

**LUZERNE COUNTY
ZONING ORDINANCE
of 2021**

**Adopted on:
March 9, 2021**

**Effective:
March 24, 2021**

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MUNICIPALITIES UNDER COUNTY ZONING
JURISDICTION *

- 1. AVOCA BOROUGH**
- 2. CONYNGHAM TOWNSHIP**
- 3. COURTDALÉ BOROUGH**
- 4. DUPONT BOROUGH**
- 5. DURYEA BOROUGH**
- 6. FAIRMOUNT TOWNSHIP**
- 7. HUGHESTOWN BOROUGH**
- 8. HUNLOCK TOWNSHIP**
- 9. HUNTINGTON TOWNSHIP**
- 10. JEDDO BOROUGH**
- 11. LAFLIN BOROUGH**
- 12. LAKE TOWNSHIP**
- 13. NEW COLUMBUS BOROUGH**
- 14. NEWPORT TOWNSHIP**
- 15. PRINGLE BOROUGH**
- 16. ROSS TOWNSHIP**
- 17. UNION TOWNSHIP**
- 18. WARRIOR RUN BOROUGH**
- 19. WEST WYOMING BOROUGH**
- 20. WYOMING BOROUGH**
- 21. YATESVILLE BOROUGH**

***As of March 9, 2021**

No. 2021-06
ORDINANCE

An Ordinance of Luzerne County Council Adopting the Luzerne County Zoning Ordinance of 2021 and the Luzerne County Zoning Map of 2021

WHEREAS, the Luzerne County Planning & Zoning Department, in consultation with the Luzerne County Planning Commission undertook a review of the existing Luzerne County Zoning Ordinance with the objective of ensuring that the County's zoning regulations continue to promote, protect and facilitate the public health, safety, and general welfare of the residents of Luzerne County; and

WHEREAS, at a duly advertised public meeting held on September 10, 2020, the Luzerne County Planning Commission reviewed the proposed Zoning Ordinance and the Zoning Map and voted to recommend approval; and

WHEREAS, having been duly advertised in accordance with all requirements of the Luzerne County Zoning Ordinance, the Luzerne County Council held a Public Hearing on the aforesaid Zoning Ordinance of 2021 and Zoning Map of 2021 on March 09, 2021; and

WHEREAS, Luzerne County Council believes it is in the best interest to approve the Luzerne County Zoning Ordinance of 2021 and the Luzerne County Zoning Map of 2021.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE LUZERNE COUNTY COUNCIL:

The Luzerne County Zoning Ordinance of 2021 and the Luzerne County Zoning Map of 2021 shall be adopted.

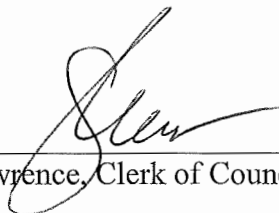
This Ordinance shall become effective fifteen (15) days after adoption.

ADOPTED at a meeting of the Luzerne County Council held on March 09, 2021.

ROLL CALL VOTE (11-0)

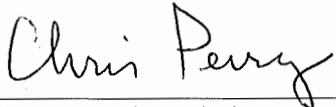
YES: Griffith, Haas, Houck, McDermott, McGinley, Perry, Radle, Saidman, Schnee, SJ Urban and Vough

ATTEST:


Sharon Lawrence, Clerk of Council

LUZERNE COUNTY COUNCIL


Tim McGinley, Chair


Chris Perry, Vice-Chair

ARTICLE 1 – GENERAL PROVISIONS

SECTION 101 TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance of Luzerne County, Pennsylvania.

SECTION 102 PURPOSE

This Ordinance is enacted to accomplish the purposes enumerated in Section 604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended which includes the following:

1. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, airports and national defense facilities, the provision of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of natural, scenic and historic values in the environment and preservations of forests, wetlands, aquifers and floodplains.
2. 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.
3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
4. To provide for the use of land within Luzerne County for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangement, manufactured home and manufactured home parks, provided, however, that this Ordinance shall not be deemed invalid for the failure to provide any other specified dwelling type.
5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

SECTION 103 COMMUNITY OBJECTIVES

The enactment of this Ordinance is intended to promote the public health, safety, morals, and welfare of the present and future residents of Luzerne County by providing Luzerne County with

procedures which will assist in directing growth and development in accordance with stated goals and objectives of the Lackawanna-Luzerne Bi-County Comprehensive Plan of 2012, and as may be amended thereafter.

SECTION 104 SEVERABILITY

If any article, section, subsection, paragraph sentence or phrase of this Ordinance is for any reason declared to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

SECTION 105 REPEALER

All ordinances or parts thereof which are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 106 PROCEDURAL DEFECT

Any allegation that this Ordinance or any amendment thereto has been enacted in a procedurally defective manner shall be appealed as provided by state law and must be filed no more than thirty (30) days after the intended effective date of this Ordinance or any amendment thereto.

SECTION 107 EFFECTIVE DATE

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

ARTICLE 2 – DEFINITIONS

SECTION 201 APPLICATION AND INTERPRETATION

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

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

SECTION 202 TERMS OR WORDS NOT DEFINED

When terms, phrases, or words are not defined, they shall have the meaning as defined in ‘The Latest Illustrated Book of Development Definitions’ (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

SECTION 203 DEFINITIONS

ABANDONMENT:

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

ABUTTING:

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

ACCESS:

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

ACCESSORY STRUCTURE:

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

ACCESSORY USE:

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

ADJOINING PROPERTY:

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

ADULT USE:

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

Adult Oriented Entertainment: A nightclub, bar, tavern, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

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

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

Specified Sexual Activities: As used herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as a “Sexually Oriented Activity.”

AGRICULTURE:

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for farm homes, and packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agriculture activities, and provided further that the above uses shall not include commercial hog farms, poultry farms or fur farms, and excluding fertilizer plants or sale of fertilizer, feed stores, tanneries, and similar objectionable uses.

AGRI-TOURISM:

An activity or operation that is agriculturally based and brings in visitors to a farm or ranch, including, buying produce direct from a farm stand, navigating a corn maze, picking fruit, feeding animals or staying at a Bed and Breakfast on a farm.

ALLEY:

A public or private way affording secondary means of access to abutting property.

ALTERATION:

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

ALTERATION, STRUCTURAL:

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

AMENDMENT:

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

ANIMAL CEMETERY:

A place where three or more animals, either agricultural or domesticated, are buried or cremated. This terms includes crematories, mortuaries and mausoleums.

ANIMAL HOSPITAL:

A building or structure used for the treatment of domesticated animals by a veterinarian or other medical practitioner licensed by the state, with short-term boarding incidental to the treatment.

ANIMAL KENNEL:

A place where more than three animals are kept, housed, boarded, bred or trained.

APPLICANT:

The person or entity filing an application under this Ordinance.

ASPHALT, BATCH OR CONCRETE PLANT:

An industrial facility used for the production of asphalt or concrete, or asphalt or concrete product, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the productions process or

of finished products manufactured on the premises and the storage and maintenance or required equipment.

AUTOMOTIVE REPAIR FACILITY:

AUTO BODY SHOP: A facility in which major or minor collision repairs or replacements are performed, including painting and body work. Services provided may also include major or minor parts repairs or replacement.

COMMERCIAL VEHICLE SHOP: A facility that is directed toward the servicing and repair of commercial vehicles, such as tractor trailers, dump trucks and other heavy duty commercial vehicles.

SERVICE STATION (MINOR): A facility that provides minor services such as oil changes, alignments, tires, filters, safety/emissions inspections and other similar services.

SERVICE STATION (MAJOR): A facility that provides major automotive repairs, such as engines, transmissions and other similar services, but not including body work.

AUTOMOTIVE SALES:

The use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner/operator of this business shall have a valid state license for the sale or rental of such motor vehicles. Any related repair shall be conducted within an enclosed building and shall be an accessory use.

AUTOMOBILE WRECKING YARD (ALSO SEE JUNK YARD):

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

BED AND BREAKFAST:

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

BIG BOX RETAIL STORE:

A physically large retail establishment, usually part of a chain where the building footprint is equal to or greater than 50,000 square feet. The term sometimes also refers, by extension, to the company that operates the store. A Big Box Retail Store can generally be broken down into two categories: general merchandise (examples include Wal-Mart and Target) and specialty stores (such as Home Depot, Lowes, Barnes & Noble, or Best Buy) which specialize in goods within a specific range, such as hardware, books, or electronics.

BOARD OR ZONING HEARING BOARD:

The Zoning Hearing Board appointed by the Governing Body of Luzerne County in connection with the Luzerne County Zoning Ordinance.

BOARDING HOUSE / ROOMING HOUSE:

A building or part thereof, other than hotel or restaurant, where meals and/or lodging are provided for compensation, for four (4) or more persons not related to the resident family.

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

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

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another.

BUILDING:

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

BUILDING, ACCESSORY:

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

BUILDING COVERAGE:

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

BUILDING ENVELOPE:

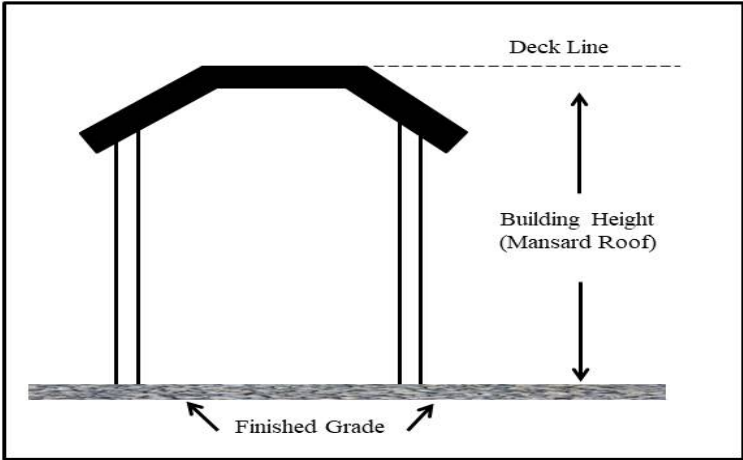
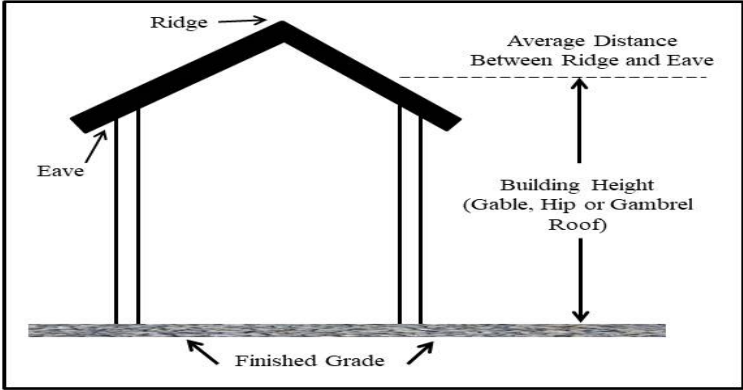
An area of a lot upon which development may occur. Excluding deed restrictions, covenants, easements or other site conditions, the governing minimum setback requirements for a given zoning district establishes the building envelope.

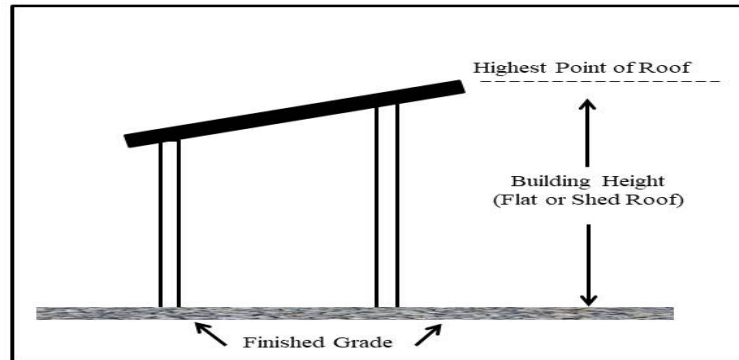
BUILDING HEIGHT:

The vertical distance of a building measured from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat

roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

EXAMPLES





BUILDING, PRINCIPAL:

A building in which is conducted the principal use of the lot on which it is located.

CAMPGROUND:

A use with two or more camping unit sites, accessible by vehicular traffic where sites are substantially developed and table, refuse containers, flush toilets, bathing facilities, and water are provided.

CAMPING UNIT:

Any tent, trailer, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation or vacation purposes.

CAMPSITE:

Any plot of land within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper.

CARPORT:

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

CAR WASH/AUTO DETAILING:

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

CELLAR:

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

CEMETERY:

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

CERTIFICATE OF ZONING COMPLIANCE:

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

CHANGE OF USE:

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

CHURCH: SEE PLACE OF WORSHIP

COMMISSION, PLANNING COMMISSION, LUZERNE COUNTY PLANNING:

The Luzerne County Planning Commission of Luzerne County, Pennsylvania.

COMMUNICATIONS ANTENNA:

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

COMMUNICATIONS EQUIPMENT BUILDING:

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

COMMUNICATIONS FACILITY:

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

COMMUNICATIONS TOWER:

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

COMMUNICATIONS TOWER, HEIGHT:

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

CONTINUING CARE FACILITY:

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

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

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

CONTRACTOR’S STORAGE/YARD:

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

CONVENIENCE STORE:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, including beer/wine sales as permitted.

CONVENIENCE STORE WITH GAS SALES:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, including beer/wine sales as permitted, along with the retail sales of gasoline and related fuel products, but excluding any type of automotive repairs.

CORRECTIONAL INSTITUTIONS:

A jail, or other institutional facility, used to confine and/or provide treatment, or rehabilitation, of violators of criminal laws, including juvenile inmates/detainees and including facilities for person who are participating in supervised work release programs, whether such facilities provide confinement for all of each 24-hour period, or only a portion thereof, but not including temporary holding facilities that are necessary to a police station. These uses include, but are not limited to detention centers, honor camps, houses of correction, jails, juvenile detention centers penitentiaries, prison farms, reformatories, training schools for delinquents, offenders, and other adjudicated individuals.

CREMATORY:

A facility used for incineration of deceased individuals.

CRITICAL AREAS:

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

which display poor percolation, mature stands of native vegetation and aquifer recharge and discharge areas.

DAY CARE FACILITIES:

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

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

- B. Child Day Care Center: A premises in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the provider of the child day care center, where such facility is subject to PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.

- C. Family Day Care Home: A premise in which child day care is provided at any one time to between four (4) to six (6) children who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.

- D. Group Day Care Home: A state licensed facility in which are is provided for more than six (6) but less than twelve (12) children, at any one time, if care is provided in a facility where the child care areas are being used a family residence.

DECISION:

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

DETERMINATION:

Final action by an officer, body or agency charge with the administration of this Ordinance or application thereunder, except the following:

- 1. the governing body;
- 2. the zoning hearing board.

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

DEVELOPMENT:

Any man-made improvements to improved or unimproved real estate. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or

structure, any mining, dredging, filling, grading, paving, excavation, drilling, land disturbance and any use or extension of the use of land shall be deemed to constitute a development.

DOMESTIC ANIMAL OR DOMESTICATED ANIMALS:

This term shall mean a dog, cat, rabbit, gerbil, lizard, parrot or other domestic animal normally or ordinarily kept in or permitted to be at large in the dwelling of its owner. This term does not include such animals as bears, chickens, ducks, goats, wolves, wolf-dog hybrids, cows, horses, venomous snakes, pigs, hogs, sheep, or any exotic animals, including but not limited to bobcats, lynx, coyotes, or animals not native to the region.

DRIVE-IN COMMERCIAL USE:

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

DRUG TREATMENT FACILITY:

RESIDENTIAL IN-PATIENT FACILITY: A facility that offers intensive, residential treatment programs designed to treat serious addictions.

OUT-PATIENT REHABILITATION FACILITY: A facility offering part-time rehabilitation programs allowing the recovering user to continue work or schooling during normal hours.

METHADONE CLINIC: A facility that administers methadone and similar substances designed to eliminate the urge to use hard narcotics.

DWELLING:

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

- A. Single-Family: A detached building arranged or used for occupancy by one (1) family. A manufactured housing unit which is attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit.
- B. Two-Family: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced by access to the outside or to a common cellar.
- C. Multiple: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar. This term shall include apartment houses/buildings, apartment hotels, flats, townhouses, and group houses.

DWELLING UNIT:

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

ENTERTAINMENT FACILITIES:

Commercial establishments engaged in providing indoor and/or outdoor entertainment for a fee or an admission charge, including but not necessarily limited to a movie theater, live theater performances, an arcade, bowling alley, billiard or pool hall, roller skating rink, miniature golf, golf driving range, or similar facilities.

EXCAVATION/EXTRACTION:

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

FAMILY:

Any number of individuals related by blood, marriage or legal adoption, including foster children, occupying a dwelling unit as their domicile as a single nonprofit housekeeping unit. A family shall also be deemed to include not more than four (4) unrelated persons occupying a dwelling unit as their domicile and living as a single, nonprofit housekeeping unit. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first sentence of this definition.

A family does not include a group living in a boarding house or hotel, or fraternities, sororities, and clubs, or other forms of congregate living arrangements, except as otherwise provided herein.

FARM:

An area of land not less than five (5) acres in size, and used for agricultural purposes, as defined under "Agriculture."

FLEA MARKET:

An occasional or periodic market where groups of individual sellers offer goods for sale to the public.

FLOOR AREA:

For the purposes of applying the requirements for off-street parking and loading, "floor area," in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting or alteration rooms.

FOOD PROCESSING ESTABLISHMENT:

Manufacturing establishments producing or processing foods for human consumption and certain related products. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oils products; (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing and by-product processing (not including facilities that also slaughter animals); (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

FRONTAGE:

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

GARAGE, PRIVATE:

A space or structure on the same lot with or in the building to which it is accessory, for storage only, having no public shop or service in connection therewith, and in which no occupation, business or industry is conducted. Except on farms, only one (1) commercial motor vehicle not exceeding two (2) tons capacity or weight may be parked in a private garage or driveway.

GOVERNING BODY, or BODY:

The organization designated by Pennsylvania Code, or a Home Rule Charter, to conduct the business and functions of Luzerne County.

GRAVEL (CRUSHED STONE):

A surface that is considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

GREENHOUSE (or NURSERY):

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

GROUP HOME:

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

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

HALFWAY HOUSE:

A State licensed residence for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

HIGHWAY OCCUPANCY PERMIT:

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

HOME OCCUPATION:

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

HOME OCCUPATION (NO IMPACT):

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

HOME OFFICE:

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

HOTEL:

A building designed or used primarily as a temporary abiding place in which lodging is provided for compensation, with or without meals, containing ten (10) or more guest rooms, and having an outside entrance in common.

HUB HEIGHT:

The distance measured from the surface of the tower foundation to the height of the Wind Turbine hub to which turbine blades are attached.

IMPACT ANALYSIS:

A study and/or report, which may be required at the discretion of the Zoning Hearing Board prior to approval of a special exception use to determine the potential impact of the proposed use on activities, utilizes, traffic generation and circulation, surrounding land uses, community facilities, environmental features, the public health, safety and welfare, and other factors which may be

directly or potentially affected. The applicant shall be responsible for all costs related to any and all report and/or studies required by the Zoning Hearing Board until or within the context of the “Impact Analysis.” An Impact Analysis may also be required by the Planning Commission for rezoning and subdivision/land development applications.

IMPERVIOUS SURFACE OR COVERAGE:

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

IMPROVEMENTS:

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

INDUSTRY, HEAVY:

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

INDUSTRY, LIGHT:

Uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, “light industrial” shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories, or the like. Light industry must be capable of operation in such a manner to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Light industry shall not include uses such as mining and extraction industries, petrochemical industries, rubber refining, primary metal and/or any form of basic industrial processing, including but not limited to the use of hazardous materials.

INTERMEDIATE CARE FACILITY:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other personal health services to patients on a planned program of care and administrative management, supervised on a continuous 24-hour basis in an institutional setting.

JUNKED VEHICLES:

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

are examples of what may constitute a state or condition of disrepair to classify a vehicle to be a junked vehicle:

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

JUNKYARD:

A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding pawn shops and establishments for the sale, purchase, or storage of used cars in operable condition, salvaged machinery, used furniture, and household equipment, and the processing of used, discarded or salvaged materials as part of the manufacturing operations.

LAND DISTURBANCE:

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

LANDOWNER:

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

LOT:

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit, for principal and accessory buildings or structures.

LOT AREA:

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

LOT AREA, GROSS:

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

LOT AREA, NET:

The area of land contained within the limits of the legally described property lines bounding the lot that is not covered by structures or other impervious surfaces.

LOT, CORNER:

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

LOT COVERAGE:

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

LOT DEPTH:

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

LOT FRONTAGE:

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

LOT LINE:

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

LOT LINE, REAR:

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

LOT LINE, SIDE:

Any lot line not classified as a front or rear lot line.

LOT OF RECORD:

Any lot which individually, or as part of a subdivision, has been recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania.

LOT, THROUGH:

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

LOT WIDTH:

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

MANUFACTURED HOME:

A manufactured home (also known as a mobile home) is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis. A manufactured housing unit which is attached and anchored to a permanent foundation shall be deemed to be a single family dwelling unit.

MANUFACTURED HOME PARK:

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

MANUFACTURED HOME SALES LOT:

An open lot used for the outdoor display and/or sales of manufactured housing units.

MIXED USE STRUCTURE:

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

MORTUARIES:

A building, or part thereof, used for funeral services. These activities may include embalming, preparation of the dead for burial, autopsies, storage of funeral supplies and vehicles; but shall not include a Crematory.

MOTEL, MOTOR OR TOURIST COURT:

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

NO IMPACT HOME OCCUPATION:

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

NONCONFORMING LOT:

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

NONCONFORMING STRUCTURE:

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structure include, but are not limited to, nonconforming signs.

NONCONFORMING USE:

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

OUTDOOR ADVERTISEMENT (including BILLBOARDS):

An advertisement used outdoors, including painted walls or rock faces, free-standing billboard signs, or other similar structures, advertising a product or service unrelated to the use of the land

or structure on which it is located. This term shall not refer to official notices or directional road signs of a government body.

OUTDOOR WOOD-FIRED BOILER:

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

PARKING AREA:

A parking lot or garage, used for parking of automobiles, available to the public, and which is not an accessory use.

PARKING SPACE:

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

PERMITTED USE:

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

PERSONAL CARE HOME:

A facility, as defined under current State licensing requirements, in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four consecutive hours for more than three (3) adults who are not relatives of the operator of the facility and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self-administration, but who do not require hospitalization or care in a skilled nursing or intermediate care facility.

PERMANENT FOUNDATION:

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

PERSONAL SERVICES:

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

PLACE OF WORSHIP:

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

PLANNED RESIDENTIAL DEVELOPMENT (PRD):

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one (1) residential district created, from time to time, under the provisions of the Luzerne County Zoning Ordinance.

PLANNING COMMISSION:

The Luzerne County Planning Commission.

PRINCIPAL USE:

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

PROFESSIONAL OFFICES:

The use of offices and related spaces for such professional services as provided by doctors, dentists, lawyers, architects, engineers, real estate agents, insurance brokers, and related services.

PUBLIC USES:

Public schools, parks, and administrative, cultural and service buildings, but not including public or buildings devoted primarily or solely to the storage and maintenance of equipment and material.

PUBLIC UTILITIES FACILITIES (ESSENTIAL):

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

PUBLIC UTILITY TRANSMISSION TOWER:

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

RECREATIONAL FACILITIES, COMMERCIAL:

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

RECREATIONAL FACILITIES, PRIVATE:

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

RECREATIONAL FACILITIES, PUBLIC:

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

SCHOOL:

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

SCREENING:

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

SEATING CAPACITY:

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

SELF-STORAGE FACILITY:

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

SEMI-PUBLIC USES:

Churches, Sunday schools, parochial schools, colleges, hospitals, and other institutions of an educational, religious, charitable or philanthropic nature.

SETBACK:

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

SHOPPING CENTER:

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

SHORT TERM RESIDENTIAL RENTAL UNITS:

A private residential dwelling unit that is available to rent for periods of less than one month without a lease that is not part of a commercial enterprise such as a motel or hotel.

