as special exceptions shall also be considered special exceptions unless said expansion or addition involves an increase of less than twenty-five (25) percent of the floor area or lot area devoted to the use, as measured cumulatively from the effective date of this provision. The addition of an accessory structure shall not be considered a conditional use.

B. Procedure

1. All applicants for a special exception use shall submit five (5) sets of plans for the proposed use to the Zoning Officer together with a written application. Photographs of the existing site or buildings may also be requested to be presented by the applicant.
2. All plans shall contain the information required in §1108.6.
3. Borough Procedures.
 - a. The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning

**CHAPTER 27
ZONING
ADMINISTRATION**

Commission and the Zoning Hearing Board solicitor. A minimum of one (1) copy shall be retained in the Borough files.

- b. The Zoning Officer shall, prior to the next Zoning Hearing Board meeting where the application will be discussed, review the Plan to determine compliance with this Ordinance and report these findings to the Zoning Hearing Board.
4. **Planning Commission Review of Special Exception Uses.**
 - a. The Planning Commission shall be provided with an opportunity to review any proposed special exception use at a regular meeting prior to a decision by the Zoning Hearing Board. The Commission, at its option, may provide a written advisory review.
 - b. If such review is not received within the time limit within which the Board must issue a decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.
 5. **Zoning Hearing Board Action on Special Exception Uses.**
 - a. The Board shall hear and decide such request for a special exception use under the procedures of this Ordinance and the State Planning Code.
 - b. The Board shall schedule the first hearing within sixty (60) days of submittal of a proper application, unless granted a written extension by the applicant. The Board shall issue a decision within forty-five (45) days after the conclusion of the final hearing on the matter.
 - c. The decision of the Board shall be in writing and shall be communicated to the applicant or their representative in accordance with this Ordinance.

1108.4 Standards and Criteria

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Ordinance and other ordinances of the Borough. In addition to the applicable general provisions of this Ordinance and to the standards provided in this Ordinance for specific conditional uses and special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions.

- A. The proposed use shall be in harmony with purposes, goals, objectives and standards of the Borough Comprehensive Plan, this Ordinance and all other ordinances of the Borough.
- B. There shall be a community need for the proposed use at the proposed location. Need shall be assessed in terms of existing and proposed uses of a similar nature in the area. In order to provide or maintain a proper mix of uses within the Borough and, more specifically, that portion of the Borough in the immediate area, the proposed use shall not result in either a detrimental over-concentration of a particular use within the Borough or within the immediate

**CHAPTER 27
ZONING
ADMINISTRATION**

area.

The location chosen shall not be one demonstratively better suited or likely to be needed for uses which are permitted as a matter of right in the District. The proposal shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in light of other potential sites in the immediate area including those which might exist in adjacent communities.

- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Borough or other government agency having jurisdiction to guide growth and development.
- D. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Borough, whether such services are provided by the Borough or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, or services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use the applicant shall be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with this and other ordinances of the Borough. The permit approval shall be so conditioned.
- E. In reviewing an application, the following additional factors shall be considered:
1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 5. Adequacy of storm water and drainage facilities storm water leaving any site shall not exceed pre-development levels and facilities shall be designed to accommodate a 10 year storm.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- F. No application shall be approved unless it is found that, in addition to complying with each of the standards enumerated above, any of the applicable standards contained in this Ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety and welfare of parties effected, all conditions and safeguards deemed necessary by the Board to protect the general health, safety



**CHAPTER 27
ZONING
ADMINISTRATION**

and welfare and implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the Pennsylvania Municipalities Planning Code, as the case may be.

Conditions which might be imposed shall include (but not be limited to) provisions for additional parking, traffic control, submission of landscaping plans for screening, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Borough; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

1108.5 Limitation of Approval

Any conditional use approval granted by the Borough Council and any special exception approval granted by the Zoning Hearing Board shall expire one (1) year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Borough Council or Zoning Hearing Board as the case may be, however, may grant an extension of the time limitations, for good cause.