SIGN:

An advertisement displayed outside a building, pertaining to a product, service or name, related directly to the permitted activity carried on and use of the lot on which it is placed, including painted walls or structure.

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

- A. **IDENTIFICATION SIGN:** A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.

- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered prepared, manufactured or conducted upon the zoning where the sign is located.
- C. BILLBOARD OR OFF-PREMISES ADVERTISING SIGN: A sign which communicated information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area, which advertises the sale, rental or development of the premises upon which the sign is located.
- E. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- F. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, place of worship, hospital or other institution of a similar public or semi-public nature.
- G. ON-SITE DIRECTIONAL AND/OR INFORMATION SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A sign that displays the name of a subdivisions and/or development at an entrance to the site upon which the subdivision and/or development is located.
- I. EVENT SIGNS: A temporary sign advertising private not-for-profit events and fundraisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

SITE:

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

SITE PLAN:

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

SKILLED NURSING FACILITY:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other health services for a period of twenty-four hours or more for individuals

not in need of hospitalization, but who because of age, illness or other infirmity, require high-intensity comprehensive planned nursing care.

SOLAR ARRAY:

Means a ground mounted solar collection system consisting of a linked series of photovoltaic modules.

SOLAR COLLECTION SYSTEM:

A panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage and distribution of solar energy for electricity generation, space heating, space cooling or water heating.

SOLAR EASEMENT:

Means an easement of direct sunlight which may be acquired over the land of another by express grant or covenant.

SOLAR ENERGY DEVICE (active and passive):

The equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating and/or cooling, generating electricity, or other application that would otherwise require the use of conventional sources of energy such as petroleum products, natural gas, manufactured gas, or electricity produced from a nonrenewable resource.

SOLAR ENERGY SYSTEM:

Any solar collector or other solar energy device or any structural design feature whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, for water heating or for electricity that may be mounted on a building or on the ground and is not the primary use of the property.

- A. Major System:** A commercially operated solar energy system that is principally used to convert solar radiation to electricity to supply electricity to off-site customers, including but not limited to a Solar Farm
- B. Minor System:** A solar energy system for the production of electricity that (a) uses as its fuel solar power, (b) is located on the power beneficiary's premises, (c) is intended primarily to offset part or all of the beneficiary's requirements for electricity, and (d) is secondary and accessory to the beneficiary's use of the premises for other lawful purposes.

SOLAR FARM:

A commercially operated facility or area of land principally used to convert solar radiation to electricity to supply electricity of off-site customers.

SOLID WASTE OR WASTE:

Any garbage, refuse, or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, excluding "Hazardous Substance" as so defined

by this Ordinance and “Hazardous Waste” as so defined by the Pennsylvania Department of Environmental Protection, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

SOLID WASTE FACILITY:

Any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management, processing, treatment, storage, transfer and/or disposal of solid waste as so defined by this Ordinance.

SPECIAL EXCEPTION:

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

STANDALONE NONCOMMERCIAL WINDMILL:

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

STORY:

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above, the between such floor the ceiling above it. A basement shall be counted as a story if its ceiling is over six (6) feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

STRUCTURE:

Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

STRUCTURAL ALTERATION:

Any change in the structural members of a building, such as walls, columns, beams, roof, or girders.

TATTOO PARLOR/BODY PIERCING STUDIO:

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

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

TAVERN:

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

TELEPHONE EXCHANGE BUILDING:

A building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone and radio messages between subscribers, provided that in residential districts such buildings shall conform to the architectural design of the neighborhood and shall not include public access or business facilities, storage of materials, trucks or repair facilities, or housing of repair crews.

TRUCKING FACILITY:

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

TRUCK REPAIR & STORAGE:

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

USE:

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

VARIANCE:

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

WAREHOUSE:

A building used primarily for storage of goods and materials.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of materials that are inflammable, explosive, hazardous, or commonly recognized as offensive. This term does not include trucking facilities.

WATERCOURSE:

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

WIND ENERGY CONVERSION SYSTEM (WECS):

A machine designed for the purpose of converting wind energy into electricity. Commonly known as “wind turbine” or “windmill,” the term WECS shall be used interchangeably with the terms wind turbine and windmill.

WIND ENERGY FACILITY:

A commercial electricity generating facility, whose main purpose is to supply electricity to off-site customers, consisting of one or more commercial WECS, and other accessory structures and

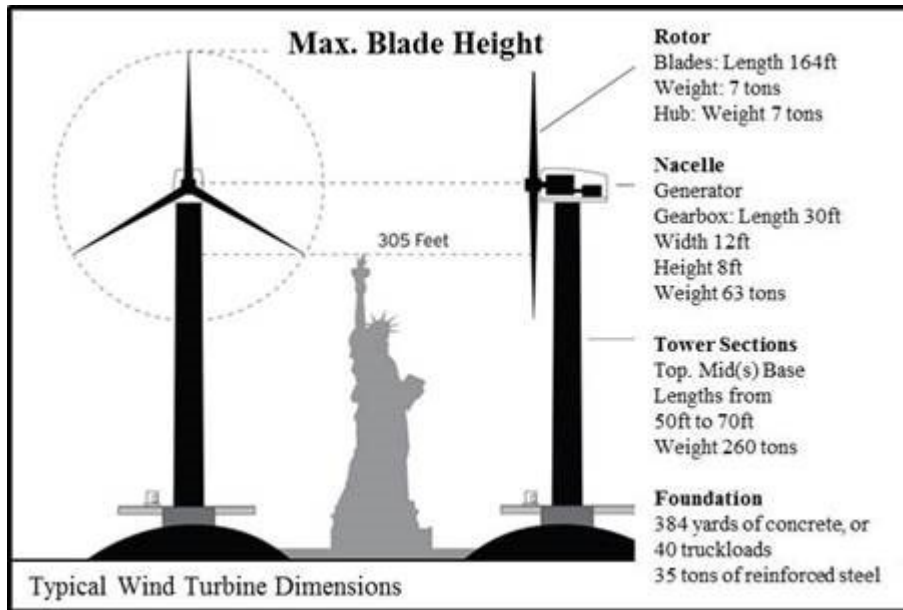
buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND TURBINE:

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

WIND TURBINE HEIGHT:

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



YARD:

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

YARD, FRONT:

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

YARD, REAR:

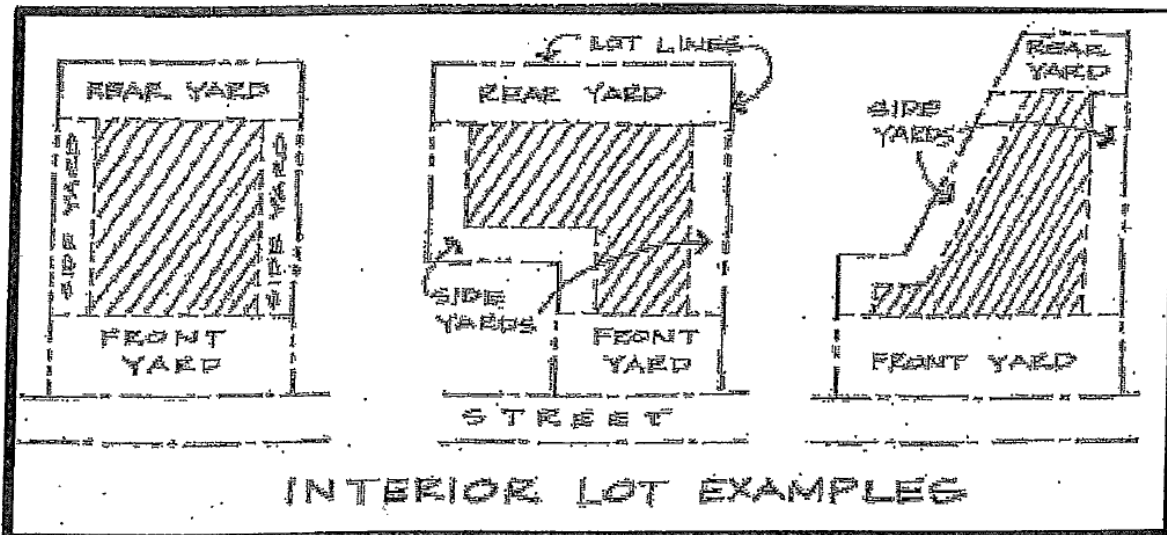
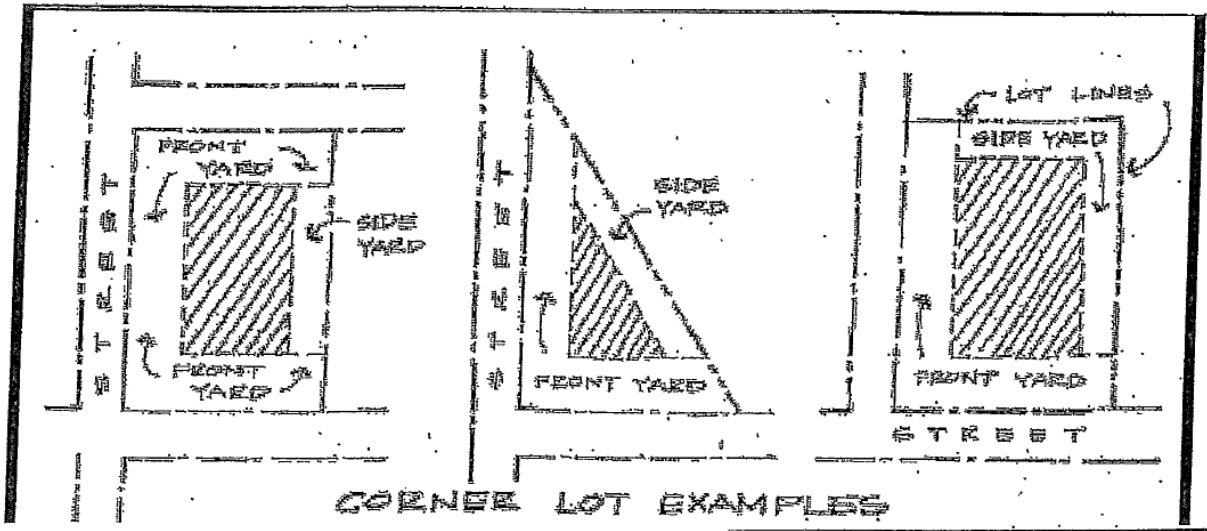
A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

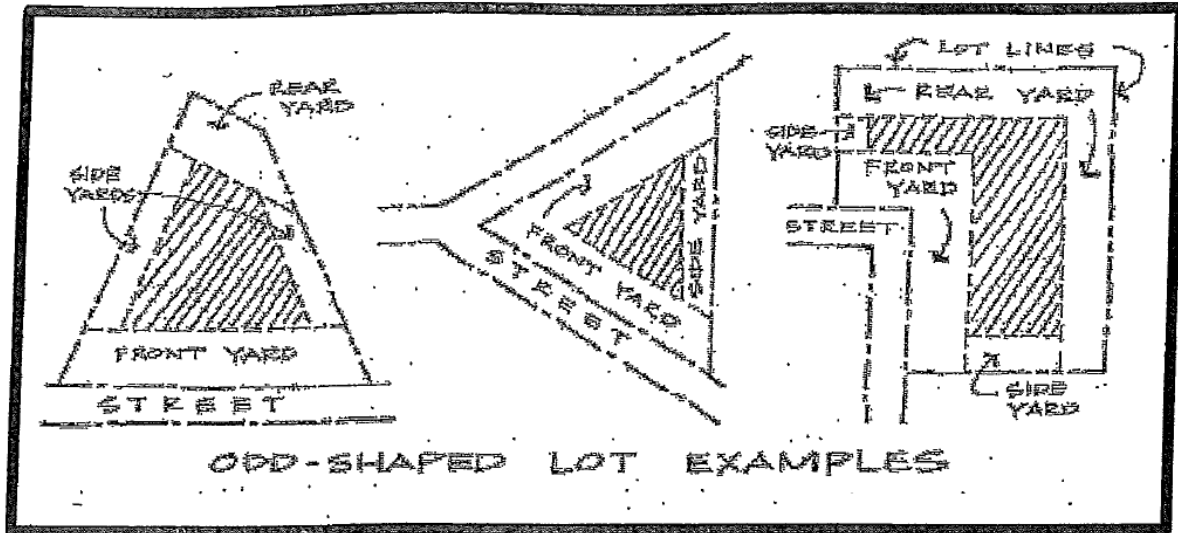
YARD, SIDE:

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

YARD, REQUIRED:

The minimum open space between a lot line and the building envelope, as defined in this Ordinance, within which no structure is permitted to be located except as otherwise provided for in this Ordinance. SEE ILLUSTRATIONS FOR YARD AREAS FOR VARIOUS LOT TYPES.





ZONING DISTRICT:

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

ZONING HEARING BOARD:

The Zoning Hearing Board of Luzerne County, Pennsylvania.

ZONING MAP:

The map or maps containing the zoning districts of Luzerne County, Pennsylvania, together with all amendments subsequently adopted.

ZONING OFFICER:

The Zoning Officer, or his authorized representative, appointed by the Executive Director of the Luzerne County Planning & Zoning Department.

ZONING PERMIT:

The written authorization, issued by the Zoning Officer, for the construction, alteration, placement, or use of principal or accessory structures and/or for uses of land.

ARTICLE 3 - ZONING MAP, DISTRICTS, AND DISTRICT REGULATIONS

SECTION 301 OFFICIAL ZONING MAP

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

SECTION 302 CHANGES TO OFFICIAL ZONING MAP

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

SECTION 303 INTERPRETATION OF BOUNDARIES

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

303.1 ZONING HEARING BOARD

If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in Section 303.2.

303.2 GUIDELINES

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

SECTION 304 CLASSES OF ZONING DISTRICTS

For the purposes of this Ordinance, the area of Luzerne County, Pennsylvania, exclusive of the territory within any city, borough, or township having a zoning ordinance in effect, is hereby divided in to the following districts:

- CO CONSERVATION DISTRICT
- AG AGRICULTURAL DISTRICT
- SR SUBURBAN RESIDENCE DISTRICT
- R-1 ONE-FAMILY RESIDENCE DISTRICT
- R-2 TWO-FAMILY RESIDENCE DISTRICT
- RA APARTMENT RESIDENCE DISTRICT
- NB NEIGHBORHOOD BUSINESS DISTRICT
- CB COMMUNITY BUSINESS DISTRICT
- HB HIGHWAY BUSINESS DISTRICT
- GB GENERAL BUSINESS DISTRICT
- MI MINING DISTRICT
- LI LIGHT INDUSTRIAL DISTRICT
- HI HEAVY INDUSTRIAL DISTRICT
- MRB MIXED RESIDENTIAL BUSINESS DISTRICT

SECTION 305 PURPOSE OF ZONING DISTRICTS

1. Conservation (CO) District: The purpose of this Zoning District is to provide for the preservation and protection of natural areas and resources including, but not limited to, surface waters, environmentally sensitive soils, steep slopes, woodland and wildlife, while sustaining a rural atmosphere, open spaces, scenic beauty, but yet allowing agricultural development and farming activities. Different types of development are permitted provided that there is sufficient area to promote and maintain the public health, welfare and safety and not interfere with the natural features of the Zoning District.

2. Agricultural (AG) District: The purpose of this Zoning District is to promote continued farming activities and provide for such uses that may not require public water or sewer facilities, but which may be more suitably located outside the urbanized growth areas of the County.
3. Suburban Residence (SR) District: The purpose of this Zoning District is to provide for single family residential uses within a more rural setting where public water and public sewer are not generally provided.
4. One-Family Residence (R-1) District: The purpose of this Zoning District is to provide for single family residential uses in urban settings where public water and public sewer are generally provided.
5. Two-Family Residence (R-2) District: The purpose of this Zoning District is to provide for one and two family residential uses in urban settings where public water and public sewer are generally provided.
6. Apartment Residence (RA) District: The purpose of this Zoning District is to provide for higher density residential uses in urban settings such as apartment buildings, townhouses, condominiums, or other housing developments that typically provide three or more dwelling units per residential structure.
7. Neighborhood Business (NB) District: The purpose of this Zoning District is to provide for the needed retail and service businesses that serve small, local neighborhood communities in urban settings.
8. Community Business (CB) District: The purpose of this Zoning District is to provide for retail and service businesses that supply goods and services to a broader community than the immediate neighborhood.
9. Highway Business (HB) District: The purpose of this Zoning District is to provide for retail and service businesses that are typically located along major arterial thoroughfares such as state and federal highways away from residential use areas.
10. General Business (GB) District: The purpose of this Zoning District is to provide for retail and service businesses that provide goods and services to both the community and to the region.
11. Mining (MI) District: The purpose of this Zoning District is to provide for the extraction of minerals, rock quarries, sand, etc. while serving to buffer these uses from other uses and districts.
12. Light Industrial (LI) District: The purpose of this Zoning District is to provide for light industrial uses and related activities in areas accessible to major thoroughfares.

13. Heavy Industrial (HI) District: The purpose of this Zoning District is to provide for larger and more intensive industrial uses such as manufacturing plants, warehousing/distribution facilities, etc.
14. Mixed Residential – Business (MRB) District: The purpose of this Zoning District is to provide for both residential and business uses in close proximity to each other in urban settings.

SECTION 306 PERMITTED USES, SPECIAL EXCEPTION USES, AND NON-PERMITTED USES

1. Permitted Uses. The letter “P” designated under any of the zoning districts in the **Use Table of this Ordinance (Appendices 1.1 and 1.2)** indicates a permitted use in that district, which use is permitted by right within that zoning district, thereby not requiring Zoning Hearing Board approval, but only a determination of compliance and approval by the Zoning Officer.
2. Special Exception Uses. The letters “SE” designated under any of the zoning districts in the Use Table of this Ordinance indicates a special exception use in that district, which use requires Zoning Hearing Board approval. The Zoning Hearing Board may either approve or deny a special exception use in accordance with the provisions of this Ordinance. The Zoning Officer has no discretion to approve any permit where the use is classified as requiring special exception approval.
3. Non-Permitted Uses. A blank cell under any of the zoning districts in the Use Table of this Ordinance indicates a use not permitted in that district, which use requires a use variance to be approved or denied by the Zoning Hearing Board in accordance with the provisions of this Ordinance.

SECTION 307 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any zoning district established under this Ordinance, a use is neither specifically permitted nor denied and/or the Zoning Officer is unable to classify a subject use and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit or deny the proposed use in accordance with the standards governing special exception applications if the Board makes an initial determination that the proposed use is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that:

1. The proposed use is similar to and compatible with permitted uses in the district.

2. The proposed use would not be detrimental to the public health, safety and welfare of the neighborhood.
3. The proposed use meets the standards and criteria for special exceptions as contained this Ordinance.

SECTION 308 ZONING DISTRICT DIMENSIONAL REGULATIONS TABLE

Please refer to **Appendix 2** for regulations pertaining to yard areas and height.

ARTICLE 4 – GENERAL DEVELOPMENT STANDARDS

SECTION 401 COMPLIANCE REQUIRED

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

SECTION 402 INTERPRETATION AND CONFLICT

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

402.1 PUBLIC PROVISIONS: The regulations of this Ordinance are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the County which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, Structure or building than any other previously adopted ordinance, rules, or regulations of the County, the provisions of this Ordinance shall apply.

402.2 PRIVATE PROVISIONS: The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant, or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Where the provisions of any easement, covenant or other form of private agreement or restriction imposes obligations, duties and/or requirements which are more restrictive and/or impose higher standards than the requirements of this Ordinance, then such private provisions shall be operative and supplemental to the requirements of this Ordinance.

SECTION 403 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or structure or part thereof shall be erected, altered, add to or enlarged, nor shall any land, building, structures or premises be used, designed or intended to be used for any purpose other than the uses hereinafter listed as permitted in the Zoning District in which such building, structure or premises are located.

SECTION 404 REQUIRED AREA OR SPACE CANNOT BE REDUCED

The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Ordinance; and if already less than the minimum required by this Ordinance, said nonconformity may be continued but shall not be further reduced.

SECTION 405 REQUIRED ACCESS

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

SECTION 406 ACCESSORY STRUCTURES

A. Attached Accessory Structures

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

B. Unattached Accessory Structures

(1) Residential Zoning Districts (SR, R-1, R-2, RA, MRB):

- A. Unattached accessory structures shall be erected within the rear or side yards.
- B. The maximum height shall not exceed fifteen (15) feet.
- C. Accessory structures shall not be less than five (5) feet from the side lot line, except by notarized consent in writing of the adjoining lot owner.
- D. On a corner lot, an accessory structure shall maintain the same setback as a principal structure.
- E. Accessory structures shall not be less than three (3) feet from the rear lot line, except when the structure abuts an alley or street in which case ten (10) feet shall be required.
- F. If there is no principal use structure on a lot, or section of a lot divided by a road or alley, the first accessory use structure built shall comply with the principal use requirements.
- G. Exceptions:
 - 1. A flagpole may be located in the front yard in any zoning district and its maximum height shall be the maximum height for a principal structure in that district.
 - 2. An amateur (ham) radio antenna shall be limited to the maximum height of a principal structure and shall be installed on a secure and well-maintained tower.

(2) Non-Residential Zoning Districts (All Other):

Unattached accessory structures shall comply with the front and side yard setback requirements and building height limits as for principal structures, except as otherwise specified in this Ordinance.

SECTION 407 PROJECTION INTO REQUIRED YARDS

- A. A wall or fence under six (6) feet in height, or higher if a retaining wall, may be erected within the limits of any yard or outer court, but shall not block visibility from side streets or adjoining property driveways. EXCEPTION: Fences up to ten (10) feet in height are

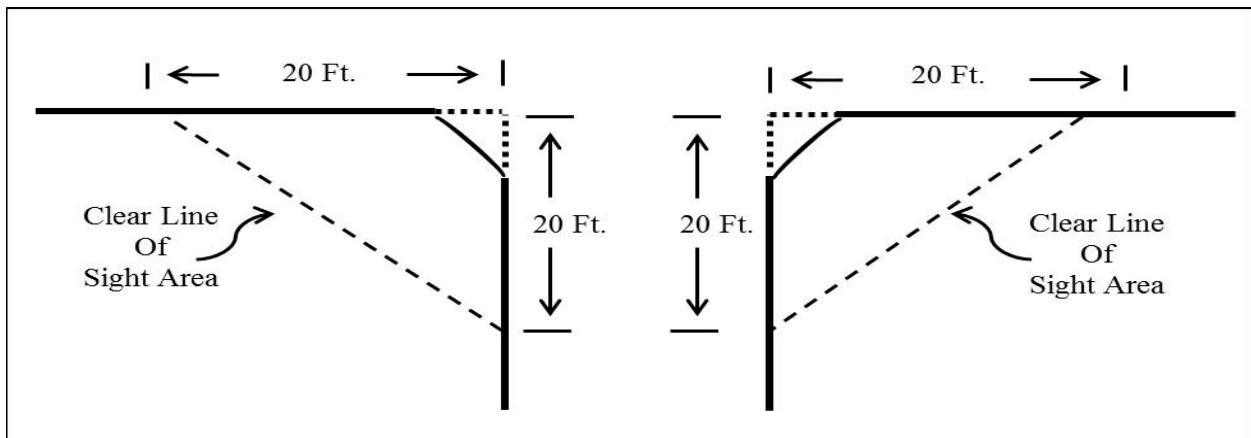
permitted within the surveyed property in Mining (MI), Light Industrial (LI), Heavy Industrial (HI) districts and as perimeter fencing around commercial communications towers.

- B. Patios, terraces and open porches may be located in side and rear yards, not closer than three (3) feet to any adjacent property line. If located closer than eight (8) feet in any District except an R-3 District, or five (5) feet in an R-3 District, they shall be adequately screened from the adjoining lot.
- C. Chimneys, leaders, cornices, eaves, gutters and bay windows, and the like, may extend not more than eighteen (18) inches into any required yard, except that fully cantilevered projections no less than seven (7) feet in height are permitted in business districts up to the property line.
- D. Utility facilities necessary to serving any area are exempt from height limitations applicable to the various zoning districts.
- E. Ramp entranceways to structures for disabled persons as defined in the Americans with Disabilities Act (ADA) shall be exempt from setback requirements.
- F. Ancillary equipment essential to the use of a structure, including but not limited to: HVAC condenser units, propane tanks, permanently installed emergency backup generators, and similar equipment may be located within the limits of any side or rear yard.

SECTION 408 VISIBILITY AT INTERSECTIONS, STREETS, & PRIVATE DRIVEWAYS

A clear-sight triangle shall be provided at all street and driveway intersections. Nothing shall be erected, placed or allowed to grow in a manner which obscures vision above the height of two and one-half (2 ½) feet and below ten (10) feet. Measured from the centerline grade of intersecting streets and driveways.

- A. Street Intersections: For corner properties, at street intersections, an isosceles triangle shall be established for a distance of twenty (20) feet at each side of the point of intersection of the street right-of-way lines with the property line.
- B. Driveway Intersections: At driveway intersections with streets, an isosceles triangle shall be established for a distance of twenty (20) feet at each side of the point of intersection of the street right-of-way with the driveway.



SECTION 409 CORNER LOT RESTRICTION

On a corner lot, the front yard setback required within that zoning district will apply to both sides fronting the intersecting roadways. This provision shall apply to both accessory and principal structures.

SECTION 410 HIGHWAY OCCUPANCY PERMIT

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

SECTION 411 NATURAL RESOURCES PROTECTION STANDARDS

411.1 SSC — STEEP SLOPE CONSERVATION REGULATIONS.

A. Purpose. The purposes of this Section are as follows:

1. To promote the public health, safety, and welfare by protecting steep slope areas and by encouraging retention of open space located and designed so as to constitute a harmonious and appropriate part of the physical development of the County.
2. To permit only those uses of steep slope areas that are compatible with the conservation of natural conditions and that maintain stable soil conditions by: (1) minimizing disturbances to vegetative ground covers; and (2) restricting the regrading of steep slope areas.
3. To limit soil erosion and the resultant destruction of the land, siltation of streams, and property damage.
4. To protect low-lying areas from flooding by limiting the increase in storm water runoff caused by grading of sloped areas, changes in ground cover, or the erection of structures.
5. To maintain the ecological integrity and habitat value of steeply sloped areas for indigenous vegetation and wildlife that could be adversely affected by otherwise permitted disturbances.
6. To allow the continuing replenishment of groundwater resources and the maintenance of springs.

B. Delineation.

1. The SSC — Steep Slope Conservation District shall consist of any area that is delineated and defined as follows:
 - a. Prohibitive Slope. Prohibitive slopes are those of greater than 25% slope, as further defined in Article 2.
 - b. Precautionary Slope. Precautionary slopes are those of 15% to 25% slope, as further defined in Article 2.

2. The applicable United States Geological Survey Topographic Map, or a topographic survey prepared by a registered professional licensed to perform such surveys when required as part of a subdivision or land development plan application, shall determine the lands contained within the SSC — Steep Slope Conservation District.

C. Steep Slope Delineation Procedure.

1. Each application for construction, land disturbance or subdivision containing land within the SSC — Steep Slope Conservation District shall be submitted in accordance with such other provisions of the ordinances of the County as are applicable thereto. Any area of prohibitive slope or precautionary slope that falls within the subject lot or lots shall be shown on the site plan through shading of such area or areas.
2. Any party seeking land development and/or subdivision approval in what might be the SSC — Steep Slope Conservation District shall have the burden to present evidence to the reviewing body of the boundaries of the district in the area in question. This presentation must include applicable topographic data with respect to the property and any other pertinent documentation for consideration.
3. Where the exact location of the boundaries of the district in relation to a given parcel is in question, the Zoning Officer shall evaluate all material submitted by the applicant and any other pertinent information. He shall make a written report of the results of his determination, a copy of which shall be provided to the applicant.
4. Any party aggrieved by any such determination by the Zoning Officer may appeal to the Zoning Hearing Board. The party contesting the location of the district boundary shall have the burden of proof in any such appeal proceeding.

D. Relationship to Other Ordinances. The provisions of the SSC - Steep Slope Conservation District create an overlay district which is applicable within all other zoning districts established by this Ordinance to the extent the provisions of this Section are applicable and are more restrictive, they shall supersede conflicting provisions in any other part of this Ordinance and all other ordinances of the County. However, all other provisions of this Ordinance and all other ordinances of the County shall remain in full force.

E. General Criteria within both Prohibitive and Precautionary Slopes.

1. All grading shall be minimized, and no grading shall be undertaken within any area of the SSC — Steep Slope Conservation District except where approved in conjunction with a use permitted under the terms of this Section.
2. Finished slopes of all cuts and fills shall be stabilized and shall not exceed a 33% slope, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.
3. The maximum limit of disturbance shall be as follows:
 - a. Precautionary slope: 30%.
 - b. Prohibitive slope: 0%, except where permitted under subsection F.3, below.

F. Permitted Uses in Areas of Prohibitive Slope. The following are the only uses permitted by right in areas of prohibitive slope. Such uses also shall be in compliance with the base

zoning district, and shall not involve the erection of buildings, construction of streets, installation of sewage disposal systems, or permanent removal of topsoil.

1. Parks and outdoor recreational uses, consistent with the goals of watershed protection.
2. Logging and woodcutting, where such activity is limited to highly selective removal of trees and is performed in accordance with a woodland management plan prepared by a professional forester and approved by the Zoning Officer. Maximum precautions shall be taken to avoid destruction of or injury to understory brush and trees.
3. Grading for the minimum portion of a driveway necessary to access a single-family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25% is feasible.
4. Yard areas of a building that is permitted under the terms of this Ordinance.

G. Permitted Uses in Areas of Precautionary Slope. The following are the only uses permitted by right in areas of precautionary slope, provided they also are in compliance with the base zoning district and all other provisions of this Ordinance:

1. Any use permitted in an area of prohibitive slope.
2. Tree farming, forestry, and other agricultural uses when conducted in conformance with conservation practices, including minimum tillage methods, approved by the Natural Resources Conservation Service or the Luzerne Conservation District.
3. Single-family detached dwelling, where permitted in the underlying district, provided that such dwellings are designed so that foundation walls are built into the slope without alteration of natural grade beyond the building footprint, or the use of other foundation systems that minimize the area of disturbance to natural grade.
4. Sealed public water supply wells, where approved by all regulatory agencies.
5. Sanitary or storm sewers, where approved by all regulatory agencies.

H. Application Procedures. Before a permit is issued for any construction or land disturbance activity on land within or affecting areas of the SSC — Steep Slope Conservation District, the following material, in full or in pertinent parts, shall be submitted for review by the County:

1. An engineered site plan of the property, indicating existing grades with contour lines of five-foot intervals and proposed grades within the area of the proposed construction. All areas of prohibitive and/or precautionary slope, as defined above, shall be shaded accordingly.
2. Landscaping plan indicating proposed impervious surfaces, storm drainage facilities, retaining walls, and ground cover, as well as trees and ornamental shrub locations.
3. Architectural plans, elevations, and sections.
4. A statement, signed and sealed by a registered architect, landscape architect, or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by any slope conditions, how the natural slopes and watershed will be protected, the type of vegetation which will be installed in disturbed areas, and the method of getting construction and other materials to the site without damage to existing trees and other nearby vegetation.

5. Location and slopes of sides of all proposed cuts and fills.
 6. Plan, profile, and typical cross-sections of any proposed driveway, with the seal of a registered professional engineer thereon.
 7. Plan for on-site sewage disposal facilities unless the requisite municipal sewage enforcement officer determines that the property is within a public sanitary sewer service area.
 8. If a prohibitive slope area extends to the boundary of a proposed site, the slopes on adjacent properties for a distance of 200 feet in all directions from the boundaries of the site in question shall be additionally presented.
- I. Existing Uses and/or Structures within the SSC — Slope Conservation District. Following the effective date of this Ordinance, any use or structure situated within an area of prohibitive slope or precautionary slope that does not conform to the uses permitted in this Section shall become a nonconforming use or structure, regardless of its conformance to the terms of the district in which it is located. The expansion or continuance of said nonconforming use or structure shall be governed by the requirements of Section 413 of this Ordinance. However, the Zoning Hearing Board shall also ensure that the standards contained in this Section are applied to the expansion or continuance of said nonconforming use or structure.

411.2 RIPARIAN BUFFER CONSERVATION REGULATIONS

- A. Findings of Fact.
1. Riparian buffers, particularly forested buffers, prevent stream bank erosion; protect natural stream morphology (i.e., broad meanders with maximum stream bottom habitat); remove excess nitrogen, phosphorus and sediment from surface water runoff; reduce downstream flooding; provide thermal protection to adjoining streams, wetlands, and water bodies; provide food and habitat for wildlife; provide food and habitat for fish and amphibians; form corridors for habitat conservation and greenways; and protect associated wetlands.
 2. Forested riparian buffers in headwaters (first-order streams) generate high levels of organic inputs directly from land to water, which in turn maximize in-stream processing functions that provide the "fuel" needed for downstream energy and nutrient processing.
 3. The County is committed to improving the water quality of its streams, creeks, rivers, and other water bodies and is required by the federal Environmental Protection Agency and the Pennsylvania Department of Environmental Protection to have a plan for improving water quality and to implement that plan in a timely manner.
- B. Intended Purpose. It is the purpose of this Section to promote the public health, safety and general welfare and to minimize impacts to forested riparian resources. In furthering that purpose, the specific intent of this Section is:
1. To conserve, protect, and restore natural riparian resources through scientifically supported processes.

2. To maintain and improve surface water quality by reducing the entry of detrimental substances, including nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, and surface and subsurface water bodies.
3. To reduce the entry of detrimental substances by restricting development and uses in riparian areas that intercept surface water runoff, wastewater, subsurface flow and deep groundwater flows from upland sources and where the processes of filtration, deposition, absorption, adsorption, plant uptake, sediment and phosphorus attenuation, denitrification and infiltration may occur; encouraging sheet flow and minimizing, mitigating and preventing concentrated flows of storm water runoff across riparian areas, and securing increased channel and bank stabilization that avoids stream bank erosion and associated water quality, quantity and flow harms.
4. To reduce adverse aquatic health impacts due to changes in the temperature of receiving waters (both temperature increases and temperature decreases) as a result of storm water runoff, loss of vegetation shading and direct discharges to water bodies.
5. To enhance in-stream processing of nutrients and pollutants such as pesticides and reduce the downstream movement of pollutants, including a reduction in flooding and reduction of soil loss.
6. To improve and maintain the safety, reliability and adequacy of the water supply for domestic, agricultural, commercial, industrial and recreational uses along with sustaining diverse populations of aquatic flora and fauna.
7. To provide wildlife habitat, protect native plant species, and provide opportunities for passive recreation and conserve scenic and recreation areas within and adjacent to riparian areas.
8. To conserve headwater areas, groundwater recharge zones, floodway, floodplain, springs, seeps, streams, wetlands, woodlands, prime wildlife habitats and other features that provide recreational value or contain natural amenities, whether on developed or undeveloped land.
9. To integrate with floodplain, steep slope, wetlands, and woodland protection ordinance provisions as well as other ordinance requirements contained herein that regulate environmentally sensitive areas to minimize hazards to life, property and the environment.
10. To regulate the use, siting, engineering and maintenance of all development to be consistent with the purposes and intent of this Section and accepted conservation easement practices and to work with the carrying capacity of existing natural resources.
11. To minimize the financial burden imposed on the community, its governmental bodies and individuals when having to mitigate the effects of increased soil run-off into creeks, streams, and rivers due to disturbance or loss of forested riparian resources in the County.

C. Overlay Concept, Establishment, and Width Determination of the District.

1. **Overlay Concept.** The provisions of the RCC — Riparian Corridor Conservation District create an overlay district which is applicable within all other zoning districts established by this Ordinance. To the extent the provisions of this Section are

applicable and more restrictive, they shall supersede conflicting provisions in this Ordinance and all other ordinances of the County. However, all other provisions of this Ordinance and all other ordinances of the County shall remain in full force.

2. Establishment.

Regulated Watercourses	Zone One Required	Zone Two Required	Measurement
Perennial streams (Soil Survey and USGS)	Yes	Yes	Measured from top of bank
Intermittent streams (Soil Survey)	Yes	Yes	Measured from center line
Bordered by alluvial soils	Yes	Yes	Measured from center line
Local alluvium in conjunction with alluvial soils	Yes	Yes	Measured from center line
Ponds >5,000 square feet	Yes	No	Measured from edge

- a. The RCC — Riparian Corridor Conservation District applies to the following watercourses and water bodies and the land adjacent to them:
 - 1. All naturally occurring watercourses that normally contain flowing water during all times of the year, including streams that may dry up during periods of extended drought. These shall include, but not be limited to:
 - a. Perennial streams identified in the most recent Soil Survey of Luzerne County.
 - b. Perennial streams identified on United States Geological Survey maps.
 - 2. All intermittent watercourses otherwise identified in the most recent Soil Survey of Luzerne County, County GIS database, or FEMA mapping.
 - 3. All watercourses bordered by alluvial soils, and/or local alluvium soils, as mapped in the most recent Soil Survey for Luzerne County.
 - 4. Ponds greater than 5,000 square feet in area.
 - 5. In the case where a dispute is based upon soils classification, the initial determination may be overruled upon the submission of a report prepared by a soil scientist or other individual with appropriate expertise on behalf of the application which demonstrates that the soils are not any of those listed above in Subsection C.2.a.3.
- b. The district will consist of two distinct zones designated as:

1. Zone One. This zone is a margin of land with a minimum width of 25 feet measured horizontally on a line perpendicular to the top of bank or center line of the watercourse, as appropriate, and/or the edge of the wetland or pond.
 - a. Where slopes in excess of 25% are located within 25 feet of a watercourse, Zone One shall extend the entire distance of this sloped area or 75 feet, whichever is less.
 - b. Where the width of Zone One has been adjusted to a width of less than 75 feet, the width of Zone Two will be adjusted so that the total corridor width (Zone One and Zone Two) shall be a maximum of 75 feet.

2. Zone Two. This zone begins at the outer edge of Zone One and shall occupy a minimum width of 50 feet in addition to Zone One. Where Zone One has been adjusted to a width greater than 25 feet, the width of Zone Two shall be adjusted such that the total corridor width (Zone One and Zone Two) shall be a maximum of 75 feet.
 - a. Where the FEMA-regulated floodplain, as defined in Article 9 of this Ordinance, extends greater than 75 feet from the waterway, Zone One shall remain a minimum of 25 feet wide, and Zone Two shall extend from the outer edge of Zone One to the outer edge of such floodplain.

- c. The width and applicable regulations of the RCC — Riparian Corridor Conservation District shall be as follows, consistent with the standards for Zone One and Zone Two.
 1. For watercourses identified in Subsection C.2.a.1, 2 and 3, herein, both Zone One and Zone Two shall apply.
 2. For ponds identified in Subsection C.2.a.4, herein, only Zone One shall apply.

- d. The measurement of the RCC — Riparian Corridor Conservation District shall be as follows:
 1. For watercourses identified in Subsection C.2.a.1: A minimum of 75 feet from each defined edge of the watercourse at bank full flow, or the area contained within the FEMA-regulated floodplain, whichever is greater.
 2. For watercourses identified in Subsection C.2.a.2 and 3: A minimum of 75 feet from the center line of the watercourse, or the area contained within the FEMA-regulated floodplain, whichever is greater.
 3. For ponds identified in Subsection C.2.a.4: A minimum of 25 feet from the edge of the pond.

D. Uses Permitted in the RCC — Riparian Corridor Conservation District. The following uses are permitted either by right or as a special exception in the RCC — Riparian Corridor Conservation District.

1. Zone One.

- a. Uses Permitted by Right. Open space uses that are primarily passive in character shall be permitted to extend into the area defined as Zone One, including:
 - 1. Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands, and reforestation.
 - 2. Streambank stabilization.
 - 3. Driveways, common driveways and subsurface utility crossings serving not more than five single-family or two-family dwelling units, provided the requirements of Subsection I, herein, are satisfied.
 - 4. Agricultural uses existing at the time of adoption of this Ordinance, so long as they are conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Program Manual, 1990, as amended.
 - 5. Corridor crossings by farm vehicles and livestock.
 - 6. Corridor crossings by recreational trails, roads, railroads, centralized sanitary sewer and/or water lines, and public utility transmission lines, when in compliance with the applicable requirements of the Pennsylvania Department of Environmental Protection and/or the Luzerne County Conservation District, and provided that disturbance is offset by identified corridor improvements in accordance with Subsection I.
 - 7. Driveways and subsurface utility crossings for more than one commercial/ industrial lot, provided the applicant receives a grant of special exception as required under Article 8, and provided the requirements of Subsection I, herein, are satisfied.
 - 8. Driveways and subsurface utility crossings for not more than one commercial/industrial lot, provided the requirements of Subsection I, herein, are satisfied.
- b. Uses Permitted by Special Exception.
 - 1. Sustained yield harvesting of trees when removal is consistent with a woodland management plan prepared by a professional forester, and approved by the Board following review by the County Engineer. Any landowner requesting to sustainably harvest timber within Zone One shall be enrolled in the Bureau of Forestry's Forest Stewardship Program and have a letter approving such a harvest from the Bureau's District Forester prior to the County issuing such approval.

2. Zone Two.

- a. Uses Permitted By Right. The following uses, which are primarily passive in character, shall be permitted by right to extend into the area defined as Zone Two:
1. Open space uses including wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, and recreational trails conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Program Manual, 1990, as amended.
 2. Reforestation when done in compliance with a woodland management plan prepared by a professional forester and approved by the Board following review by the County Engineer.
 3. No more than 1/2 the depth of any minimum required front, side, and/or rear yards on private lots. The result of this requirement is that 1/2 of the minimum required yard depth shall act as a setback from the Zone Two boundary, and the other half may extend into Zone Two to complete the minimum required yard area. However, the portion of the setback within Zone Two shall be subject to the regulations of Zone Two.
 4. Agricultural uses existing at the time of adoption of this Ordinance, so long as they are conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Program Manual, 1990, as amended.
 5. Driveways, common driveways and subsurface utility crossings serving not more than five single-family or two-family dwelling units, provided the requirements of Subsection I, herein, are satisfied.
 6. Corridor crossings by farm vehicles and livestock.
 7. Corridor crossings by recreational trails, roads, railroads, centralized sanitary sewer and/or water lines, and public utility transmission lines, when in compliance with the applicable requirements of the Pennsylvania Department of Environmental Protection and/or the Luzerne County Conservation District, and provided that disturbance is offset by identified corridor improvements in accordance with Subsection I.
 8. Driveways and subsurface utility crossings for more than one commercial/industrial lot, provided the applicant receives a grant of special exception as required under Article 11, and provided the requirements of Subsection I, herein, are satisfied.
 9. Driveways and subsurface utility crossings for not more than one commercial/industrial lot, provided the requirements of Subsection I, herein, are satisfied.
 10. Naturalized storm water basins, provided the basin is located a minimum of 25 feet from the defined edge of identified watercourses, and such basin is landscaped consistent with the requirements of Section XXX.
 11. Forestry activities, including timber harvesting, provided it is conducted in accordance with the provisions of this Ordinance.

- b. Uses Permitted by Special Exception.
 - 1. New agricultural uses in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Program Manual, 1990, as amended.
 - 2. Sustained yield harvesting of trees when removal is consistent with a woodland management plan prepared by a professional forester, approved by the Board following review by the County Engineer.
 - 3. Passive use areas such as camps, camp grounds, picnic areas, and golf courses.
 - 4. Active recreation areas such as ball fields, playgrounds, and courts provided these uses are designed in a manner that will not permit concentrated flow.

- E. Uses Specifically Prohibited in the RCC — Riparian Corridor Conservation District. Any use or activity not authorized within Subsection D, herein, shall be prohibited within the RCC — Riparian Corridor Conservation District and the following activities and facilities are specifically prohibited:
 - 1. Storage of any hazardous or noxious materials.
 - 2. Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Luzerne County Conservation District.
 - 3. Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume.
 - 4. Parking lots.
 - 5. Any type of permanent structure, except structures needed for a use permitted in Subsection D, herein.
 - 6. Subsurface sewage disposal areas.
 - 7. Sod farming.

- F. Nonconforming Structures and Uses. Nonconforming structures and uses of land within the RCC — Riparian Corridor Conservation District shall be regulated in accordance with the following provisions:
 - 1. Existing nonconforming uses or structures within Zones One and/or Two that are not permitted under Subsection D may be continued but shall not have the existing building footprint or uses expanded or enlarged within or into Zone One or Two.
 - 2. In all other respects, existing nonconforming uses and structures shall comply with the requirements of Subsection I.

- G. Boundary Interpretation and Appeals Procedure.
 - 1. When an applicant disputes the Zone One and/or Two boundaries of the RCC — Riparian Corridor Conservation District or the defined edge of a watercourse or surface water body, the applicant shall submit evidence to the County that shows the applicant's proposed boundary, and provides justification for the proposed boundary change.

2. The County Engineer shall evaluate all material submitted and provide a written determination within 45 days to the Planning Commission or Zoning Hearing Board, and landowner or applicant.
3. Any party aggrieved by any such determination or other decision or determination under this Section may appeal to the Zoning Hearing Board under the provisions of Section 802.3. The party contesting the location of the district boundary shall have the burden of proof in case of any such appeal.

H. Inspection and Application of RCC — Riparian Corridor Conservation District.

1. Lands within or adjacent to the RCC — Riparian Corridor Conservation District will be inspected by the Zoning Officer when:
 - a. A subdivision or land development plan is submitted.
 - b. A change or resumption of a nonconforming use is proposed.
2. The district may also be inspected periodically by the Zoning Officer and/or other representatives designated by the Planning Commission for compliance with an approved restoration plan, excessive or potentially problematic erosion, hazardous trees, or at any time when the presence of an unauthorized activity or structure is brought to the attention of County officials.

I. Management of the RCC — Riparian Corridor Conservation District.

1. Corridor Management Plan. A corridor management plan shall be developed when required by the County Subdivision and Land Development Ordinance, consistent with the requirements therein.
2. Mitigation Measures. Uses permitted in Subsection D that involve disturbance of vegetation within the Riparian Corridor shall be mitigated by one of the following measures:
 - a. Increasing the Width of the Corridor. The width of the Riparian Corridor, measured from the defined edge of the water body, is increased so that the average width of the corridor's full length is equal to that required by Subsection C.2.c.
 - b. Increasing the Effectiveness of the Corridor. In existing degraded wooded areas or proposed new wooded areas, an area equal to twice the area of disturbance shall be planted with three distinct layers of vegetation: (a) canopy trees, such as oak, hickory, maple, gum, beech, sycamore, spruce, hemlock, pine, and fir, (b) shrubs that provide an understory, such as elderberry, viburnum, azalea, rhododendron, holly, laurel, and alders, and (c) herbaceous plants that serve as ground cover, including ferns, sorrel, trillium, violet, Virginia creeper, nettle, phlox, aster, and worts. All three layers shall be planted at a density sufficient to create a fully functioning, naturalized riparian corridor.
 - c. Converting to a More Effective Landscape. An area equal to three times the area of disturbance is converted to a more effective landscape. The following landscapes are listed in order of effectiveness, from most effective to least effective: woodland, meadow, shrub, old field, lawn, and pasture.

J. Corridor Crossing Standards.

1. The width of any right-of-way shall not be greater than the minimum right-of-way width required by the County Subdivision and Land Development Ordinance.
2. Crossings shall be designed to cross the riparian corridor at direct right angles to the greatest extent possible in order to minimize disturbance of the corridor.
3. Corridor crossings shall be separated by a minimum of 1,000 feet of buffer length to the greatest extent possible.
4. Bridges shall be used in place of culverts when crossings would require a seventy-two-inch or greater diameter pipe. When culverts are installed they shall consist of slab, arch or box culverts and not corrugated metal pipe. Culverts shall also be designed to retain the natural channel bottom to ensure the passage of water during low flow or dry weather periods.