1108.6 Information Required

The applicant shall supply the information required by §1102.3 of this Ordinance and evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Borough; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

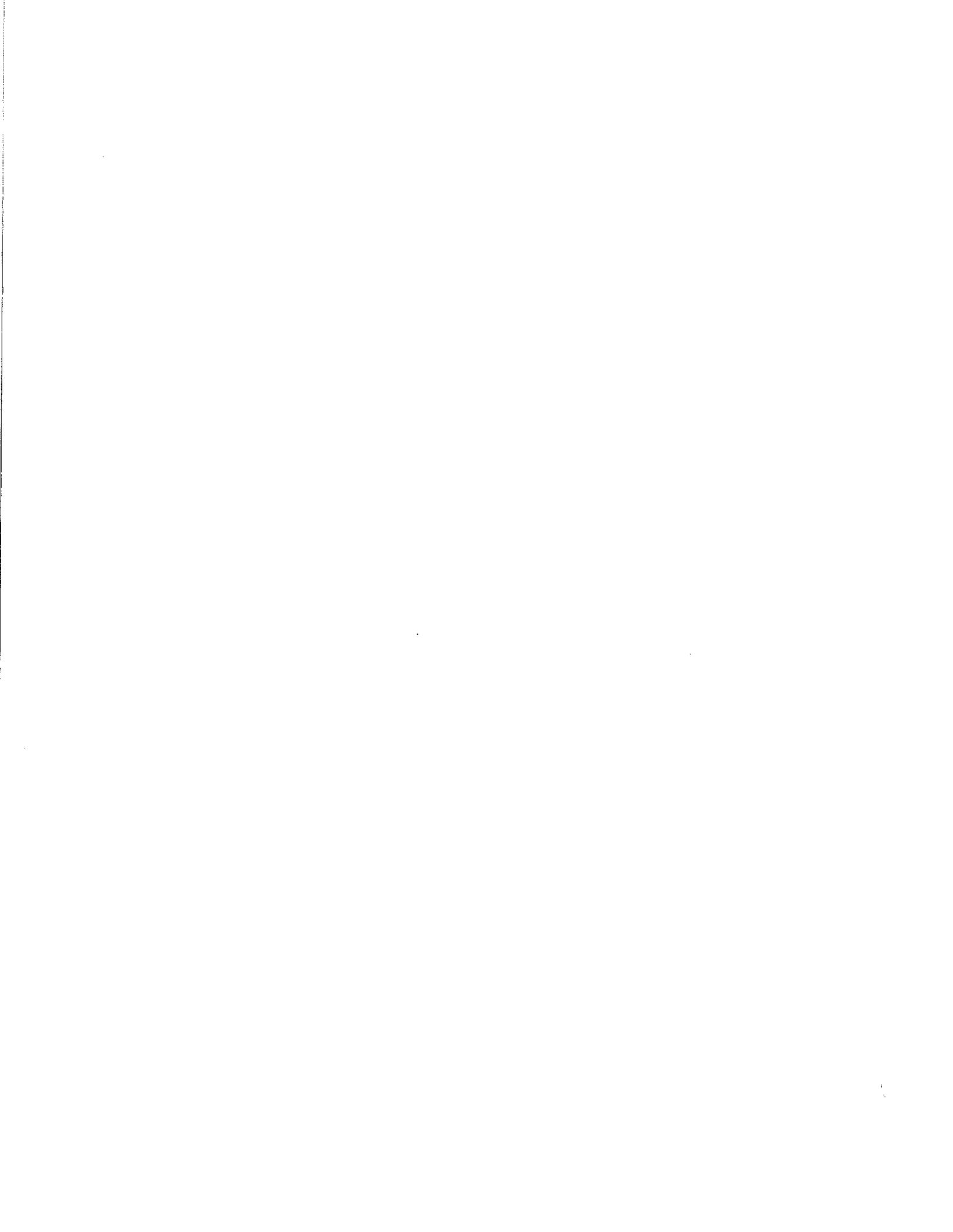
1109 Time Limits on Permits and Variances.

1109.1 Zoning Permit

After a variance is approved or a conditional or special exception approval is officially authorized under this Ordinance, then a Zoning Permit shall be secured by the applicant within twelve (12) months of the variance, conditional use or special exception approval.

1109.2 Review Completion

If the applicant submits complete plans for a subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this Ordinance within the above time limits, then such time limits shall begin after such plan review is completed or such plan approval is granted.



**CHAPTER 27
ZONING
ADMINISTRATION**

1109.3 Extension

For good cause the Zoning Officer may, upon application in writing stating the reasons therefore, extend in writing the 12-month application period to up to eighteen (18) months.

1109.4 Expiration

If an applicant fails to obtain the necessary permits within the above time period, or after obtaining the permit fails to diligently commence substantial construction within twelve (12) months or allows interruptions in substantial of longer than six (6) months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and all such approvals, variances and permits shall be deemed automatically rescinded.

1109.5 Completion

Any building construction shall be completed within 36 months of issuance of an applicable permit, unless a written extension is granted by the Zoning Officer for good cause. Otherwise, a permit shall be considered to have automatically expired at the end of such 36 month period.

1110 Mediation

Parties to proceedings authorized by this Ordinance and the Pennsylvania Municipalities Planning Code may use the Mediation Option as authorized by and in accord with §908.1 of said Code.

1111 Time Limits for Appeals

The time limitations for appeals shall be as follows:

1111.1 Zoning Hearing Board -- County Court

No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the decision by the Zoning Officer that is being appealed has been officially issued, or file any appeal with the County Court of Common Pleas later than thirty (30) days after a decision of the Zoning Hearing Board has been officially issued, except as may be provided under §914.1 of the PA Municipalities Planning Code.

1111.2 Temporary Permits

This 30 day time limit for appeal shall not apply to the revocation of a permit under §1102.5.

1111.3 Subdivision or Land Development Approval

The failure of an aggrieved person other than the landowner to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval except in the case where the



**CHAPTER 27
ZONING
ADMINISTRATION**

final submission substantially deviates from the approved preliminary plan.

1112 Appeals to Court and Other Administrative Proceedings

Appeals to court and other administrative proceedings shall be governed by Article X-A and Article IX of the Pennsylvania Municipalities Planning Code, respectively.

1113 Public Utility Exemptions

See §619 of the PA Municipalities Planning Code.

1114 Limited Borough Exemption

The minimum lot area requirements of this Ordinance shall not apply to uses or structures owned by the Borough of Clarks Summit for uses and structures that are intended for a legitimate governmental, recycling, public recreation, storm water control or public health and safety purpose.

1115 Amendments

The Borough Council may amend the Zoning Ordinance by complying with the requirements set forth in Article VI of the Pennsylvania Municipalities Planning Code. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided on as provided in Sections 609.1 and 916.1 of the Pennsylvania Municipalities Planning Code.