411.3 WETLAND CONSERVATION REGULATIONS

A. Findings of Fact.

1. Wetlands are transition zones where the flow of water, the cycling of nutrients, and the energy of the sun meet to produce a unique ecosystem characterized by hydrology, soils, and vegetation. A wetland may not be wet year-round, in fact, some of the most important are only seasonally wet.
2. Wetlands provide unique and increasingly rare habitat for plants and animals. Wetlands help to absorb and slow floodwaters, and absorb excess nutrients, sediment, and other pollutants before they reach rivers, lakes, and other waterbodies.
3. Wetlands have environmental and education value for all County residents and visitors.

B. Intended Purpose. It is the purpose of this Section to promote the general health, safety and welfare, and to minimize the loss of wetlands within the County for the value they bring to the County, as described above in the findings of fact. In furthering that purpose, the specific intent of this Section is:

1. To protect wetlands in the County from disturbance, environmental contamination, or loss.
2. To require applicants to accurately delineate wetlands, and to inform the County of the existence of wetlands on a site proposed for future development.
3. To inform property owners and developers of possible permit and approval requirements of the U.S. Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection when wetlands are present, and to inform the County, for coordination purposes, of such permitting and approval processes.
4. To integrate with floodplain, steeply sloped areas, forested riparian buffers, and woodland protection ordinance provisions as well as other ordinance requirements contained herein that regulate environmentally sensitive areas to minimize hazards to life and property.

5. To minimize the financial burden imposed on the community, its governmental bodies and individuals when having to mitigate the effects of increased soil run-off into creeks, streams, and rivers due to disturbance or loss of wetlands in the County.
- C. Compliance. Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered, including for purposes of access or utility crossings, unless all applicable permits have been obtained from the required governmental entity, and copy thereof submitted to the County.
 - D. Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the County with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability (jurisdiction) of state and federal wetland regulations. Any applicant contacted by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers in regard to wetlands also shall concurrently provide to the County a copy of such correspondence. Where any applicant alleges that a jurisdictional determination is not required or fails to seek such determination, the County may nevertheless require the submission of a graphic and narrative wetlands delineation report, consistent with the submission requirements otherwise necessary for submission to federal and state agencies for jurisdictional determination.
 - E. Where permitted subject to applicable regulation and as otherwise provided herein, sewers or other liquid transport pipelines shall only be permitted to cross wetlands on the minimum traversal distance and where every precaution shall be taken to prevent leaks and to prevent any possible draining of the wetland (e.g., water flowing through or along any pipe or trench). At the expense of the applicant, the County may require periodic inspection of applicable systems and facilities, including but not limited to x-ray of steel welds and pressure testing of pipelines.
 - F. Wetlands shall be staked in the field as part of any subdivision and/or land development process and prior to any construction upon the subject property.
 - G. Where a jurisdictional determination or full wetland delineation report is required to comply with state or federal regulations, the applicant shall provide the County with a full wetland delineation report conducted by a qualified wetland biologist, soil scientist, or environmental professional of demonstrated qualifications, and subject to the following additional requirements/certifications:
 1. The County may hire a qualified consultant to review the delineation and recommend revisions at the applicant's expense;
 2. The applicant's hired professional generating the delineation report shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic

- indicators. Methods used in the delineation report shall be acceptable to the County Engineer or other qualified consultant hired by the County; and
3. The wetland report submitted to the County shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present.

411.4 MODIFICATIONS

- A. For any use or activity subject to subdivision or land development review, as part of applicable plan submission, modification(s) may be requested to the provisions of Sections 411.1 and 411.2 of this Article. Requested modification(s) may be granted at the discretion of the Planning Commission pursuant to the provisions of the Subdivision and Land Development Ordinance.
- B. For any use or activity not subject to subdivision or land development review, but subject to application for approval of a special exception or zoning variance under the provisions of this Chapter, the applicant may request modification(s) to the provisions of Sections 411.1 and 411.2 of this Article.
- C. For any use or activity not falling within the scope of Subsections A or B, the applicant may request modification(s) to the provisions of Sections 411.1 and 411.2 of this Article, in the form of an application for grant of a special exception by the Zoning Hearing Board.
- D. Applicants shall provide appropriate documentation in support of their modification request, and the Planning Commission or Zoning Hearing Board (as applicable) may request additional documentation of an applicant, or of its municipal consultants, to help reach its decision.
- E. In consideration of approval of any applicant request for modification(s) under this Article, the following standards shall serve as the basis for a decision:
 1. That there are unique physical circumstances or conditions, including but not limited to irregularity, narrowness, or shallowness of lot size or shape, excessive frontage along a water body, presence of existing buildings or structures, or exceptional topographical or other physical conditions peculiar to the particular property. That because of such physical circumstances or conditions, it is impracticable for the property to be developed in strict conformity with the natural resources protection requirements of this Article and that the approval of the modification is therefore necessary to enable the reasonable use of the property under base zoning provisions.
 2. That the modification, if approved, will result in:
 - a. The minimum disturbance of the steeply sloped area, pursuant to the purposes set forth in Section 411.1, as needed to provide for the lawful intended use; or

- b. The minimum reduction in performance of the riparian forest buffer, pursuant to the findings of fact set forth in Section 411.2, as needed to provide for the lawful intended use.
- F. No alteration of the use regulations set forth in Section 411.2 shall be authorized as modification pursuant to this Section. Any such requested alteration shall constitute an application for a variance, meeting all applicable requirements for same, to be submitted to the Zoning Hearing Board.

SECTION 412 OUTDOOR LIGHTING

- A. Purpose. The intent of the provisions in this Section is to minimize the off-site impact of lighting while providing for lighting that is sufficient for safe use of a property, and to:
- 1. Provide adequate lighting in outdoor public places where public health, safety and welfare are potential concerns.
 - 2. Protect drivers and pedestrians from the glare of non-vehicular light sources that shine into their eyes and thereby impair safe traverse.
 - 3. Protect neighbors and the night sky from nuisance glare and stray light from poorly aimed, placed, applied, maintained or shielded light sources.
 - 4. Provide outdoor lighting in a manner consistent with the County goal of retaining the rural, agricultural character where appropriate.
- B. Applicability.
- 1. Outdoor lighting shall be required for safety and personal security in areas of public assembly and traverse including, but not limited to, the following:
 - a. Parking areas of multifamily, commercial, and industrial uses.
 - b. Loading facilities for commercial and industrial uses.
 - c. At the ingress and egress of parking areas for multifamily, commercial, and industrial parking areas.
 - d. At street intersections.
 - e. The Planning Commission or Zoning Hearing Board may require lighting to be incorporated for other uses or locations where personal security and safety reasons warrant, and as they deem necessary to further public health, safety, and welfare.
 - 2. The glare-control requirements herein contained apply to lighting in all above mentioned uses as well as, but not limited to, sign, landscaping, and residential lighting.

C. Criteria.

1. Illumination Levels. Lighting, where required by this Ordinance, shall have intensities and uniformity ratios in accordance with but not limited to the following examples:

Use/Task		Maintained Footcandles	Uniformity Avg: Minimum
(a)	Streets, local residential	0.4 Avg.	6:1
(b)	Streets, local commercial	0.9 Avg.	6:1
(c)	Parking, residential, multifamily	0.2 Min.	4:1
	Low vehicular/pedestrian activity		
	Medium vehicular/pedestrian activity		
(d)	Parking, industrial/commercial/institutional/ municipal	0.6 Min.	4:1
	High activity, e.g., regional shopping centers/fast food facilities major athletic/civic/ cultural/ recreational events	0.9 Min.	4:1
	Medium activity, e.g., community shopping centers, office parks, hospitals, commuter lots, cultural/civic/ recreational events	0.6 Min.	4:1

	Low activity, e.g., neighborhood shopping, industrial employee parking, schools, church parking	0.2 Min.	4:1
(e)	Sidewalks, walkways and bikeways	0.5 Avg.	5:1
(f)	Building entrances, commercial, industrial, institutional	5.0 Avg.	n/a

Notes:

- Illumination levels are maintained horizontal footcandles on the task, e.g., pavement or area surface.
 - Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio (e.g., for commercial parking high activity, the average footcandles shall not be in excess of 3.6 [0.9 x 4]).
2. Lighting Fixture Design. The following factors shall be considered when choosing the appropriate lighting fixture design:
 - a. Fixtures shall be of a type and design appropriate to the lighting application.
 - b. Fixtures shall be equipped with or be capable of being modified to incorporate light directing, shielding devices, or both, such as shields, visors or hoods when necessary to redirect offending light distribution or reduce direct or reflected glare.
 3. Control of Glare.
 - a. All outdoor lighting, whether or not required by this Ordinance, on private, agricultural, residential, commercial, industrial, municipal, recreational or institutional property shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse (i.e., disabling glare) and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property, (i.e., nuisance glare).
 - b. Floodlights and spotlights shall be so installed and aimed so that they do not project their output into the windows of neighboring residences, adjacent uses, directly skyward or onto a roadway.
 - c. Unless otherwise permitted by the County (e.g., for safety, security, agricultural uses, or all-night operations), lighting shall be controlled by automatic switching devices such as time clocks or combination motion detectors and photocells, to

- permit extinguishing offending sources between 11:00 p.m. and dawn to mitigate nuisance glare and skylighting consequences.
- d. Lighting proposed for use after 11:00 p.m., or after the normal hours of operation for commercial, industrial, institutional, or municipal applications, shall be reduced by 75% from 11:00 p.m. until dawn, unless needed for a specific purpose.
 - e. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
 - f. Externally illuminated signs and billboards shall be lighted by fixtures mounted at the top of the sign and aimed downward. Such fixtures shall be automatically extinguished between the hours of 11:00 p.m. and dawn, except as specifically approved by the County to illuminate necessary directional information.
 - g. Directional fixtures used for architectural lighting (e.g., facade, fountain, feature and landscape lighting), shall be aimed so as not to project their output beyond the objects intended to be illuminated and shall be extinguished between the hours of 11:00 p.m. and dawn.
 - h. Auto service station or fuel-dispensing facility canopy lighting shall be accomplished using flat-lens full-cutoff downlighting fixtures, shielded in such a manner that the edge of the fixture shield shall be level with or below the light source envelope.
 - i. The use of white strobe lighting for tall structures such as smokestacks, chimneys, and communications towers is prohibited, except as otherwise required under Federal Aviation Administration regulations.
4. Residential Street Lighting Fixture Placement. Where required, street lighting fixtures in residential developments shall be placed at the following locations:
 - a. At the intersection of public roads with entrance roads to the proposed development.
 - b. Intersections involving proposed public or nonpublic primary distributor streets within the proposed development.
 5. Lighting systems and standards for outdoor recreational activities such as baseball, tennis, football, golf driving ranges, or miniature golf, for which the above standards are unattainable, shall be permitted when approved as a special exception by the Zoning Hearing Board. The applicant shall demonstrate that the proposed lighting system is designed and will be operated to minimize objectionable impacts on other properties. The following standards shall be applied by the Zoning Hearing Board in its consideration of any application for special exception approval:
 - a. Lighting shall be accomplished only through the use of "cutoff" fixtures or as otherwise approved by the Zoning Hearing Board.
 - b. Except as otherwise permitted by the Zoning Hearing Board, sporting events shall be timed so that all lighting in the sports facility is extinguished by 9:45 p.m.
 - c. Golf courses and trap shooting facilities shall not be artificially lit and shall not be permitted to operate in the County during hours of darkness.

- d. Outdoor recreational facilities shall not be lighted if they are located within the CO, AG, or SR Districts or within 1,200 feet of a property in residential use.
6. Street lighting shall be provided where required under the terms of the County Subdivision and Land Development Ordinance.

D. Plan Submission.

1. For any commercial, industrial, or major institutional use, lighting plans shall be submitted to the County for review and approval with applications or special exceptions, preliminary or final subdivision or land development plans, or variance applications. In addition, the Zoning Officer may require the submission of a lighting plan with any building permit application for other than single-family residential use. The required lighting plans shall include the following information:
 - a. A site plan containing a layout of the proposed fixture locations by location and type. The site plan shall also include, as applicable, structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent uses that might be adversely impacted by the lighting.
 - b. Isofootcandle plots for individual fixture installations and ten-foot by ten-foot illuminance-grid plots for multifixture installations, which demonstrate compliance with the intensity and uniformity requirements set forth in this Chapter.
 - c. Description of the proposed equipment, including fixture catalog cuts, photometries, glare reduction devices, lamps, control devices, mounting heights, pole foundation details, and mounting methods proposed.
2. When requested by the County the applicant shall submit a visual impact plan that demonstrates appropriate steps have been taken to mitigate on-site and off-site glare.
3. Post-approval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to the County for review and approval.
4. When necessary, the County may retain the services of a qualified lighting engineer to review proposed lighting plans.

SECTION 413 NONCONFORMING LOTS, USES, AND STRUCTURES

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

413.1 NONCONFORMITY TYPES:

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

- A. Nonconforming Use: “Nonconforming use” means a use, whether of land or a structure, which does not comply with the applicable use provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or such amendment.
- B. Nonconforming Structure: “Nonconforming structure” means a structure or part of a structure manifestly not designed to comply with the applicable use provisions in the Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or such amendment. Nonconforming structures shall include, but are not limited to, nonconforming signs.
- C. Bulk Nonconformity: Bulk nonconformity” refers to the bulk of a structure which does not comply with the applicable size, height or other bulk provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure lawfully existed in compliance with such provisions prior to the enactment of this Ordinance or such amendment.
- D. Area Nonconformity: “Area nonconformity” refers to that aspect of a structure or use on a zoning lot which is not in compliance with the applicable yard, coverage or other area provisions in this Zoning Ordinance or in an amendment hereafter enacted, where such structure or use lawfully existed in compliance with such requirements prior to the enactment of this Ordinance or such amendment.
- E. Nonconforming Lots: “Nonconforming lot” means a lot of record legally existing as of the date on which this Ordinance was adopted or amended, which does not conform to the applicable area, frontage, width, or depth requirements established this Ordinance for the Zoning District in which it is located.

413.2 NONCONFORMING LOTS OF RECORD

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

413.3 CONTINUATION

Nonconforming uses, nonconforming structures, bulk nonconformities and area nonconformities may be continued except as otherwise set forth in this Article, but no nonconforming use or structure shall not be enlarged, reconstructed, structurally altered or changed except as permitted by the provisions of this Article.

413.4 CHANGES OF NONCONFORMING USES AND STRUCTURES

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

- A. A nonconforming use or structure shall not be extended to displace a conforming use or structure.
- B. Structures, buildings or uses, either main or accessory, shall not be combined for the purpose of extending a nonconforming use or creating a different nonconforming use.
- C. When authorized by the Zoning Hearing Board as a special exception, a nonconforming use may be changed to another nonconforming use if the Board finds that all of the following standards are met:
 - 1. The proposed change shall be less objectionable in external effects than the previous nonconforming use, and will be more consistent physically with its surroundings.
 - 2. There will be no increase in traffic generation or congestion including both vehicular and pedestrian traffic.
 - 3. There will be no increase in the danger of fire or explosion.
 - 4. There will be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration or electrical disturbances
 - 5. There will be no increased threat to health by reason of rodent infestation or otherwise.
 - 6. There will be no reduction in minimum lot area requirements as a result of the proposed change.

413.5 ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE

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

- A. The enlargement will not replace a conforming use.
- B. The area subject to a proposed expansion shall after enlargement conform to all area and bulk requirements applicable to conforming buildings in the zone in which it is located and to all applicable off-street parking and loading requirements.
- C. The floor or land area of a nonconforming structure or use shall be enlarged not more than twenty-five (25) percent of the floor or land area as it existed at the time the structure or use first became nonconforming.
- D. Not more than one (1) enlargement of a nonconforming use or structure shall be permitted.
- E. A nonconforming structure or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot is prohibited.
- F. A structure containing residential dwelling uses, both conforming and nonconforming, shall not be enlarged to increase the number of dwelling units unless in full compliance with all other applicable provisions of this Ordinance.

413.6 REPAIR AND REHABILITATION

Nonconforming structures and structures containing nonconforming uses may be normally maintained and repaired provided that there is no alteration which extends the area occupied by the nonconforming use. A structure containing nonconforming residential uses may be altered to

improve interior livability, subject to no structural alterations which would increase the number of dwelling units or the bulk of the structure.

413.7 RESTORATION OF USE AND/OR STRUCTURE

A nonconforming use and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than sixty (60) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are commenced within eighteen (18) months of such damage.

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

413.8 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

- A. Nonconforming Use and/or Structure: A nonconforming use and/or structure shall not be reconstructed when damaged to an extent greater than sixty (60) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.
- B. Change of Nonconforming Use: Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use, without approval by the Zoning Hearing Board, shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.
- C. Abandonment of Nonconforming Use: The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed to be abandoned if it is changed as set forth in Section 413.4 or if it is discontinued for a period of one year or more without substantial evidence of intent to resume the nonconforming use by documented overt actions.
- D. Unsafe Structures: If a nonconforming structure, containing a nonconforming use, becomes physically and structurally unsafe due to the lack of maintenance or repairs and it has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

SECTION 414 OFF-STREET LOADING AND PARKING

414.1 OFF-STREET LOADING

Every building that requires the receipt or distribution by vehicles of material or merchandise shall provide off-street loading berths in accordance with the following table:

OFF-STREET LOADING SPACE REQUIREMENTS

<u>Uses</u>	<u>Floor Area (Sq. Ft.)</u>	<u>Required Berths</u>
Schools	15,000 or more	1
Hospitals (including ambulance space)	10,000 – 300,000	1
	For each additional 300,000 or major fraction thereof	1 additional
Undertakers and Funeral Parlors	5,000	1
	For each additional 5,000 or major fraction thereof	1 additional
Hotels and Offices	10,000 or more	1
Commercial, Wholesale Manufacturing and Storage	10,000 – 25,000	1
	25,000 – 40,000	2
	40,000 – 60,000	3
	60,000 – 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional

Each loading space shall not be less than ten (10) feet in width, seventy (70) feet in length, and fifteen (15) feet in height, and may occupy all or part of a required yard. Access to off-street loading facilities shall be at a clearly marked and defined location along a street right-of-way and shall be at least thirty-five (35) feet from the intersection of streets. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

414.2 OFF-STREET PARKING

In all districts, off-street parking facilities shall be provided and properly maintained, as set forth in this Section, for any building which is hereafter erected, enlarged or increased in

capacity. Such facilities shall be available throughout the hours of operation for the particular business or use for which such facilities are provided.

A. Size and Access:

Each off-street parking space shall have an area of not less than 180 square feet (9' x 20'), exclusive of access drives or aisles and be in usable shape and condition. Except in the case of dwellings, no parking area shall contain less than three (3) spaces.

There shall be adequate ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive leading to the parking areas. Such access drive shall not be less than ten (10) feet in width in the case of a dwelling, and not less than twenty-five (25) feet in all other cases.

Access to off-street parking areas shall be limited to well-defined locations, and in no case shall there be unrestricted access along the length of a street or alley.

B. Number of Parking Spaces Required:

The number of off-street parking spaces required is set forth in the following table. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply.

OFF-STREET PARKING SPACE REQUIREMENTS

<u>Uses</u>	<u>Required Spaces</u>
Automobile Sales & Service Garages	1 for each 400 Sq. Ft. of floor area
Banks or Professional Offices	1 for each 300 Sq. Ft. of floor area
Bowling Alleys	5 for each lane, plus 1 for every employee at peak operating times
Places of Worship	1 for each 4 seats in the worship area minimum; 1 for each 2.5 seats maximum
Community Bldgs. & Social Halls	1 for each 50 Sq. Ft. of floor area
Golf Driving Ranges & Miniature Golf	1 for each tee
Food Supermarkets	1 for each 200 sq. ft. of floor area
Funeral Homes, Mortuaries	5 for each parlor

Furniture or Appliance Stores	1 for each 200 sq. ft. of floor area
Hospitals, Nursing & Convalescent Homes	1 for each bed, plus 1 for each employee
Hotels and Motels	1 for each rental room; if food or beverages are also sold on premises, the facility must also provide an additional 1 space per 2.5 seats
Laundromats	1 for each laundry machine, plus 1 per employee
Manufacturing Plants, Research or Testing Labs, Bottling Plants	1 for each 1,000 sq. ft. of floor area, plus 1 for each 4 employees in the maximum working shift. The total parking area shall not be less than 25% of the building floor area.
Medical or Dental Offices	5 spaces for each doctor or dentist
Multiple Dwellings	1.5 spaces for each dwelling unit
Restaurants, Taverns & Night Clubs	1 for each 2.5 seats
Retail Stores and Shop	1 for each 300 sq. ft. of floor area, where the floor area exceeds 1,000 sq. ft.
Rooming Houses and Dormitories	1 for each 2 bedrooms
Schools	1 for each staff member, plus 1 space for each 20 classroom seats, based on maximum capacity
Service Stations & Repair Garages	2 for each service bay
Single & Two-Family Dwellings	1 for each family or dwelling unit
Sports Arenas, Auditoriums, Theaters, and Assembly Halls	1 for each 3.5 seats
Trailer or Monument Sales or Auctions	1 for each 2,500 sq. ft. of lot area
Wholesale Establishments or Warehouses	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25% of the building floor area.

C. Location of Facilities:

Required facilities shall be located on the same zoning lot as the use to which they are accessory, or else within a radius of four hundred (400) feet; provided that required spaces conform with the provision set forth herein, and that such space shall be in the same ownership as the use to which are accessory and shall be subject to deed restrictions filed in an office of record, binding the owner and his heirs or assigns to maintain the required number of spaces throughout the life of such use.

414.3 FACILITIES OR REQUIREMENTS FOR PARKING AND/OR LOADING

Off-street parking and loading facilities may be provided jointly for separate uses if approved by the Zoning Hearing Board. The total number of spaces shall not be less than the sum of the separate requirements for each use, and shall comply with all regulations governing location of accessory spaces.

414.4 DEVELOPMENT OF PARKING LOTS AND LOADING AREAS (INCLUDING COMMERCIAL PARKING LOTS, AUTOMOBILE OR TRAILER SALES LOTS)

A. Screening and Landscaping:

Off-street parking areas for more than five (5) vehicles, and off-street loading areas, shall be effectively screened on each side which adjoins or faces residential or institutional premises situated in any Residence District.

B. Minimum Distances and Setback:

No off-street loading area or parking area for more than five (5) vehicles shall be closer than ten (10) feet to any adjoining dwelling, school, hospital, or similar institution. If it adjoins a Residence District, no parking area shall be located less than ten (10) feet from the established street right-of-way line within fifty (50) feet of any Residence District.

C. Surfacing:

Surfacing shall consist of an asphaltic or Portland cement binder pavement (or similar durable and dustless surface), graded and drained to dispose of all surface water in compliance with applicable storm water management regulations, and designed to provide for orderly and safe loading and parking. Paint markings to identify parking spaces shall be provided.

D. Lighting:

Any lighting used to illuminate off-street parking or loading areas shall comply with Section 412 of this Ordinance.

SECTION 415 SIGNS

A zoning permit shall be required prior to the construction or installation of any sign except for real estate signs.

415.1 TYPES AND USES OF SIGNS

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

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered prepared, manufactured or conducted upon the zoning where the sign is located.
- C. BILLBOARD OR OFF-PREMISES ADVERTISING SIGN: A sign which communicated information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area, which advertises the sale, rental or development of the premises upon which the sign is located.
- E. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- F. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, place of worship, hospital or other institution of a similar public or semi-public nature.
- G. ON-SITE DIRECTIONAL AND/OR INFORMATION SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A sign that displays the name of a subdivisions and/or development at an entrance to the site upon which the subdivision and/or development is located.
- I. EVENT SIGNS: A temporary sign advertising private not-for-profit events and fund-raisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fundraising activities.

415.2 CONSTRUCTION TYPES

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

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign, itself, and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2) feet from the building or structure.
- C. PROJECTING SIGN: A sign which project outward or extends more than two (2) feet and not more than six (6) feet from the building or structure.

415.3 PERMITTED SIGNS BY ZONING DISTRICT

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

- A. IDENTIFICATION SIGNS: Such signs shall be permitted in all zoning districts.
- B. BUSINESS SIGNS: Such signs shall be permitted in NB, CB, HB, GB, MI, LI, and HI zoning districts.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: Such signs shall be permitted all zoning districts and any PRD, upon the creation of such.
- E. INSTITUTIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: Such signs shall be permitted in all zoning districts.
- G. BILLBOARD SIGNS: Such signs shall be permitted in the HB, GB, MI, and HI zoning districts.
- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGNS: Such signs shall be permitted in all zoning districts.
- I. EVENT SIGNS: Such signs shall be permitted is all zoning districts.

415.4 AREA, HEIGHT, NUMBER, AND SETBACK REQUIREMENTS

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

- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be set back not less than ten (10) feet from the front lot line. The maximum height of an identification sign, if freestanding, shall not exceed ten (10) feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached. Only one (1) identification sign is permitted on any zoning lot.
- B. BUSINESS SIGN: A business sign shall not exceed the square feet of area for the following zoning districts:
- (1) NB District: fifty (50) square feet
 - (2) CB District: sixty (60) square feet
 - (3) HB, GB, LI, HI Districts: four (4) times the frontage of the lot on which the sign is located.

The maximum size of a sign for a shopping center, or integrated group of stores or industrial establishments, shall be one hundred, eighty (180) square feet. No sign shall project above the height limit of structures in the district in which it is located, nor shall it extend more than twenty (20) feet above the highest part of the roof. No hanging, suspended or projecting sign (except in service station driveways) shall have a vertical clearance of less than fourteen (14) feet over any vehicular public way nor less than nine (9) feet over any pedestrian public way. In service station driveways, the minimum clearance shall be twelve (12) feet. Public ways used in this subsection include privately-owned sidewalks or drives, customarily used by the public.

The number of signs shall be limited to three (3) for each street on which the establishment fronts. In addition, one (1) identification sign for a shopping center or other integrated group of stores, commercial buildings, or industrial buildings, may be added for each street on the properties front; provided that no such signs shall be located within one hundred (100) feet of any existing principal building on adjoining residential premises on the same side of the street, or opposite land zoned for residential purposes on the other side of the street.

Freestanding signs shall comply with the yard requirements for principal structures in the zoning district the sign is located within. Any freestanding or projecting sign within twenty-five (25) feet of a street right-of-way shall be so placed as to allow clear and ample visual sight lines for driveways leading into a street, for the intersection of two streets, or a street with an alley.

A sign of a farm, noting the sale of articles grown or produced on premises, is permitted, provided that such sign shall not exceed six (6) square feet in area, shall be at least ten (10) feet from any public right-of-way, and be at least fifty (50) feet from the nearest corner of a road intersection.

- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale

or lease. The sign shall be set back not less than ten (10) feet from the front lot line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.

- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN: A subdivision/development advertising sign shall be considered a temporary real estate sign and shall not exceed sixty (60) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be set back not less than thirty-five (35) feet from the front lot line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. INSTITUTIONAL SIGN: An institutional sign for public or semi-public facilities, such as schools, places of worship, hospitals, libraries, colleges or other institutions of similar nature, shall not exceed fifty (50) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10) feet from the front lot line. One (1) bulletin board sign, not over twenty (20) square feet in area, may be placed on a school, place of worship, or college property.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5) feet shall be required for such signs. The maximum height of such signs shall not exceed six (6) feet.
- G. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign:
- (1) Location: No billboard or off-premise advertising sign shall be permitted within two hundred (200) feet of any Residence District, nor facing any school, library, place of worship, hospital or similar institutional use if closer than two hundred (200) feet.
 - (2) Spacing: No two (2) billboards shall be located closer to one another than the distance equal to one-fifth (1/5) of their combined gross square foot area, except that no two (2) such signs shall be closer to one another than one hundred twenty (120) feet.
 - (3) Setbacks: Billboards shall conform with all yard spaces required for the district in which they are located.
 - (4) Size: The total surface area of any billboard, exclusive of structural supports and trim, shall not exceed in square feet, four (4) times the frontage of the lot or tract on which it or they stand, nor shall any individual advertisement of a poster panel exceed three hundred (300) square feet, or painted advertisement, six hundred (600) square feet. However, where a lot or tract is already occupied by a use or structure

exhibiting signs, the total surface area of signs and off-premise advertisements in square feet shall not exceed four (4) times the lot frontage.

- (5) Height: No billboard shall exceed the maximum height limit for a principal structure in the district in which it is located, nor shall it extend more than twenty (20) feet above the highest part of the roof.

- H. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A subdivision/development identification sign shall not exceed ten (10) square feet in area. Not more than one (1) sign shall be erected at any entrance point to the subdivision/development. Such signs shall be set back not less than ten (10) feet from the front lot line.
- I. EVENT SIGN: An event sign shall not exceed six (6) square feet in area, having dimensions of 2 feet by 3 feet. Such signs shall not be attached to any tree, utility pole or structure within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled event and shall be removed within thirty (30) days following the event.

415.5 LIGHTING OR MOVING

If illuminated, the light shall be confined to the surface of the sign or off-premise advertisement, which shall be located and arranged so as to avoid glare or reflection onto any portion of any designated highway or into the path of oncoming vehicles, or into any adjacent residential premises.

Flashing or moving billboards or off-premise advertisements shall not be permitted in any district, and flashing or moving signs are not permitted in any district except HB and GB districts, where signs are located on business premises, and where these signs are located and arranged so as to avoid glare or reflection onto any portion of any adjacent highway or into the path of oncoming vehicles, or into any adjacent residential premises.

415.6 MAINTENANCE

All signs and billboards/off-premise advertisements shall be maintained in good condition, as determined by the Zoning Officer; otherwise, they shall be ordered removed after due notice.

SECTION 416 SUPPLEMENTAL REQUIREMENTS

A use, provided for under any Zoning District within this Ordinance, shall, in addition to all other applicable provisions of this Article, also be governed by supplemental regulations applicable to such use contained in Article 5 – Supplemental Land Use Regulations of this Ordinance.

ARTICLE 5 – SUPPLEMENTAL LAND USE REGULATIONS

SECTION 501 ADULT USES

An Adult Use, as so defined in Article 2 of this Ordinance, shall be located not less than one thousand (1,000) feet from any of the following uses:

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

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

SECTION 502 AGRICULTURAL USES

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry, and the necessary accessory uses for farm homes and the processing, packing, treating, storing, and selling the product; provided, however, that the operation of any accessory uses are secondary to that of normal agricultural activities, and provided further that use complies with the following requirements:

- A. No fertilizer plants are permitted.
- B. Horse Stable and Riding Academies:
 1. Minimum lot size shall be two acres
 2. Maximum density shall be one (1) horse per acre
 3. No manure storage shall be located within 250 feet of any lot line
 4. Manure shall be regularly collected and disposed of in such a manner as to prevent odors and surface liquids from leaving the property
- C. Raising of Livestock or Poultry: the minimum lot size for the raising of livestock or poultry shall be five acres, and the raising of more than 50 animals shall require a minimum lot size of 25 acres. In both cases, the minimum building and other impervious surface coverage shall not exceed 10%. Any structure or concentrated feeding or grazing area for the raising of 50 or less animals shall be located not less than 100 feet from a lot line, and 250 feet from any lot line of an existing residential dwelling unit or residential

zoning district. This section shall not be interpreted to permit an agricultural use in a residential district. Any structure or concentrated feeding or grazing area for the raising of more than 50 animals shall be located not less than 300 feet from a lot line, and 1,000 feet from any lot line of an existing residential dwelling unit or residential zoning district. No animals, animal products, or animal waste/manure shall be permitted within the required yard areas. Manure storage facilities and concentrated feeding areas used for the keeping of livestock or poultry shall not be located within 250 feet of any stream, body of water, floodplain, water source, water well or open sinkhole. Any operation regulated under the Pennsylvania Nutrient Management Act shall provide evidence that the use will comply with the applicable provisions of the Act. Access drives shall be sufficient in size to accommodate the anticipated amount, type and size of vehicular traffic.

- D. Retail Sales of Agricultural Products (including Nurseries): the erection of structures (whether permanent or temporary) for the purpose of retail sales of agricultural products is permitted as an accessory structure by zoning permit. No area, structure, stand, parking area or loading space utilized for the sale of agricultural products shall be located less than 50 feet to any existing residential dwelling unit, residentially zoned boundary line, and street right-of-way; and not less than 100 feet of any street intersection. The applicant shall prove that all access drives have adequate sight distances based upon Pennsylvania Department of Transportation regulations and guidelines regardless of whether the access drive abuts a state highway.

SECTION 503 AMUSEMENT CENTERS

Amusement centers including bowling alleys, dance halls and similar uses shall provide proper parking areas with vehicular circulation designed so as to minimize traffic congestion, shall not be closer than ten (10) feet to any property line, shall provide adequate screening from any Residence District. Outdoor lighting shall comply with Section 412 of this Ordinance.

SECTION 504 ANIMAL HOSPITALS AND SIMILAR USES

No animal hospital, veterinary clinic or kennel shall be located closer than 100 feet to any Residence District, or existing restaurant, hotel, motel, tourist court or trailer camp. No animals shall be kept in outdoor pens during the hours of 6:00 P.M. to 6:00 A.M. local time. All manure shall be regularly collected and disposed of.

SECTION 505 ANIMALS IN RESIDENCE, BUSINESS AND MINING DISTRICTS

Only “domestic animals” as defined in Article 2 shall be kept in Residence (SR, R-1, R-2, RA, MRB), Neighborhood Business (NB), Community Business (CB), and Mining (MI) Districts. Household pets shall be limited to four(4) combined per family in Residence Districts.

SECTION 506 BED AND BREAKFAST

- A. A Bed and Breakfast shall be within an owner-occupied premise which is rented on a nightly basis.

- B. There shall not be separate cooking facilities in any guestrooms.
- C. Dining and other facilities shall not be open to the public, but shall be exclusively for the use of the residents and registered guests.
- D. Two off-street parking spaces shall be provided for each room rental.

No signs, show windows or any type of display or advertising shall be visible from outside the premises, except for a single wall or freestanding sign, which shall not be internally illuminated, with a maximum sign area of two (2) square feet on each of two sides, if freestanding, and with a maximum height of eight (8) feet.

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

SECTION 507 BOTTLE CLUB

A Bottle or BYOB Club, as so defined in Article 2 of this Ordinance, shall be located not less than one thousand (1,000) feet from any of the following uses:

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

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

SECTION 508 BULK FUEL STORAGE

Bulk fuel storage shall be located on a tract of land not less than ten (10) acres. Storage tanks shall be located not less than one thousand (1,000) feet from any property line and shall be not less than two thousand (2,000) feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located five hundred (500) feet from all property lines. The property shall be fenced with an eight (8) foot high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence, the fence shall be screened from view by a dense growth of evergreens at least five (5) feet in height at the time of planting. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

SECTION 509 CEMETERIES, CREMATORIES, COLUMBARIA, AND MAUSOLEUMS

Due consideration shall be given to compatibility with adjacent land uses, existing or proposed highways, and any elements or factors deemed to affect the public health, safety and welfare of the surrounding area, and a minimum setback may be required from any property line for any structure, grave or place of temporary or permanent burial, and such walls, fences, and/or planting of shrubbery, trees or vines may be required as may be reasonable and proper to afford adequate screening.

SECTION 510 COMMERCIAL COMMUNICATION ANTENNAS ATTACHED TO BUILDINGS OR STRUCTURES

A Commercial Communication Antenna when attached to an existing building or structure shall be subject to the following requirements:

1. Commercial Communications Antennas shall not be located or permitted on any building or structure located within a residential district.
2. A Commercial Communications Antenna mounted on a building or other structure shall not exceed eight (8) feet in height above the existing building or structure and shall not exceed three (3) feet in width.
3. A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission (FCC) governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antenna(s).
4. The applicant shall provide a copy of a current FCC license.
5. The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with such mount or location.
6. The applicant shall provide evidence of agreements and/or easements necessary to provide access to the building or structure on which the Commercial Communications Antenna is to be mounted.
7. The applicant shall provide a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence.
8. An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Luzerne County with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

SECTION 511 COMMERCIAL COMMUNICATION ANTENNAS CO-LOCATED ON TOWERS

The placement of a Commercial Communications Antenna upon an existing Commercial Communication Tower or an existing Public Utility Transmission tower shall be subject to the following requirements:

1. Commercial Communications Antennas shall not be located within a residential district.
2. A Commercial Communications Antenna shall comply with all applicable standards established by the Federal Communications Commission (FCC) governing human exposure to electromagnetic radiation. A copy of the subject standards shall be submitted with a Zoning Permit Application along with a graphic depiction of the proposed Communications Antenna(s).
3. The applicant shall provide a copy of a current FCC license.
4. The applicant shall provide certification and documentation from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the tower, considering wind and other loads associated with such mount or location.
5. The applicant shall provide evidence of agreements and/or easements necessary to provide access to the tower on which the Commercial Communications Antenna is to be mounted.
6. The applicant shall provide a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence.
7. An antenna mounted upon an existing structure shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Luzerne County with a copy of the notice to the FCC of intent to cease operations. The six-month period for the removal of an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.
8. The proposed Commercial Communications Antenna will not increase the overall height of the tower plus existing antennas and/or equipment located on said tower.

SECTION 512 COMMERCIAL COMMUNICATIONS TOWERS

The placement of a Commercial Communications Tower shall be subject to the following requirements:

1. The applicant shall demonstrate that it is licensed by the FCC to operate a Commercial Communications Tower, if applicable, and Commercial Communications Antennas.
2. The applicant shall demonstrate that the proposed Commercial Communications Tower and Commercial Communications Antennas thereon comply with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
3. Commercial Communications Towers shall comply with all applicable Federal Aviation Administration (FAA), Commonwealth Bureau of Aviation and applicable airport zoning regulations.

4. Any applicant proposing construction of a new Commercial Communications Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Commercial Communications Antennas on an existing building, structure or tower. A good faith effort shall require that all owners of a potentially suitable structure within a two (2) mile radius of the proposed tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:
 - a. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at reasonable cost.
 - b. The proposed antennas and related equipment would cause frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
 - c. Such existing structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to perform its intended function.
 - d. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
 - e. A commercially reasonable agreement could not be reached with the owners of such structures.
5. Access shall be provided to the Commercial Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a paved, all weather surface for its entire length unless approved by the Zoning Hearing Board on a case by case basis.
6. A Commercial Communications Tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the zoning district.
7. Land development approval shall not be required for a leased parcel on which a Commercial Communications Tower is proposed to be constructed, provided the Communication Equipment Building is unmanned.
8. Subdivision approval shall be required for a lease parcel on which a Commercial Communications Tower is proposed to be constructed. The applicant shall demonstrate that the proposed height of the Commercial Communications Tower is the minimum height necessary to perform its function.
9. In all zoning districts, the maximum height of any Commercial Communications Tower, as defined in Article 2 of this Ordinance, shall be one hundred eighty (180) feet.
10. The foundation and base of any Commercial Communications Tower shall be set back from a property line (not lease line) a distance equal to or greater than the Tower height. For a Tower located upon a lease lot, the Tower shall also be located a distance equal to or greater than its height from any principal or accessory structure on the principal lot.
11. The base of a Commercial Communications Tower shall be landscaped so as to screen the foundation and base and Communications Equipment Building from abutting properties. The Communications Equipment Building shall comply with the required setbacks and height requirements of the applicable zoning district for an accessory structure.

12. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed Commercial Communications Tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Associations / Telecommunications Industry Association.
13. The applicant shall submit a copy of its current FCC license; the name, address, and emergency telephone number for the operator of the Commercial Communications Tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the Commercial Communications Tower, Communications Antennas, Communications Equipment and Equipment Building.
14. All guy wires associated with guyed Commercial Communications Towers shall be marked so as to be visible at all times and shall be included within a fenced enclosure.
15. The site of Commercial Communications Tower shall be secured by a fence with a maximum height of eight (8) feet to limit accessibility by the general public. No signs or lights shall be mounted on a Commercial Communications Tower, except as may be required by the FCC, FAA, Luzerne County, or other governmental agency which has jurisdiction.
16. If a Commercial Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the Commercial Communications Tower within six (6) months of the expiration of such twelve (12) month period.
17. One (1) off-street parking space shall be provided within the fenced area.

SECTION 513 TOWER-BASED WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

The following regulations shall apply to Tower-Based Wireless Communications Facilities (WCF) located the Public Rights-of-Way (ROW):

1. Location and Development Standards
 - a. Tower-Based WCF in the public ROW shall not exceed forty (40) feet in height.
 - b. Tower-Based WCF are prohibited in areas in which utilities are located underground.
 - c. Tower-Based WCF shall not be located in the front yard area of any structure.
 - d. Tower-Based WCF shall be permitted along collector roads and arterial roads throughout the County, regardless of the underlying zoning district.
 - e. The WCF shall employ the most current Stealth Technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the Stealth Technology chosen by the WCF Applicant shall be subject to the approval of the County.
 - f. To the extent permissible under state and federal law, any height extensions to an existing Tower-Based WCF shall require prior approval of the County, and shall not increase the overall height of the Tower-Based WCF to more than forty (40) feet.

- g. Any proposed Tower-Based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF Applicant's antennae and comparable antennae for future users.

2. Time, Place, and Manner

- a. The County, in conjunction with the local municipality, shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Tower-Based WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.
- b. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the County and/or local municipality and the requirements of the Public Utility Code.

3. Equipment Location

Tower-Based WCF and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrian and/or motorists or to otherwise inconvenience public use of the ROW as determined by the County and/or local municipality. In addition:

- a. In no case shall ground-mounted Accessory Equipment, walls, or landscaping be located within eighteen (18) inches of the face of the curb or cartway.
- b. Ground-mounted Accessory Equipment that cannot be placed underground shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the County.
- c. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the County.
- d. Any graffiti on the tower or on any Accessory Equipment shall be removed at the sole expense of the owner
- e. Any underground vaults related to Tower-Based WCF's shall be reviewed and approved by the County.

4. Relocation or Removal of Facilities

Within ninety (90) days following written notice from the County, or such longer period as the County determines is reasonably necessary, or such shorter period in the case of an Emergency, an owner of Tower-Based WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the County and/or local municipality, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

- a. The construction, repair, maintenance or installation of any County or other public improvement in the ROW,

- b. The operations of the County or other governmental entity in the ROW,
- c. Vacation of a street or road or the release of a utility easement,
- d. An emergency as determined by the County.

SECTION 514 CONTRACTORS' STORAGE YARDS

Commercial or industrial uses utilizing outdoor storage space of more than two thousand (2,000) square feet shall be located on a tract of land of not less than one (1) acre. The applicant shall furnish a complete listing of all types of items to be stored therein. No hazardous substances, as so defined in Article 2 of this Ordinance, shall be permitted upon the site. Supplies stored outdoors shall be neatly arranged and no required yard areas shall be used for storage. There shall be an aisle fourteen (14) feet in width provided for every forty (40) linear feet of stored materials. The aisle shall be kept passable for fire-fighting equipment. Outside lighting shall be directed away from adjoining properties.

SECTION 515 CORRECTIONAL INSTITUTIONS

An application for a Correctional Institution may only be approved as a special exception by the Zoning Hearing Board (Board) and shall demonstrate to the Board and provide documentation that the following requirements are fully satisfied:

- A. That traffic, sanitary and environmental safety measures will be provided and be operational and fully usable before such operations or activities and functions commence; and
- B. That light fixtures for security and night operations are positioned and designed to avoid glare and safety hazards on adjacent roadways or properties and nuisance effects on the nearby area. Lighting shall be directed to shine away from abutting properties and into the Institution's property; and
- C. A formal written standing commitment from the highest responsible official and/or policy board that operational policies, practices (including maximum inmate number) and staffing plans will provide on-going security and control to prevent unauthorized trespass and litter on adjacent properties, or unreasonable risk to safety of nearby residents; and
- D. An Emergency Response Plan which guarantees that the facility owner will either provide directly or provide to the municipality whatever supplementary equipment, personnel and financial resources as deemed necessary by the municipality to properly train and develop the necessary capability for effective response to fire, explosion, riot, epidemic, toxic spill, or other identifiable potential incident; and
- E. A communications plan which defines in detail the manner in which municipal officials, broadcast and print news media, and any appropriate public safety officials will be immediately notified and fully briefed on listed reportable incidents, including their ultimate disposition and preventative measures being undertaken to prevent their recurrence as well as a mechanism for advisory input from Luzerne County, the Luzerne County Planning Commission and the host municipality to the owner; and
- F. An accountability chart which identifies the on-site and parent organization chain of command by position and name of incumbents, such names to be regularly updated; and

- G. A maintenance plan which assures that the physical appearance and utility functions, as well as residential and food processing, storage and serving areas will be kept in a sanitary and secure condition with reasonable effort to assure that the value of adjacent properties will not be adversely affected; and
- H. That Correctional Institution principal and accessory structures shall be a minimum distance of three hundred (300) feet from any property line; and
- I. That the applicant shall establish and maintain a fifty (50) foot landscaped buffer area around the perimeter of the site and the landscaping plans shall be reviewed by the Board as part of the special exception application, rather than requiring any necessary variance, with security as a primary consideration, and the Board shall take into account the security plan in consideration of any modifications of required landscape planting and/or buffer area; and
- J. All permits, licenses and approvals required from Federal or State Agencies must be secured with documentation supplied with the application or said requirement shall become a condition of approval.

- (1) Nothing in this section or this Ordinance is intended nor shall be implied or interpreted to attempt to regulate those aspects of correctional institutions which are specifically regulated by the PA Department of Corrections or the US Department of Justice, provided that the above essential precautions are defined by such regulations in as much detail as required herein. The intent of this section is to provide a mechanism whereby Luzerne County and the municipality can assure that the site planning and site location of such activities and facilities complies with reasonable precautions for public safety, public health and protection of nearby property values.
- (2) No Correctional Institution shall be located less than one thousand (1,000) feet from any of the following:
 - a. A residential dwelling
 - b. A zoning boundary of any residential zoning district
 - c. A place of worship
 - d. A school, child care facility, park, public playground or similar recreational facility
- (3) Measurement: Measurements of the required distance shall be made in a straight line, from the nearest portion of the Correctional Institution's property boundary line, to nearest property line of the above noted uses or district.
- (4) A Zoning Permit shall not be issued until the proposed Correctional Institution has received final land development plan approval from the Luzerne County Planning Commission.

SECTION 516 DAY CARE FACILITIES

All day care facilities shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval and/or license is required by the laws of the Commonwealth.

- B. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All day care facilities shall have an outdoor recreation area which shall be completely enclosed with a fence six (6) feet in height.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in “pick-up and drop-off points” utilized in transporting individuals to and from the facility.
- E. One off-street parking space shall be required for each employee.
- F. One off-street parking space shall be required for each vehicle used by the establishment for the purpose of transporting person attending the facility.

SECTION 517 DETENTION FACILITY

- A. The minimum lot size shall be twenty (20) acres
- B. All buildings shall be set back not less than five hundred (500) feet from a property line
- C. Where the detention facility abuts a zoning district where residences are a principal permitted use or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than ten (10) feet in height shall be constructed and maintained in good condition along such boundary line and a buffer area of not less than three hundred (300) feet in width shall be landscaped and maintained in good condition at all times
- D. No structures, parking, loading, storage of any kind, or any use shall be allowed within the buffer area
- E. All areas not used for access, parking circulation, buildings and services shall be completely and permanently landscaped, and the entire site maintained in good condition

SECTION 518 DRIVE-IN THEATERS

- A. Where possible, access shall be to minor roads rather than highways to reduce congestion and accidents.
- B. Theater screens shall be placed so that they are not visible from a highway, or shall be screened with adequate fencing or planting.
- C. No central loud speakers shall be permitted.
- D. All parts of the theater shall be at least two hundred (200) feet from any Residence District.