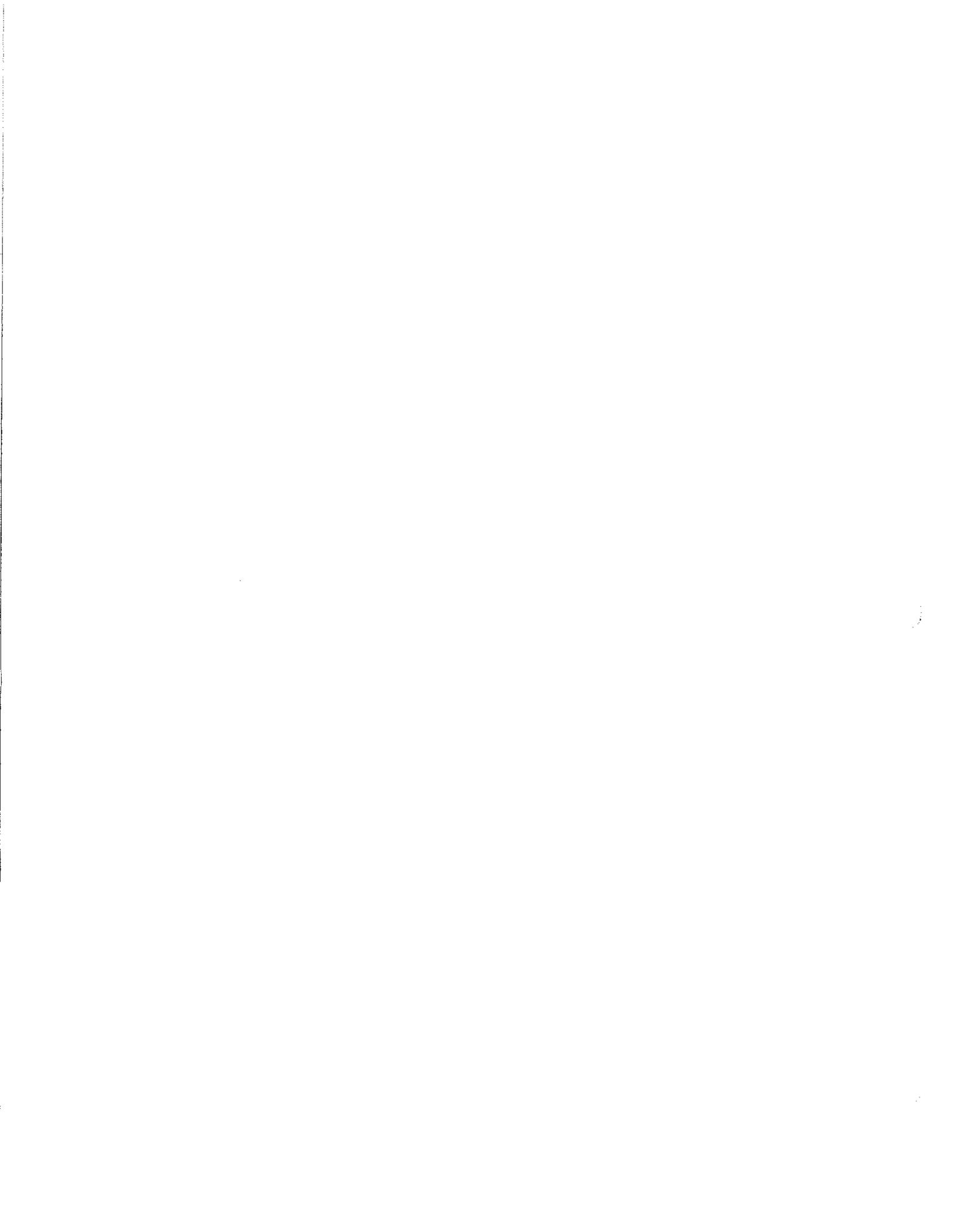
1116 Violations

1116.1 Compliance

Failure to comply with any provision of this Ordinance, failure to secure or comply with a decision of the Council or Zoning Hearing Board or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a Certificate of Use Permit, shall be violations of this Ordinance.

1116.2 Enforcement Notice

When written notice of a violation of any of the provisions of this Ordinance shall be served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the Pennsylvania Municipalities Planning Code, such violation shall be discontinued or corrected as set forth in said notice.



**CHAPTER 27
ZONING
ADMINISTRATION**

1117 Penalties and Remedies

1117.1 Causes of Action

In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this Ordinance, the Council or, with the approval of the Council, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute (in the name of the Borough) any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Council. No such action may be maintained until such notice has been given.

1117.2 Enforcement Remedies

- A. Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 (state law) plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Borough.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Borough, the right to commence any action for enforcement pursuant to this section.

1118 Liability

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the floodplain, site plan review, subdivision or land development approval erosion control, storm water runoff, activity on steep slopes or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Borough, shall constitute a representation, guarantee or warranty of any kind by the Borough, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may



**CHAPTER 27
ZONING
ADMINISTRATION**

result pursuant thereto.

If the Zoning Officer mistakenly issues a permit under this Ordinance, the Borough shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

Adopted at a Special Meeting of Borough Council conducted on Wednesday, January 30th, 2002.

EDWARD M. BUSH, SR.
Council President

APPROVED:

Approved this 30th day of January, 2002.

ANTHONY PERRY
Mayor

ATTEST:

Adopted at a Special Meeting of Borough Council conducted on Wednesday, January 30th, 2002.

JAMES G. VONES, SR.
Borough Manager/Secretary

SEAL