SECTION 519 DRIVE THROUGH FACILITIES

Any use providing a drive-through (i.e. bank, eating establishment, etc.) shall comply with the following requirements:

- A. The drive through lane or aisle shall be designed with adequate space for a minimum of four (4) waiting vehicles per lane or aisle. There shall be a maximum of one (1) lane or aisle per drive through window.
- B. Each drive through lane or aisle shall be clearly marked and designed so as to prevent traffic hazards and congestion while at the same time minimizing conflicts with pedestrian travel.
- C. Canopies situated over drive-through areas shall meet all setback requirements for the zoning district in which the property is located.

SECTION 520 DWELLING OVER OR ATTACHED TO A BUSINESS

A dwelling unit over or attached to business establishments shall be designed as living quarters with private access, having adequate natural light and kitchen and bathroom facilities. Required residence parking and commercial parking must be provided for each use in accordance with the parking requirements of this Ordinance.

SECTION 521 ENTERTAINMENT FACILITIES

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

SECTION 522 EXCAVATION OF MINERALS, SAND, STONE, OR SIMILAR

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

- A. Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.
- B. Plan Map: Submission of a map or maps at a scale of not greater than one (1) inch equals fifty (50) feet that outlines the entire property and the proposed area subject to

excavation and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.

- C. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than five hundred (500) feet from any building, property line or street, except that owned by the applicant.
- D. Limitation on Land Area: At any given time, the active excavation/extraction areas shall not exceed ten (10) acres in area on any lot or tract of land. Additional areas may be approved on the completion and cessation of previous approvals.
- E. Compliance With State Requirements: Final and/or unconditional approval for excavation, extraction and/or removal of minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and/or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection (PA DEP).
- F. Blasting, or Use of Explosives: The use of explosives for the purpose of blasting in connection with excavation, extraction and/or removal of minerals shall be done in accordance with regulations promulgated by and under the supervision of a representative of the PA DEP. Blasting in any excavation shall occur only between the hours of 8:30 A.M. and 4:00 P.M., on either Eastern Standard or Eastern Daylight time, as the case may be.

SECTION 523 GASOLINE FILLING STATIONS

In addition to the general requirements for the zoning district, the following regulations shall pertain to gasoline filling stations:

- A. Canopy Design: The maximum height of the canopy clearance shall be sixteen (16) feet and the maximum width of the canopy fascia shall be thirty (30) inches.
- B. Canopy Setback: The canopy shall be located no less than twenty (20) feet from any property line, roadway right-of-way, or overhead electrical lines.

SECTION 524 GOLF DRIVING RANGES AND MINIATURE GOLF COURSES

All lighting installations shall be such and be so arranged as not increase traffic hazards or to cause direct or glaring reflection onto adjoining premises. Driving ranges shall contain perimeter netting so as to contain golf balls on the property.

SECTION 525 GROUP HOME

Any party seeking to establish and/or operate a Group Home, as defined in Article 2 of this Ordinance, in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following requirements:

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

SECTION 526 HOME OCCUPATIONS

A home occupation shall be an incidental use of a dwelling unit conducted only by residents of the building, who may not employ more than one (1) additional non-resident persons. The following additional conditions shall be required:

- A. Where Permitted: Within a single dwelling unit, provided that only one home occupation per dwelling unit is permitted.
- B. Evidence of Use: No exterior evidence of the home occupation shall be visible, other than a permitted sign as specified in Section 415.4.
- C. Extent of Use: Not more than thirty (30) percent or 600 square feet, whichever is less, of the gross floor area of any dwelling unit may be used for a home occupation, except for medical and dental offices and foster family care, which may use up to forty (40) percent.
- D. Exterior Impacts: The home occupation shall not disturb the peace, quiet, and dignity of the neighborhood by electrical interferences dust, noise, smoke, or traffic generated by the use. There shall be no change in the residential character of the building or neighborhood wherein the home occupation is being conducted. No outdoor storage of materials or products shall be permitted. Vehicular traffic may not require the use of a panel or delivery truck greater than two (2) ton load capacity.
- E. The operator of the Home Occupation shall obtain a Certificate of Zoning Compliance from the Zoning Officer prior to beginning said occupation.

526.1 NO IMPACT HOME OCCUPATIONS

A No Impact Home Occupation, as defined in Article 2 of this Ordinance, shall be permitted by right in all Residential Zoning Districts and zoning district in which residences are permitted as a principal permitted use. The following standards and criteria shall apply to a No Impact Home Occupation:

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

SECTION 527 HOSPITALS AND RELATED USES

Hospitals, sanitariums, and convalescent or nursing homes shall locate future structures or extensions thereto, at least one hundred (100) feet distant from any lot in any Residence District or any lot occupied by a dwelling, school, place of worship, or institution for human care.

SECTION 528 INDUSTRIAL ACTIVITIES AND USES

All activities and uses permitted within the LI and HI Districts shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards, and any other of the activities and uses which side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (E.P.A.), the PA DEP, and Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and federal regulations governing the proposed use and written compliance from the governing agencies.

SECTION 529 JUNK YARDS AND/OR AUTOMOBILE WRECKING YARDS

All junk yards shall be completely screened from roads or developed areas with a solid fence or wall six (6) feet or more in height, maintained in good condition, and painted except for

masonry construction, or with suitable plantings. All such operations shall comply with the following:

- A. Traffic circulation aisles shall be maintained so as to allow movement of emergency response vehicles and regular traffic.
- B. All liquids (oils, antifreeze, gasoline, etc.) shall be removed from vehicles and stored in a secured, fire-resistant building until such time as proper disposal can be arranged.
- C. No operations shall be conducted which shall cause a general nuisance or endanger the public health.
- D. All existing junk yards shall comply with these requirements within one (1) year of the date of this Ordinance, or shall then terminate their operation. (to be removed)

SECTION 530 MACHINE SHOPS

Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than six (6) feet in height shall be constructed and maintained in good condition along such boundary line, or a buffer yard of not less than fifty (50) feet in width must be landscaped and maintained in good condition. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited. All operations excluding pickups or deliveries shall be conducted within the enclosed building.

SECTION 531 MEDICAL MARIJUANA FACILITIES

531.1 MEDICAL MARIJUANA GROWING/PROCESSING FACILITY

All medical marijuana growing/processing facilities shall hold a valid license issued by the Commonwealth of Pennsylvania for such facilities, and shall also meet the following minimum standards:

- 1. Such facilities shall only be located within the Conservation (CO) and Agriculture (AG) zoning districts.
- 2. The minimum lot area for such facilities shall be five (5) acres, with a minimum lot frontage of four hundred (400) feet.
- 3. All growing/processing buildings shall be set back from any lot line a distance of fifty (50) feet.

531.2 MEDICAL MARIJUANA DISPENSARY FACILITY

All medical marijuana dispensary facilities shall hold a valid license issued by the Commonwealth of Pennsylvania for such facilities, and shall also meet the following minimum standards:

- 1. Such facilities shall only be located within the Community Business (CB), Highway Business (HB), and General Business (GB) zoning districts.

SECTION 532 MOTELS

No motel shall have a lot area of less than one (1) acre, nor a lot area per rental room of less than two thousand (2,000) square feet.

Motels shall utilize collective sewers connected with a sewage disposal system approved by the Pennsylvania Department of Health or by the Department of Environmental Protection, whichever agency has jurisdiction.

SECTION 533 OUTDOOR WOOD-FIRED BOILERS

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

- A. The property must have a lot area of not less than five (5) acres.
- B. A safe flue or chimney shall be provided which has a minimum termination height of twenty-five (25) feet above the natural ground level upon which the outdoor wood-fired boiler is located and be provided with a spark arresting device designed and approved for that purpose.
- C. A fan or blower attached to the appliance to increase the efficiency of the Outdoor Wood-Fired Boiler.
- D. An outdoor wood-fired boiler shall be located not less than two hundred (200) feet from any property line and not less than forty (40) feet from any principal structure or building located upon the property.
- E. The outdoor wood-fired boiler shall have an orange hang tag that signifies that it meets the Federal Environmental Protection Agency (EPA) standards for Phase 1 air emission levels of 0.60 pounds of fine particulates per million BTU heat input and qualifies for the EPA's voluntary program.
- F. All outdoor wood-fired boilers shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder.
- G. The owner of the outdoor wood-fired boiler shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- H. All outdoor wood-fired boilers may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of October 1 through May; and subject to meeting the requirements of this Section.
- I. No homemade outdoor wood-fired boilers will be allowed.

J. Only natural clean wood may be burned in outdoor wood-fired boilers. Regardless of the manufacturer's instructions, an outdoor wood-fired boiler shall not be used to burn any of the following materials:

- Any material that does not meet the definition of clean wood
- Furniture
- Garbage
- Tires
- Lawn clippings or yard waste
- Wet or soggy wood
- Material containing plastic
- Material containing rubber
- Waste petroleum products
- Paints and paint thinners
- Chemicals
- Any hazardous waste
- Coal
- Glossy colored paper
- Construction and demolition debris
- Plywood
- Particleboard
- Salt water driftwood
- Manure
- Animal carcasses
- Asphalt products

K. All storage of materials to be burnt in the outdoor wood-fired boiler shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease-carrying rodents.

L. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as not accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

SECTION 534 PLANNED BUILDING GROUPS

534.1 INTEGRATED NEIGHBORHOOD AND COMMUNITY SHOPPING CENTERS

A. Preliminary Plan and Minimum Size:

The owner of a tract of land located in any district at or near where a proposed shopping center is shown on the Land Use Plan of Luzerne County, containing not less than two (2) acres in the case of a neighborhood shopping center (NB District type), and not less than fifteen (15) acres in the case of a community shopping center (CB District type),

shall submit to the Luzerne County Planning Commission (Commission) for its review a preliminary plan for the use and development of such tract of land for an integrated shopping center.

B. Applicant's Financial Ability:

In accepting such plan for review, the Commission must be satisfied that the applicant for the integrated neighborhood or community shopping center is financially able to carry out the proposed project; that they intend to start construction within one (1) year of the approval of the project and any necessary change in zoning; and intend to complete it within a reasonable time as determined by the Commission.

C. Commission Findings:

The Planning Commission shall determine whether the location, size and other characteristics of the site, and the proposed plan, comply with the following conditions:

- (1) Need Must Be Demonstrated: The need for the proposed center at the proposed location to provide adequate shopping facilities to the surrounding neighborhood or community, as the case may be, has been demonstrated by the applicant by means of market studies or such other evidence as the Commission may require.
- (2) Adequacy of Site: The proposed shopping center is of sufficient, but not excessive, size to provide adequate neighborhood or community shopping facilities, as the case may be, for the population which may reasonably be expected to be served by such shopping facility.
- (3) Traffic Congestion Not To Be Created: The proposed shopping center is located so that reasonably direct traffic access is supplied from principal thoroughfares and where congestion will not likely be created by the proposed center; or where such congestion will be obviated by presently projected improvement of access thoroughfares, by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking.
- (4) Integrated Design: The plan shall provide for a shopping center consisting of one or more groups of establishments in buildings of integrated and harmonious design, together with adequate and properly arranged traffic and parking facilities and landscaping. The project shall be arranged in an attractive and efficient manner, convenient, pleasant and safe to use, and fitting harmoniously into, and having no adverse effects upon, adjoining or surrounding properties.

D. Permitted Uses:

The uses permitted in an integrated neighborhood shopping center shall be those retail business, commercial, and services uses permitted in the NB District, and the uses

permitted in an integrated community shopping center shall be the same kinds of uses as permitted in the CB District. No residential uses, commercial uses first permitted in HB and GB Districts, or industrial uses, shall be permitted, or any use other than such as is necessary or desirable to supply with goods or services the surrounding neighborhood or community.

E. Minimum Design Standards:

The following minimum standards shall be met in the design of an integrated neighborhood or community shopping center:

- (1) Building Heights: No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.
- (2) Yards and Landscaping: No building shall be less than fifty (50) feet distant from any boundary of the tract on which the shopping is located. The center shall be permanently screened from all abutting properties located in any Residence District by an appropriate wall of acceptable design, except for necessary entrances and exits, from all properties located across the street and within one hundred (100) feet from such center in any Residence District, by a wall or hedge not less than three (3) feet in height. The exact type and nature of such screening shall be determined by the Commission.
- (3) Tract Coverage: The ground area occupied by all the buildings shall not exceed in the aggregate twenty-five (25) percent of the total area of the lot or tract.
- (4) Customer Parking Spaces: There shall be one parking space per two hundred (200) square feet of retail floor space.
- (5) Loading Space: Notwithstanding any other requirements of this Ordinance, there shall be provided one (1) off-street loading or unloading space for each twenty thousand (20,000) square feet or fraction thereof of aggregate floor space of all buildings in the center. At least one third (1/3) of the spaces required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type.

F. Submission and Approval of Final Development Plan:

- (1) Submission to Commission: Upon determination by the Commission that the proposed integrated neighborhood shopping center or community shopping center, as the case may be, as shown by the preliminary plan, appears to conform to the requirements of this Section, and all other applicable requirements of this Ordinance, the proponents shall prepare and submit a final development plan, which shall incorporate any changes or modifications required or suggested by the Commission.
- (2) Recommendation to the Governing Body of Luzerne County and Public Hearing: If the final development plan is found to comply with requirements set forth in this Section and other applicable provisions of this Ordinance, the Commission shall

- submit said plan with its report and recommendations, together with any required application by the proponents of any necessary change in zoning classification of the site of the proposed center, to the Governing Body of Luzerne County, with copies thereof to the Borough Council, Board of Township Supervisors, Board of Township Commissioners, or Township Supervisors having jurisdiction over the area involved. The Governing Body shall hold a public hearing on both the development plan and any application for a change in zoning.
- (3) Possible Modification and Zoning: Following a public hearing, the Governing Body of Luzerne County may modify the plan, consistent with the intent and meaning of this Ordinance, and may rezone the property to the classification permitting the proposed center, for development in substantial conformity with the final plan, as approved by the Governing Body of Luzerne County.
- (4) Adjustments in Carrying Out The Plan: After the final development plan has been approved by the Governing Body of Luzerne County, and in the course of carrying out this plan, adjustments or re-arrangements of buildings, parking areas, loading areas, entrances, heights, or yards, may be requested by the proponents, and, provided such requests conform to the standards established by the final development plan and this Ordinance, such adjustments or re-arrangements may be authorized by the Commission.

534.2 PLANNED RESIDENTIAL DEVELOPMENTS

A. Application of Comprehensive Plan:

Every application for a planned residential development (PRD) shall be based on, and consistent with, and interpreted in relation to, the Comprehensive Plan of Luzerne County.

B. Referral to Municipality:

Every application for a PRD shall be referred to the Planning Commission and governing body of the municipality in which it is located and thirty (30) days shall be given to submit comments or forfeit the right to review.

C. Standards and Conditions for PRD's:

- (1) Permitted Uses: The permitted land use requirements of the zone within which the PRD unit is located shall apply with the exception that open space requirements shall be considered cause for population density and building intensity increases, and for this purpose the permitted type of dwelling units may include single-family detached homes, townhouses, garden apartments or high-rise apartments provided:
- a. In PRDs of less than fifty (50) acres, only the uses permitted in the Zoning District may be used.
 - b. In PRDs of fifty (50) acres or more, a maximum of twenty (20) percent of the dwellings located with CO, AG, SR, R-1 and R-2 Districts may be multiple dwellings. A maximum of one (1) acre of the commercial and professional are

permitted for each one hundred (100) dwelling units, when planned and gauged primarily for the service and convenience of residents located in the development, and shall be authorized only to the extent that such uses are not available in reasonable proximity.

- c. In tracts of land of two hundred (200) or more acres, additional uses may be permitted if approved by the Governing Body of Luzerne County.
- (2) Prohibited Locations: PRDs are prohibited in commercial, mining, and industrial zoning districts.
- (3) Density and Intensity of Land Use:
 - a. Number of Dwelling Units Permitted: The maximum number of dwelling units that may be approved in a PRD shall be computed by dividing the net development area by the minimum lot or lot area per dwelling unit required by the district or districts in which the area is located. The area of land set aside for common space or recreational use shall be included in the net development area.
 - b. Lot Area: No lot or area per dwelling unit in any district listed below shall be reduced in area below the following minimum standards:

<u>Zoning District</u>	<u>Required Lot Size</u>	<u>Permitted PRD Lot Size</u>
CO	2 acres	40,000 sf
AG	1 acre	20,000 sf
SR	20,000 sf ⁽¹⁾ 11,250 sf ⁽²⁾	12,000 sf ⁽¹⁾ 9,000 sf ⁽²⁾
R-1	20,000 sf ⁽¹⁾ 11,250 sf ⁽²⁾ 7,200 sf ⁽³⁾	12,000 sf ⁽¹⁾ 9,000 sf ⁽²⁾ 6,000 sf ⁽³⁾
R-2	20,000 sf ⁽¹⁾ 11,250 sf ⁽²⁾ 6,000 sf ⁽³⁾ 3,500 sf/D.U.	12,000 sf ⁽¹⁾ 9,000 sf ⁽²⁾ 6,000 sf ⁽³⁾ 3,000 sf/D.U.
RA	6,000 sf 2,000 sf/D.U.	6,000 sf 1,500 sf/D.U.

(1) Neither public water nor sewer.

(2) Individual sewage system on each lot, but public water; or individual water system on each lot, but public sewers.

(3) Public water and sewer.

NOTE: D.U. = Dwelling Unit

(4) Ownership and Subdivision: The tract or parcel of land involved must be either in one ownership or the subject of an application filed jointly by the owners of all the property included (the holder of a written option to purchase land, and a redeveloper under contract with the Redevelopment Authority to acquire land by purchase or lease, shall for purposes of such application be deemed to be an owner of such land), or by any governmental agency including a Redevelopment Agency. It must constitute an area of at least twenty (20) acres or be bounded on all sides by streets, public open spaces, or the boundary lines of less restrictive use districts. The application may include a proposed subsequent division of the tract or parcel of land involved into one or more separately owned and operated units. Such proposed subsequent division, if approved along with the PRD, shall be permissible without further approval; otherwise, subsequent division of a PRD shall be permitted only upon application to the Governing Body of Luzerne County through the Planning Commission as provided in the PRD Section.

(5) Standards and Other Conditions:

a. Open Space:

1. Areas set aside for open space under this Ordinance shall be consistent with the comprehensive plan of the County or municipality for future land use. Any such area shall not contain any structure other than one related to a recreational use.
2. Within the PRD, common open space shall be set aside for the use and benefit of the residents of the PRD.
3. The deed or deeds to any land set aside as open space must contain a restriction, in a form acceptable to the Governing Body of Luzerne County (Body), to be duly recorded in the office of the Recorder of Deeds in and for said Luzerne County, eliminating the possibility of further subdivision of said open space in the future.
4. The developer of a PRD shall make adequate provision for the ownership and continuing maintenance of open space and improvements thereon by the establishment of a homeowners organization which is approved by the Body. Such homeowners' organization shall not be dissolved nor shall it dispose of any or all of the open space in any manner whatsoever, except to a separate organization of homeowners' conceived and established to own and maintain said open space from being dedicated to the public by the acceptance of a deed of dedication by the Body, at its sole discretion.
5. The developer of a PRD shall submit full details concerning the proposed homeowners' organization, its powers, rights, duties, responsibilities, etc., in regard to the ownership, and maintenance of the common open space, which shall be subject to approval by the Body. No final plan shall be approved by the Body without such prior approval.

b. Other Standards:

1. Single-Family Detached Units:

- (a) The lot for each home shall have a width at the building line of not less than sixty (60) feet and a width at the street line not less than fifty (50) feet
- (b) The building area shall not exceed twenty (20) percent of the lot area.
- (c) There shall be a front yard on each street on which the lot abuts the depth of which shall be at least forty (40) feet.
- (d) There shall be two (2) side yards, one on each side of the building, together having an aggregate width of not less than twenty-five (25) feet, but neither having a width of less than ten (10) feet.
- (e) There shall be rear yard, the depth of which shall be at least thirty (30) feet.

2. Single-Family Semi-Detached Units:

- (a) The lot for each home shall have a width at the building line and at the street line of not less than 50 feet.
- (b) The building area shall not exceed 30% of the lot area.
- (c) There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least 30 feet.
- (d) There shall be one side yard for each home which shall be at least 15 feet wide.
- (e) There shall be a rear yard, the depth of which shall be at least 30 feet.

3. Single Family Attached Units:

- (a) The minimum lot size shall be 6,000 sq. ft.
- (b) The lot for each home shall have a width of not less than 30 feet at the building line and at the street line.
- (c) No individual section of cluster or group housing shall contain more than 6 single-family townhouses.
- (d) Each single-family townhouse shall have a setback of not less than 40 feet from an interior road right-of-way within the PRD.
- (e) No part of any section of cluster or group housing shall be erected within 150 feet of any other building or structure in the PRD.
- (f) Each single-family townhouse shall contain at least 1200 sq. ft. of habitable floor area.
- (g) In no case shall any building or structure exceed 30 feet in height above the ground slab.
- (h) Each dwelling unit shall have 2 off-street parking spaces.
- (i) The county or municipality concerned shall not be obligated to accept the dedication of streets and/or roads within the PRD, but the PRD however, must conform to all the requirements applicable to the size, design and construction of municipal roads and streets.

- (j) Flexibility of a municipality to complement the existing neighboring properties and the municipality as a whole is a prime objective of this Ordinance; the combination of uniqueness and beauty of design and architecture in a PRD is encouraged.

D. Enforcement and Modification of the Provisions of the Plan

1. To further the mutual interest of the residents of the PRD and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the residents upon the provisions of the development plan, and not result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement, or otherwise shall be subject to the following provisions:
2. The provisions of the development plan relating to the use, bulk and location of buildings and structures, the quantity and location of common open space (except as otherwise provided in the PRD Section), and the intensity of use or the density of residential unit shall run in favor of Luzerne County, and shall be enforceable in law or in equity by Luzerne County without limitation on any powers of regulation otherwise granted Luzerne County.
3. All provisions of the development plan shall run in favor of the residents of the PRD, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provision whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf, provided, however, that no provision of the development plan shall be implied to exist in favor of residents of the PRD except as to those portions of the development plan which have been finally approved and have been recorded.
4. All those provisions of the development plan authorized to be enforced by Luzerne County under this section may be modified, removed or released by the Governing Body of Luzerne County (Body) except grants or easements relating to the service or equipment of a public utility subject to the following conditions:
5. No such modification, removal, or release of the provision of the development plan by the municipality shall affect the rights of the residents of the PRD to maintain and enforce those provisions, at law or equity, as provided in this section;

6. No modification, removal or release of the provisions of the development plan by the County shall be permitted except upon a finding by the Body following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire PRD, does not adversely affect either the enjoyment of land abutting upon or across the street from the PRD or the public interest, and is not granted solely to confer a special benefit upon any person.
7. Residents of the PRD may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the County to enforce the provisions of the development plan in accordance with the provisions of this Section.

E. Application for Tentative Approval of a PRD:

1. The application for tentative approval of a PRD shall include a written statement by the landowner(s) setting forth the reasons why, in his opinion, a PRD would be in the public interest and would be consistent with the Comprehensive Plan of the County or Municipality.
2. The Planning Commission of Luzerne County shall determine whether or not the PRD conforms to the Comprehensive Plan of Luzerne County and/or the Municipality in which it is located, and particularly the Land Use Plan in the Comprehensive Plan, and shall review the application for tentative approval, and make recommendation to the Governing Body of Luzerne County.
3. An application for tentative approval of a PRD shall be informative and shall contain a detailed plan consisting of the following:
 - a. The location, size, soil conditions and topography of the entire tract and adjacent properties;
 - b. The nature and interest of any and all owners of the tract, as well as the owners of all adjacent neighboring tracts of land;
 - c. The density of land use to be allocated to parts of the tract to be developed;
 - d. The location and size of the common open space;
 - e. The specific details of the proposed homeowners' organization created to own, maintain and improve the open space, along with the proposed deed restrictions, homeowners' agreements, etc. concerning ownership and maintenance of said open space;
 - f. The feasibility studies of public water and public sanitary sewer lines and treatment plants, and the location and size of storm water facilities made by an engineer licensed to practice in Pennsylvania, and the recommendations of the Pennsylvania Department of Environmental Protection on the proposed water and sewer systems;

- g. The use, dimension, location, architectural design and elevation of all buildings and structures, including architectural schematics;
 - h. The covenants, restrictions, grants of easements, or any other restrictions to be imposed on the use of land, buildings, and structures, including the location of the proposed easements for public parking;
 - i. The provisions for parking of vehicles and the location and width of all proposed streets and public and/or private rights-of way;
 - j. The existing zoning applicable to said tract, and the required modifications in the County or Municipality land regulations, otherwise applicable to the subject property;
 - k. The specific use of the open spaces, and the condition of said open space at such time it is turned over to the homeowners' organization and the proposed dates or dates thereof; in the event that the application for preliminary approval calls for a development of the entire tract over a period of time, the time schedule proposed for such development, as well as a time schedule showing approximately when applications for final approval of all sections will be filed; all such time schedules shall be up-updated annually until development is completed and accepted, and shall be changed only with the approval of the Governing Body of Luzerne County.
4. The application for tentative and final approval of a development plan for a PRD shall be in lieu of all other procedures and approvals, otherwise required pursuant to the Luzerne County Ordinance and Subdivision Regulations.

F. Public Hearings:

- 1. Within sixty (60) days after the filing of an application for tentative approval of a PRD, a public hearing pursuant to public notice on said application shall be held by the Governing Body of Luzerne County (Body) in the manner prescribed for the enactment of an amendment to the Zoning Ordinance. The chairman, or in his absence, the acting chairman, of the Body may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross examine adverse witnesses.
- 2. A verbatim record of the hearing shall be caused to be made by the Body whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved, or if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.
- 3. The Body may continue the hearing from time to time, and may refer the matter back to the County Planning Commissions for a report, provided, however, that in any

event, the public hearing(s) shall be concluded within 60 days after the date of the first public hearing.

G. The Findings:

1. The Body, within thirty (30) days following the conclusion of the public hearing provided for in this Article, shall make official written communication to the landowner either:
 - a. Grant tentative approval of the development plan as submitted;
 - b. Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 - c. Deny tentative approval to the development plan.
2. Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Body, notify such Body of his refusal to accept all such conditions, in which case, the Body shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Body of his refusal to accept all said conditions, tentative approval of the development plan with all said conditions shall stand as granted.
3. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for grant, with or without conditions, or for the denial, and said communications shall set forth with particularity in what respects the development plan would or would not be in the public interest including but not limited to findings of fact and conclusions on the following:
 - a. In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the County or the Municipality;
 - b. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;
 - c. The purpose, location and amount of the common open space in the PRD, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
 - d. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

- e. The relationship, beneficial or adverse, of the proposed PRD to the neighborhood in which it is proposed to be established; and
- f. In case of a development plan which proposed development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the PRD in the integrity of the development plans. In the event a development plan is granted tentative approval, with or without conditions, the Body may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than 3 months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall not be less than 12 months.

H. Status of Plan After Tentative Approval:

The official written communication provided for in this article shall be certified by the County Manager and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the zoning map in the office of the Zoning Officer of Luzerne County.

I. Application for Final Approval:

- 1. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Body and within the time(s) specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan or part thereof shall not be required provided the development plan, of the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto. The Body may refer it to the County Planning Commission for recommendation.
- 2. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the Body shall, within 30 days of filing, grant such development plan final approval, provided it conforms with the tentative approval.

3. In the event the development plan as submitted contains variations from the development plan given tentative approval, the Body may refuse to grant final approval and shall, within 30 days of the filing of the application for final approval, so advise the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:
 - a. Refile his application for final approval without the variations projected; or
 - b. File a written request with the Body that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate actions, he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance.
 - c. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after the request for the hearing is made by the landowner and the hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the Body shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in the PRD section.
4. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Body and shall be filed of record forthwith in the office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion within a reasonable time of said PRD or of that part thereof as the case may be, that has been finally approved, no modifications of the provisions of said development plan, of part thereof, as finally approved, shall be made except with the consent of the landowner.
5. In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Body in writing; or in the event the landowner shall fail to commence and carry out the PRD within such reasonable period of time as may be fixed by ordinance after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is re-subdivided and re-classified by enactment of an amendment to the Luzerne County Zoning Ordinance in the manner prescribed in such Ordinance.

6. Plans submitted for final approval shall be prepared with the Subdivision and Land Development Ordinance of Luzerne County and all construction shall be in accordance with the Subdivision Regulations and all other codes and ordinances of Luzerne County, except those excluded under this Section. The Subdivision and Land Development Ordinance of Luzerne County, as amended, shall govern the construction and acceptance of all public improvements.

SECTION 535 SCHOOLS AND COLLEGES

These structures shall be located not less than fifty (50) feet from any other lot in the SR or R-1 District, and not less than twenty (20) feet from any lot in the R-2 or RA District. All outdoor lighting shall comply with Section 412 of this Ordinance. Off-street loading and parking facilities shall comply with Section 414. Outdoor facilities, such as athletic fields, etc., shall be screened from adjacent residential use properties or districts.

SECTION 536 RACE TRACK (HORSE)

Commercial race horse tracks must have all activities, including all buildings, not less than two hundred (200) feet from any residence district or any lot occupied by a dwelling, school, place of worship, or institution for human care. Traffic in connection with race tracks must be arranged so as to result in a minimum of congestion.

SECTION 537 RACE TRACK (MOTORIZED VEHICLES)

Motorized vehicle race tracks shall only be permitted by special exception approval from the Zoning Hearing Board. Such tracks shall be located a minimum of five hundred (500) feet from any Residence District. The Board shall consider the noise factor and shall require noise deadening devices, or other means, to prevent the noise from becoming objectionable to surrounding areas.

SECTION 538 RESTAURANTS AND TAVERNS

1. Unless superseded by a PennDOT Highway Occupancy Permit, access drives shall not be less than thirty (30) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet (as measured from the right-of-way lines) from the intersection of the two abutting streets.
2. Outdoor trash dumpsters shall be concealed within an area surrounded by solid opaque fencing not less than six (6) feet in height.
3. All exterior lighting shall be directed away from adjacent properties and shall utilize cutoff shields or otherwise be designed to conceal the light source from adjoining properties and streets.

SECTION 539 SAWMILLS

Sawmills in Agricultural Zoning Districts shall only be permitted by special exception by the Zoning Hearing Board. Sawmills shall require a minimum distance of one thousand (1,000) feet from Residence Districts.

SECTION 540 SELF-STORAGE FACILITY

All storage units shall be contained within a completely enclosed or buildings. There shall be a minimum spacing of twenty-five (25) feet between buildings for traffic circulation, parking and fire lane purposes. All outside lighting shall be directed away from adjacent properties.

SECTION 541 SEWAGE DISPOSAL PLANTS

Plans for sewage disposal plants shall be in harmony with surrounding uses and the written approval of the Pennsylvania Department of Environmental Protection shall be provided by the applicant with the zoning permit application.

SECTION 542 SOLAR ENERGY SYSTEM (MINOR)

542.1 MINOR SOLAR ENERGY SYSTEMS SHALL MEET THE FOLLOWING:

- A. Is fueled by solar power.
- B. Is located on the power beneficiary's premises.
- C. Is intended primarily to offset part or all of the beneficiary's requirements for electricity.
- D. Is secondary to the beneficiary's use of the premises for other lawful purpose(s).

542.2 DESIGN AND SUPPLEMENTAL REQUIREMENTS:

- A. Solar collection systems shall not be located in the front yard between the principal structure and the public right-of-way or a private street.
- B. If not located on a rooftop, then the collection system must meet the minimum setbacks of an accessory building for the zoning district in which it is located.
- C. Height: Freestanding collection systems shall not exceed twenty (20) feet in height.
- D. Size: Freestanding Solar Collection systems on residential properties shall not exceed the greater of one-half (1/2) the footprint of the principal structure or six hundred (600) square feet, whichever is greater. The size of arrays for non-residential properties shall not exceed one-half (1/2) of the footprint of the principal structure except for rooftop systems.
- E. Solar Collection Systems are permitted to located on the roof or the exterior wall of a structure subject to the following:
 - (1) Collection systems shall not extend more than twelve (12) feet above the roof line;
 - (2) Collection systems shall not exceed the maximum height permitted in the zoning district in which it is located; and
 - (3) Collection systems located on the roof or attached to a structure shall provide, as part of their permit application, a structural certification.

- F. Code Compliance: Solar Collection Systems shall comply with all applicable building and electrical codes.
- G. A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easements.

542.3 SITE PLAN REQUIRED

The applicant for a zoning permit for a minor solar collection system shall provide a drawing to scale to show the following:

- A. Lot boundary lines and setback lines and easements;
- B. Location and size of proposed solar collection system, with dimensions to property lines;
- C. Location of all existing structures on the property.
- D. Estimated cost of the solar collection system.

SECTION 543 SOLAR ENERGY SYSTEM (MAJOR)

543.1 PERMIT REQUIREMENT AND APPLICATION

All applications for a Major Solar Energy System shall be considered a Land Development and shall meet the requirements of this Ordinance and the Luzerne County Subdivision and Land Development Ordinance (SALDO). All applications shall be approved as a special exception by the Luzerne County Zoning Hearing Board (Board) and subsequently approved as a Land Development by the Luzerne County Planning Commission (Commission). No permit will be issued nor can any construction begin until the applicant has met all the requirements of the SALDO and this Ordinance.

543.2 REVIEW CRITERIA

The following criteria shall apply to the review and approval Major Solar Energy Systems:

- A. A determination that adequate measures have been undertaken by the proponent of the major solar energy system to reduce the risk of accidents caused by hazardous materials.
- B. A determination that the proposed major solar energy system is essential or desirable to the public convenience and/or not detrimental or injurious to the public health or safety, or to the character of the surrounding neighborhood.
- C. A determination that the proposed major solar energy system will not be detrimental to the economic welfare of the County and/or that it will not create excessive public cost for public services by finding that it will be adequately serviced by existing services such as highways, roads, police and fire protection, emergency response, drainage structure, refuse disposal, water and sewers, or that the applicant shall provide such services or facilities.
- D. Consideration of the industry standards, available technology, and proposed design technology for solar energy in formulating conditions of approval.

543.3 SETBACKS, RESTRICTIONS AND EASEMENTS

A Major Solar Energy System:

- A. Shall be a minimum of one thousand (1,000) feet from any zoning district boundary line and property line of existing residential or public use.
- B. Shall not be located within five hundred (500) feet of a public or private right-of-way, nor within one hundred (100) from all other property lines.
- C. The proponent of a major solar energy system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easements and shall record said easements with the Luzerne County Recorder of Deeds Office.
- D. Shall provide a fifty (50) foot planted buffer/screen along all property lines.
- E. Shall conceal solar collector's supporting structures, fixtures and piping where applicable.

543.4 SITE PLAN DRAWING

A Site Plan Drawing shall be provided as part of the special exception use application that drawn to scale and dimensioned, displaying the following information:

- A. Existing property features to include property lines, physical dimensions of the property, total parcel size, land use, zoning district, contours, setback lines, right-of-way, public and utility easements, public roads, access roads (including width), sidewalks, non-motorized pathways, large trees and all buildings. The site plan must also include the adjoining properties as well as the location of all structures and utilities within three hundred (300) feet of the property.
- B. Location, size, and height of all proposed Major Solar Energy Systems, buildings, structures, ancillary equipment underground utilities and their depth, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other above-ground structures and utilities associated with the proposed Major Solar Energy System.
- C. Additional details and/or information as required for a special exception use application as set forth in Section 805 or as requested by the Board.

543.5 ACCESS DRIVEWAY

Every Major Solar Energy System shall require the construction of a paved road to offer an adequate means by which the County may readily access the site in the event of an emergency. Exceptions shall be handled on a case by case basis by the Zoning Hearing Board during the special exception approval process.

543.6 SAFETY REQUIREMENTS

- A. If the Major Solar Energy System is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation set

forth in the public utility's then current service regulations applicable to solar power generation facilities, and the connection shall be inspected by the appropriate public utility.

- B. Security measures need to be in place to prevent unauthorized trespass and access. All access doors to electrical equipment shall be locked and/or fenced as appropriate to prevent entry by unauthorized person(s).
- C. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner, and disposed of in accordance with current DEP regulations.
- D. Each Major Solar Energy System shall have a minimum of one (1) sign, not to exceed two (2) square feet in area, posted on the security fence is applicable. The sign shall contain at least the following:
 - (1) WARNING: High Voltage
 - (2) Manufacturer's and owner/operator's names
 - (3) Manufacturer's and owner/operator's emergency contact numbers

543.7 NATURAL RESOURCES AND HISTORIC SITES

No Major Solar Energy System shall be located less than two hundred (200) feet from any Important Bird Area or migration corridor, National Wetland Inventory wetland, Historic Site, or lake, dam, ponds or public water supply sources.

543.8 MINIMUM LOT SIZE

A Major Solar Energy System shall require a minimum lot size of not less than ten (10) acres.

543.9 PARKING

If the Major Solar Energy System is full automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to twenty (20) percent of the required spaces based on the number of employees, but not less than two (2) parking spaces.

543.10 LICENSES

The Applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection, the Pennsylvania Public Utility Commission, and other agencies have been obtained. The Applicant shall also document compliance with all applicable state and federal regulations by providing to the County copies of all required documents, studies, and responses (e.g., National Environmental Policy Act, Pennsylvania Natural Diversity Inventory submission, Pennsylvania Historical and Museum Commission compliance, U.S. Fish and Wildlife Service, the Department of Conservation and Natural Resources and the PA Game Commission).

543.11 LIABILITY INSURANCE

The Applicant for a Major Solar Energy System shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of one million dollars (\$1,000,000.00) per occurrence and property damage coverage in the minimum amount of one million dollars (\$1,000,000.00) per occurrence covering the Major Solar Energy System. The Applicant shall provide the County with proof annual renewal prior to expiration.

543.12 LANDSCAPING

Existing vegetation on and around the site shall be preserved to the greatest extent possible without restricting solar access.

SECTION 544 SOLID WASTE DISPOSAL AREAS

Plans for solid waste disposal areas shall be in harmony with existing surrounding uses or those proposed in the Comprehensive Plan, and permitted by the Department of Environmental Protection and/or other governing agency.

SECTION 545 STORAGE OF EXPLOSIVES

The Zoning Hearing Board shall approve as a special exception use the storage of explosives provided that the applicant provides evidence that the use complies with all applicable state and federal laws.

SECTION 546 SWIMMING POOLS

A swimming pool capable of containing water to a depth of eighteen (18) inches or greater shall be permitted as an accessory use in any zone subject to the following:

546.1 PRIVATE SWIMMING POOLS

- A. The pool is intended to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged.
- B. Yard requirements shall be the same as those required for unattached accessory structures.
- C. The swimming pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall be not less than four (4) feet in height and maintained in good condition and grounded for electricity.
- D. The requirements of paragraph C, above, shall not apply to above-ground swimming pools if the side walls of such pools are: (1) at least four (4) feet in height as measured from every point around the pool from the surrounding ground level; (2) if there is an adjacent deck, that deck has a lockable, secure gate; and (3) if access is provided by a ladder, that ladder shall either be removable for storage when not in use or lockable in such a manner as to prevent access to the pool.

546.2 COMMUNITY OR CLUB POOLS

A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club solely for use and enjoyment by members of the association or club and their families and guests of members. Community and club swimming pools shall comply with the following conditions and requirements:

- A. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than one hundred (100) feet to any property line of the property on which it is located.
- B. The swimming pool and all of the area used by the bathers shall be walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than four (4) feet in height, grounded for electricity, and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

SECTION 547 TRAILERS, MANUFACTURED HOMES AND PARKS

547.1 MANUFACTURED HOMES

- A. A manufactured home is permitted in AG and CO Districts on wheels by a temporary zoning permit for up to two (2) years provided utilities are properly provided for and subject to removal within ninety (90) days if the area is rezoned residential. Temporary permits may also be obtained in these same districts, without permanent installation of utilities provided that sanitary facilities are properly provided for.
- B. Manufactured homes may obtain a permanent permit in these same districts provided that the following conditions are met:
 - 1. It is placed upon a suitable permanent, wholly-enclosed foundation;
 - 2. Acceptable enclosure materials include: simulated concrete masonry unit walls, simulated brick walls, simulated concrete walls, and simulated stone walls;
 - 3. Its location on the lot conforms in every respect to the setbacks required for a single-family dwelling and individual sewage disposal facilities are provided.
- C. A manufactured home may be occupied as a single-family dwelling, as defined in Article 2, and may be located upon a permitted lot, within a Residence District, provided that the following conditions are met:
 - 1. A special exception use is approved by the Zoning Hearing Board;
 - 2. It is placed upon a suitable permanent, wholly-enclosed foundation;
 - 3. Acceptable enclosure materials include: simulated concrete masonry unit walls, simulated brick walls, simulated concrete walls, and simulated stone walls;
 - 4. The structure conforms to all of the yard area and dimensional requirements as provided in Section 307 and Appendix 2 of this Ordinance; and

5. The establishment, use, location and design of such manufactured home within a Residence District must not, under any circumstances, appreciably detract from the character of the area surrounding it, as determined by the Zoning Hearing Board.

D. A manufactured home may be used temporarily for office purposes during the construction of a principal building or a road in any district other than a Residence District, or in a Residence District with approval of the Board, on the issuance of a temporary permit by the Zoning Officer.

547.2 MANUFACTURED HOME PARKS

Manufactured Home Parks, where permitted, shall meet the following requirements:

- A. No manufactured home park shall have an area less than five (5) acres, nor an average gross area per manufactured home less than three thousand (3,000) square feet.
- B. Every manufactured home shall be supplied with potable water service. Manufactured homes shall be connected to a sanitary sewer or an approved sewage disposal system.
- C. A safe, usable recreation area shall be conveniently located in every manufactured home park and shall contain a total area of a minimum of three hundred (300) square feet per home, and shall not be less than ten (10) percent of the gross area of the manufactured home park.
- D. No manufactured home park shall be located less than fifty (50) feet from an abutting property in a CO, AG, Residence, or MI District.
- E. The manufactured home park shall be permanently landscaped and maintained in good condition.

Except for a manufactured home offered for sale on manufactured home sales lots, or those for which necessary permits have been obtained, the parking of a manufactured home outside of a permitted manufactured home park in any district for forty-eight (48) hours or more shall be prohibited.

547.3 TRAILER OR CAMPGROUND PARKS

Trailer Parks, or campgrounds, where permitted, shall meet the following requirements;

- A. No trailer park or campground shall have an area less than five (5) acres, nor an average gross area per unit less than three thousand (3,000) square feet.
- B. Every unit shall be supplied with a potable water service.
- C. Trailers shall be provided with a common sewage disposal system in order that the removal and disposing of sewage from trailer holding tanks is accomplished in a sanitary manner. Toilet facilities for the public, which are separate for each gender, shall be provided on the premises. Sewage systems shall be approved by the PA DEP.
- D. A safe, usable recreation area shall be conveniently located in every trailer park or campground, and shall contain a total area of a minimum of three hundred (300) square

feet per unit, and shall not be less than ten (10) percent of the gross area of the trailer park or campground.

- E. No trailer park or campground shall be located less than fifty (50) feet from an abutting property in a CO, AG, Residence, or MI District.
- F. The trailer park or campground shall be permanently landscaped and maintained in good condition.

Except for trailers or recreational equipment offered for sale on sales lots, the parking of any trailer or recreational vehicle outside of a permitted trailer park or campground in any district for forty-eight (48) hours or more shall be prohibited.

547.4 CAMPING AND RECREATIONAL EQUIPMENT

Any owner of camping and recreational equipment, including but not limited to, travel trailers, pick-up coaches, motorized homes, and boat trailers, may park or store such equipment on private residential property subject to the following conditions:

- A. Such parked or stored camping and recreational equipment shall never be occupied or used for living, sleeping or housekeeping purposes.
- B. If the camping or recreational equipment is parked or stored outside of a building, it shall be parked or stored, if possible, to the rear of the principal structure, and in all cases, shall at least be parked or stored behind the front of the principal structure.
- C. Notwithstanding the provisions stated in B, above, camping and recreational equipment may be parked anywhere on the premises while being loaded or unloaded.

SECTION 548 TRUCKING FACILITIES

- A. The minimum lot size shall not be less than four (4) acres.
- B. Access drives shall be sufficient in width to accommodate the use. Access drives must connect to a public street.
- C. Where the operation abuts a zoning district where residences are a principal permitted use, or where an existing residential dwelling unit is located, a solid wall or substantial, attractive fence not less than six (6) feet in height shall be constructed and maintained in good condition along such boundary line, and a buffer yard of not less than three hundred (300) feet in width must be landscaped and maintained in good condition.
- D. No parking, loading, idling, storage of any kind, or trucking use shall be allowed within the buffer yard.
- E. All truck idling in excess of fifteen (15) minutes shall be prohibited.

SECTION 549 WAREHOUSE AND DISTRIBUTION FACILITIES

- A. All materials shall be stored within a completely enclosed building and outdoor storage of any kind is prohibited.
- B. Access drives shall be sufficient in width to accommodate the use.
- C. No activities including off-street parking shall be allowed within one hundred fifty (150) feet of a property line abutting a district having residences as a principal permitted use.

- D. All truck idling in excess of fifteen (15) minutes shall be prohibited.

SECTION 550 WIND ENERGY FACILITIES

550.1 INFORMATION TO BE SUBMITTED

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

- A. The Applicant and landowner's name and contact information.
- B. The tax map numbers, existing use and acreage of the site parcels on which it is to be located.
- C. A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the generating capacity of the Wind Energy Facility; the number, representative types and heights of all Wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers; and a description of ancillary facilities.
- D. A site plan sealed by a professional land surveyor at a scale not greater than one (1) inch equals one hundred (100) feet which includes but may not be limited to identification of the properties on which the proposed Wind Energy Facility will be located with the name and mailing address of the owners of record, the proposed location of each wind turbine within the Wind Energy Facility, property lines, setback lines, access roads, substations, electrical cabling from each wind turbine within the Wind Energy Facility to the substations, ancillary equipment, buildings, and structures, including permanent meteorological towers.
- E. A survey drawing at an appropriate and legible scale showing the proposed location of the Wind Energy Facility (including access roads) as it relates to the boundaries of the parcel, adjacent ownerships and existing residences, schools, places of worship, hospitals, libraries, federal, state, county or local parks, and recognized historic or heritage sites within a distance of two thousand (2,000) feet or less from any property boundary.
- F. As applicable, copies of all proposed leases required to be secured by the applicant shall be provided if the applicant is not the sole owner of the parcel or parcels on which the Wind Energy Facility is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.
- G. Standard drawings of proposed wind turbine structures, including the tower, base and footings.
- H. Documentation that all proposed wind turbines conform to applicable industry standards, including compliance with the Pennsylvania Uniform Construction Code (UCC), and the regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute.
- I. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations certified by an engineer registered in the Commonwealth of Pennsylvania.

- J. A completed Environmental Impact Statement, as may be required for special exception uses, under Section 808 of this Ordinance shall be provided.
- K. The Applicant shall provide three dimensional graphic information that accurately portrays the visual impact of the proposed Wind Energy Facility and each individual wind turbine within that Facility from various vantage point selected by the Zoning Hearing Board, such as, but not limited to, residential developments, roads and recreation areas. This graphic information shall be provided in the form of photographs or computer-generated images with the wind turbines superimposed, as may be required by the Board.
- L. The Applicant shall provide a written plan regarding how complaints about noise, communications interferences and vibration will be addressed by the operator of a Wind Energy Facility.

550.2 APPROVAL STANDARDS

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

- A. The minimum distance between the ground and any part of the rotor blade system shall be one hundred (100) feet.
- B. To limit unauthorized access, a fence no less than six (6) feet high with a locking portal shall be placed around the base of the tower of a wind turbine. Also, all access doors to wind turbines and electrical equipment shall be locked to prevent entry by unauthorized persons. A sign shall be posted on the entry area of the fence around each wind turbine or group of towers and any building containing emergency contact information, including a telephone number with 24 hour, 7 days a week coverage.
- C. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, color objects, such as flags, reflectors, or tape shall be placed on the anchor point of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
- D. Wind turbines shall not be climbable up to fifteen (15) feet above the average grade of the ground surface. Tower-climbing apparatus shall be located no closer than fifteen (15) feet from the ground and a locked anti-climb device shall be installed on the tower.
- E. No signs or lights shall be mounted on any wind turbine except as may be required by this Ordinance, the Federal Aviation Administration (FAA), or other governmental agency which has jurisdiction. No wind turbine shall be artificially lighted, except as required by the FAA or for security purposes approved as part of the zoning permit. No approved security light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility from the light source. No direct or sky-reflected glare, whether from overhead lighting or floodlights shall be permitted. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation; and, the Wind Energy Facility and support structures shall comply all FAA and PA DOT requirements.

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

550.3 SITING AND INSTALLATION

A Wind Energy Facility shall:

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

550.4 LAND AREA REQUIREMENTS AND SETBACKS

- A. A Wind Energy Facility shall require a minimum lot size of not less than fifty (50) acres with a minimum lot width of six hundred sixty (660) feet and a minimum lot depth of six hundred sixty (660) feet.
- B. If the parcel on which the Wind Energy Facility is located is a separate and distinct parcel, no wind turbine shall be located closer to any property line than one thousand five hundred (1,500) feet as measured from the center of the foundation of a wind turbine. The setback for equipment containers, other accessory structures, and any guy wire anchors shall be a minimum of five hundred (500) feet from any property line.
- C. If the land on which a Wind Energy Facility is leased, or is used by license or easement, no wind turbine shall be located closer to any line of lease, license or easement than one thousand five hundred (1,500) feet as measured from the center of the foundation of a wind turbine. The setback distance for equipment containers, other accessory structures, and guy wire anchors shall be a minimum of five hundred (500) feet from the line of lease, license or easement. If the land to construct a Wind Energy Facility is to be leased, a subdivision plan must be submitted to and approved by the County creating the new parcel to be leased prior to granting approval.

- D. No wind turbine within a Wind Energy Facility shall be located less than one thousand five hundred (1,500) feet to any public road as measured from the center of the foundation of a wind turbine to the outer edge of the public right-of-way.
- E. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, as measured from the center of the foundation of a wind turbine to an existing power line or telephone line.

550.5 NUISANCE ISSUES

- A. All wind turbines shall be located so that the level of noise produced by wind turbine operation shall not exceed 55 dBA, measured at all points of the site's property line. Methods for measuring and reporting acoustic emissions from wind turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled 'Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems, Volume I: First Tier.'
- B. The Applicant shall document that the radio, television, telephone or reception of similar signals from nearby properties will not be disturbed or diminished by the installation of any wind turbine.
- C. No vibration associated with the operation of a wind turbine shall be permitted that is detectable without instruments at or beyond the property line; and no use shall generate any vibration that is capable of causing damage to buildings, structure, equipment alignment, or structural soundness.
- D. The Applicant shall make reasonable efforts in siting proposed locations of wind turbines to minimize shadow flicker to any off-site buildings.

550.6 ENVIRONMENTAL AND VISUAL

- A. No wind turbine shall be located less than one thousand (1,000) feet from any important bird area or migration corridor, National Wetland Inventory wetland, Historic Site, lake, dam, stream, creek, ponds or public water supply sources, or waterways. These areas shall be defined or designated by the Pennsylvania Department of Environmental Protection and/or as depicted on U.S.G.S. mapping.
- B. Wind Energy Facilities shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility.
- C. The design of the wind turbines, buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- D. Where wind characteristics permit, wind turbines shall be set back from the tops of visually prominent ridgelines.
- E. The maximum turbine height, as so defined in this Ordinance, shall not exceed four hundred fifty (450) feet.

- F. Wind turbines shall be designed and located to minimize adverse visual impacts from neighboring residential areas to the greatest extent feasible.
- G. Wind turbines shall be designed to avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as: (1) electrical equipment boxes on or near the ground that can provide shelter and warmth; (2) horizontal perching opportunities on the towers or related structures; or (3) soil where weeds can accumulate.
- H. A Wind Energy Facility shall provide conclusive documentation that the location and operation of the proposed facility will not adversely affect the wildlife habitat, including but not limited to, bats and birds of the region and associated migration routes. Comments from any State and/or Federal Agency having jurisdictional review or stewardship over the protection of wildlife shall be required.

550.7 TRAFFIC

- A. Access to Wind Energy Facility shall be provided by means of a public street or easement to a public street. All access easements shall be a minimum of twenty-five (25) feet in width and shall be improved to a width of not less than twelve (12) feet with an improved, durable, dust-free, all-weather surface. No access easement shall exceed a grade of fifteen (15) percent unless it can be proven to the County Engineer that an unsafe situation is not being proposed, that the road surface can be properly maintained by the applicant, and that emergency vehicles can negotiate the excessive slopes.
- B. The Applicant shall identify all state, county and municipal roads to be used with Luzerne County for the transport of equipment parts for construction and operation or maintenance of the Wind Energy Facility.
- C. If the Wind Energy Facility is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall be equal to the number of people on the largest shift plus overflow spaces equal to twenty (20) percent of the required spaces based on the employees, but not less than two (2).

SECTION 551 WINDMILLS, NON-COMMERCIAL

The following requirements shall apply to a proposed Standalone Non-Commercial Windmill:

551.1 INFORMATION TO BE SUBMITTED

The applicant for a Non-Commercial Windmill shall be required to submit the following information:

- A. The applicant and landowner's name and contact information.
- B. The tax map numbers, existing use and acreage of the site parcel.
- C. A copy of the deed to the property. If the application is made by a potential buyer of the site, then a signed copy of the Agreement of Sale for the real estate transaction shall suffice.

551.2 DESIGN AND INSTALLATION

- A. The design of a Non-Commercial Windmill shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer(s) from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- B. All components of a Non-Commercial Windmill shall be designed and constructed to be in compliance with pertinent provisions the Pennsylvania Uniform Construction Code (UCC).
- C. A Non-Commercial Windmill shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- D. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- E. All electrical components of a Non-Commercial Windmill shall conform to the UCC. The maximum turbine power output shall be limited to ten (10) kW. All on-site electrical wiring associated with the system shall be installed underground except for “tie-ins” to a public utility company and public utility company transmission poles, towers and lines.

The applicant shall demonstrate that the Non-Commercial Windmill shall not cause disruption or loss of radio, telephone, television or similar signals. The applicant shall be required to mitigate any harm caused by the operation of the system.

At least one (1) sign shall be posted on the tower at a height of five (5) feet warning of electrical shock or high voltage and potential harm from rotating machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor or generator where it would be visible from the ground, except that a system or tower’s manufacturer’s logo may be displayed on a system generator housing in an unobtrusive manner.

- F. Anchor points for any guy wires for a Non-Commercial Windmill shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six (6) feet high or sheathed in bright orange or yellow covering to a height eight (8) feet above the ground.

551.3 VISUAL APPEARANCE

- A. A visual analysis of a Non-Commercial Windmill as intended to be installed shall be provided with the application for a special exception use. The visual analysis shall a computerized photographic simulation, demonstrating the visual impacts from adjacent property lines.
- B. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required the Federal Aviation Administration.
- C. A Non-Commercial Windmill's tower and blades shall be painted in a non-reflective light gray or light blue hue that blends with sky and clouds.
- D. A Non-Commercial Windmill shall be designed and located in such a manner as to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, the system:
 - (1) shall not project above the top of ridgelines, and
 - (2) shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

551.4 LOT SIZE, SETBACK AND HEIGHT REQUIREMENTS

- A. A Non-Commercial Windmill shall not exceed a maximum eight of eighty (80) feet and shall be located on a lot with a minimum size of not less than five (5) acres.
- B. A Non-Commercial Windmill shall not be located closer to a property line than two and one-half (2 ½) times the turbine height as measured from the center point of the base of the tower.
- C. Only one (1) Non-Commercial Windmill per legal lot shall be allowed.

551.5 CLIMB PREVENTION/LOCKS

- A. Towers shall be constructed to provide one (1) of the following means of access control, or other appropriate method of access:
 - (1) tower-climbing apparatus located no closer than fifteen (15) feet from the ground, or
 - (2) a locked anti-climb device installed on the tower.
- B. A locked, protective fence of six (6) feet in height shall enclose the tower and electrical equipment to prevent entry by unauthorized persons.

551.6 NOISE AND SHADOW FLICKER

- A. Audible sound from a Non-Commercial Windmill shall not exceed fifty (50) dBA, measured at all points of the site's property lines. Methods for measuring and reporting acoustic emissions from wind turbines and Non-Commercial Windmills shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 – 1989 titled, "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generations Systems, Volume I: First Tier."

- B. Reasonable efforts shall be made to preclude shadow flicker to any off-site building not owned by the applicant. The applicant shall provide an assessment of potential buildings that could be affected.

551.7 ABANDONMENT

A Non-Commercial Windmill that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

ARTICLE 6 – ADMINISTRATION AND ENFORCEMENT

SECTION 601 ZONING OFFICE/ZONING OFFICER

601.1 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Luzerne County Planning and Zoning Department. The Executive Director shall designate a Zoning Officer.

601.2 DUTIES AND POWERS OF THE ZONING OFFICER

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

- A. Receive and review all applications for zoning permits and to approve and issue zoning permits when warranted.
- B. Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- C. Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent and/or right of entry by the owner or tenant or by securing a search warrant issued by a Court of proper jurisdiction.
- D. Issue permits as authorized by the Zoning Hearing Board pursuant to the requirements and applicable procedures of this Ordinance, or by written order of a Court of proper jurisdiction.
- E. Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- F. Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- G. Maintain the Zoning Map, showing the current zoning districts of all and the zoning text, including amendments thereto.
- H. Notify the Zoning Hearing Board, Planning Commission, or Governing Body of required and/or requested hearings based upon the completion of review and processing of applications for a zoning permit or Zoning Map amendment. The submission of an application for a zoning permit to the Zoning Officer and the Officer's determination that a hearing before the Board, Commission or Governing Body is either required or requested shall be a prerequisite for any application being forwarded to the said body for consideration.
- I. Participate in proceedings before the Zoning Hearing Board, Planning Commission or Governing Body and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.

- J. In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to cease and desist the illegal use and/or activity of land, buildings, signs, or structures; or to remove illegal buildings, structures, additions, signs, and/or structural alterations.

SECTION 602 ZONING PERMIT

A zoning permit shall be required prior to the erection, construction, moving or alteration of any building, structure, or portion thereof, and prior to the placement of any sign as defined in Section 415. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not result in a change in the use of the structure.

Applications for zoning permits shall be made in writing to the Zoning Officer and shall contain all information necessary to ascertain whether the proposed erection, construction, alteration or use complies with the provisions of this Ordinance including the following:

- A. The applicant and/or landowner's name and contact information.
- B. Property location, including street address and tax parcel identification number (PIN).
- C. A site plan drawn to scale indicating:
 - (1) Actual dimensions and shape of the lot to be built upon
 - (2) Exact size and location on the lot of all buildings and other structure, if any, and the location and dimensions of proposed buildings and other structures or additions, including distances to property lines.
- D. Existing and proposed uses, including the number of dwelling units the building is designed to accommodate as appropriate.
- E. Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

Applications for zoning permits shall be granted or denied within fifteen (15) days from the date of application, including submission of all required fees. One copy of the plan shall be returned to the applicant marked either approved or denied and attested to same by the signature of the Zoning Officer. A copy of the plans, similarly marked, shall be filed in the office of the Zoning Officer.

A zoning permit shall expire one (1) year from the date of issuance if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one (1) year period, the permit shall expire two (2) years from the date of issuance. An extension of the expiration date may be granted by the Zoning Officer upon receipt and review of a written request for extension from the applicant, provided the applicant provides a compelling reason for extension.

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

SECTION 603 CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance, issued by the Zoning Officer, shall be required prior to the occupation for use or change of use of any building, structure or land. Residential accessory structures, private recreation and agricultural uses shall be exempt for securing a Certificate of Zoning Compliance. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a Certificate of Zoning Compliance has been issued by and obtained from the Zoning Officer.

All applications for a Certificate of Zoning Compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Ordinance.

An application for a Certificate of Zoning Compliance shall be granted or denied within fifteen (15) days after the Zoning Officer has been officially notified of the completion of construction or the application to occupy and use land where no construction is involved.

SECTION 604 ENFORCEMENT PROCEDURES

604.1 NOTICE OF VIOLATION

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

- A. The name of the owner of record and any other person against whom Luzerne County intends to take action.
- B. The location and/or address of the property in violation.
- C. The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- D. The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- E. That the recipient of the Notice of Violation has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the Notice of Violation. Section 802.3 shall govern the procedural process of any appeal of a Notice of Violation.

- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

604.2 CAUSES OF ACTION

In case any building, structure, landscaping or land, is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of the Luzerne County Zoning Ordinance, an officer of Luzerne County or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Governing Body of Luzerne County. No such action may be maintained until such notice has been given.

604.3 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 640.4.

604.4 ENFORCMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of the Luzerne County Zoning Ordinance, shall upon being found liable therefore in a civil enforcement proceeding commenced by Luzerne County, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by Luzerne County. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, Luzerne County 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 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 Luzerne County.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than Luzerne County the right to commence any action or enforcement pursuant to

this Section before a District Justice. Aggrieved owners or tenants must commence equity actions at the county court level.

SECTION 605 SCHEDULE OF FEES, CHARGES AND EXPENSES

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

ARTICLE 7 – AMENDMENTS TO MAP OR TEXT

SECTION 701 GENERAL PROVISIONS

Whenever the public necessity, convenience, general welfare or good zoning practices require, the Governing Body may, after receipt of recommendation thereon from the Planning Commission, and subject to the procedures provided by law, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereafter established by this Ordinance or amendments thereof.

SECTION 702 PROCEDURE FOR CHANGE IN ZONING DISTRICT

702.1 APPLICATIONS

Applications for any change in the text of the Zoning Ordinance or of district boundaries or classifications of property shown on the Zoning Map, shall be submitted to the Zoning Officer upon such forms as may be prescribed for that purpose by the Officer. All applications for a zoning change shall include:

1. A statement of justification by the applicant including what the intention for the request is and what potential impacts it would have on either surrounding properties or on the local municipality.
2. An affidavit that indicates the applicant is the property owner, or that the applicant has the consent of the owner as a party to the application.

Each application for a change of district boundaries or classification of property shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the application. It shall contain a map of the area proposed to be rezoned, and the area within 200 feet, giving the name and address of property owners and all district boundary lines, and streets and alleys located therein. The Zoning Officer shall check the application to determine whether it conforms to the requirements listed above, and if satisfactory, shall immediately submit it to the Office of the Commission. Amendments to the Zoning Ordinance may also be initiated by the Commission by resolution, and recommended to the Governing Body of Luzerne County for adoption.

702.2 ACTION OF PLANNING COMMISSION

In reviewing an application for a zoning amendment, the Commission may recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application be not granted. These recommendations shall then be certified to the Governing Body of Luzerne County.

702.3 PUBLIC HEARINGS BY THE GOVERNING BODY OF LUZERNE COUNTY

- A. Upon receipt of the Commission's certification on a proposed amendment, and before adoption of such amendment, the Governing Body shall hold a public hearing thereon, pursuant to public notice as defined.
- B. The Governing Body, through the Zoning Officer, shall give notice of the time, place and purpose of public hearings to be held by it on proposed amendments or supplements, by mailing a postal card or letter notice to the owners of all properties lying within 200 feet of any part of the property proposed to be changed. The failure to notify as provided in this Section, shall not invalidate any recommendations adopted hereunder; it being the intention of this Section to provide, so far as may be possible, due notice to the persons substantially interested in the proposed change that an application is pending before the Body, proposing to make a change in the Zoning Map or the regulations set forth in this Ordinance.
- C. If the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by Luzerne County at points deemed sufficient by Luzerne County along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

702.4 ACTION OF THE GOVERNING BODY OF LUZERNE COUNTY

The Governing Body shall consider the recommendations of the Planning Commission, and other information given at its public hearing, and vote on the proposed amendment to the text or map of the Zoning Ordinance. The applicant and others so requesting shall receive notice of the decision of the Governing Body through the Zoning Officer.

ARTICLE 8 – ZONING HEARING BOARD

SECTION 801 ORGANIZATION AND PROCEDURE

801.1 ORGANIZATION

The Zoning Hearing Board shall consist of three (3) members to be appointed by the Governing Body of Luzerne County, one (1) of whom shall be designated to serve until the first day of January following the adoption of the Zoning Ordinance, one (1) until the first of the second January thereafter, and one (1) until the first day of the third January thereafter. On the expiration of their appointed terms, their successors shall be appointed for a three (3) year term. Vacancies shall be filled for the unexpired term of any member. At the expiration of a member's term, he shall remain in office until he is reappointed or replaced. The Governing Body may also appoint one (1) alternate member to serve a three-year term. The alternate member shall not participate in hearings unless replacing an absent member to insure that a quorum is available for all hearings.

801.2 PROCEDURE

The Board shall organize and adopt rules of procedure not inconsistent with this Ordinance or the Pennsylvania Municipalities Planning Code, Act 247.

801.3 MEETINGS

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. The Chairman, or in his absence the acting Chairman, or Hearing Officer appointed from the membership of the Board, may administer oaths and compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties. All meetings of the Board shall be open to the public. The Board or the Hearing Officer, as the case may be, shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of the examinations and other official actions. The records of the Board shall be kept in the office of the Zoning Officer and shall be a public record. The Board shall meet at least once a month, if it has any cases to come before it.

801.4 QUORUM

For the conduct of any hearing and the taking of any action, a quorum shall not be less than two (2) members of the Board, but 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 in Section 908, Act 247, Pennsylvania Municipalities Planning Code.

SECTION 802 POWERS, AND LIMITATIONS OF POWERS, OF THE BOARD

The Zoning Hearing Board shall have jurisdiction on zoning matters as specified by the Pennsylvania Municipalities Planning Code, Act 247, Section 909.1, as amended.

802.1 ADMINISTRATIVE REVIEW

The Board shall have the power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the Zoning Officer or other administrative official or agency, based on or made in the enforcement of the Zoning Ordinance.

802.2 TEMPORARY USES AND PERMITS

In addition to permitting the special exception heretofore specified, the Board shall have authority to hear and decide on requests for temporary structures and uses in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Ordinance for the district in which it is located, provided that such use be of a temporary nature which does not involve the erection of a substantial structure. Any request for such structure or use, when approved, shall be granted in the form of a temporary and revocable permit, for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

SECTION 803 APPLICATIONS AND APPEALS TO THE BOARD

803.1 APPLICATIONS

Application for special exceptions and variances under the provisions of this Ordinance shall be filed with the Zoning Officer who shall transmit same to the Board.

803.2 APPLICATION REQUIREMENTS

Applications shall be submitted to the Zoning Officer upon such forms and accompanied by such data and information as may be prescribed for that purpose by him or the Board, so as to assure the fullest practicable presentations of facts for the record. Each application shall be verified in writing by the owner or majority of owners for the area proposed for development or use, attesting to the truth and correctness of all facts and information presented with the application. It shall contain an assessment map of the subject property, and for all of the properties within one hundred (100) feet, a listing of the name and address of property owners. The Zoning Officer shall check the application to determine whether it conforms to the requirements listed above, and if satisfactory, shall immediately submit it to the office of the Zoning Hearing Board.

803.3 APPEALS

Appeals may be taken by an officer of the County or the city, borough or township affected, or by any other person aggrieved by any decision of the Zoning Officer or other administrative official or agency. Such appeal shall be taken within 30 days after said decision, by filing with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall arrange for the proper notices, and shall bring the appeal before the Board at its next meeting. Nothing contained herein shall be construed to deny to the appellant the right to proceed directly in court, where appropriate, pursuant to Pennsylvania Rules of Civil Procedure, Sections 1091 to 1098 relating to mandamus.

803.4 STAY OF PROCEEDINGS

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer shall certify to the Board, after the notice of appeal shall have been filed with it, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Common Pleas Court, after notice to the Officer from whom the appeal is taken, and on due cause shown.

803.5 DECISION OF THE BOARD

The Board may in conformity with the provisions of this Article reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end, shall have all powers of the Zoning Officer from whom the appeal is taken.

803.6 REFILING OF DISAPPROVED OR WITHDRAWN CASES

If a case is disapproved by the Board, thereafter the Board shall take no further action on another case for substantially the same proposal on the same property, until one (1) year after the date of such disapproval. If a case before the Board is advertised, and thereafter withdrawn by the applicant before or at the meeting of the Board, he shall be precluded from filing another application for substantially the same proposal on the same premises for six (6) months, and the case shall be re-advertised.

803.7 TRANSCRIPT FEES

The cost of the original transcript and any additional copies shall be paid by the person appealing from the decision of the Board if such appeal is made. In other cases the parties requesting the original transcript shall bear the cost thereof and any additional copies.

803.8 FILING

The Board may require the applicant to furnish such information as it deems necessary when filing an appeal.

SECTION 804 HEARINGS

Upon filing of an appeal or application, the Board shall fix a time and place for a hearing to be held within sixty (60) days of said appeal or application, unless extended by written consent of all parties. The Board shall give due notice as follows:

804.1 PUBLIC NOTICE

The Board shall give public notice in advance of any public hearing as required by the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such notice shall be published in a newspaper of general circulation in two consecutive weeks with the first publication not more than thirty (30) days prior to the date of the hearing and the second publication not less than seven (7) days prior to the date of the hearing. The notice shall also state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The Zoning Officer shall also post the property in a conspicuous location so as to be visible from the public right-of-way at least seven (7) days in advance of the hearing.

The hearings of the Board shall be public. However, the Board may go into executive session during a hearing.

804.2 CONTINUANCE OF HEARINGS

After a hearing has commenced, the Board may continue the hearing in order to obtain additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be substantially interested in said application or appeal. In the case of a continuance, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides, provided the Board publicly states the date of hearing at the time, otherwise they shall be notified.

804.3 DECISIONS OF THE BOARD

The Board shall decide all applications and appeals within forty-five (45) days after the final hearing thereon. Notice of decision shall be given to all parties so requesting. The Board's decision shall be binding on the Zoning Officer, and he shall incorporate the terms and conditions of the same in any permit issued. If the Board does not render its decision within forty-five (45) days of the final hearing, it shall be deemed that the Board has decided in favor of the party making the request.

SECTION 805 SPECIAL EXCEPTIONS

The Board shall grant approval only upon the determination that the proposed use and/or development conforms to all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

- A. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- B. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- C. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the locations and site relative to the proposed operation, and the nature and intensity of the operation involved.
- D. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
- E. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the district.
- F. The proposed use and/or development shall not be injurious to the public interest.

In considering an application for special exception, the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance for the particular special exception, as the Board may deem necessary to implement the purposes of this Ordinance.

SECTION 806 VARIANCES

The Board may grant a variance in the application of the provisions of the Zoning Ordinance, only if all of the following findings are made:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

- C. That such unnecessary hardship has not been created by the appellant;
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance.

SECTION 807 SPECIFIC LIMITATIONS OF POWERS OF THE BOARD

The Board does not have the power to amend any zoning ordinance, to rezone any land, to declare this Zoning Ordinance or any amendment thereto invalid, or to allow any use not permitted by this Ordinance.

The fact that a property owner will suffer financial hardship if not granted a special exception or a variance from the Zoning Ordinance is, of itself, insufficient ground for granting a variance or special exception.

SECTION 808 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements for special exception uses, an Environmental Impact Statement may be required as part of the special exception application to the Board. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed application. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout Luzerne County and its environs. An Environmental Impact Statement shall require a site plan which illustrates the applicable information for the following items and/or a written response to the following items for said proposed use/development:

808.1 SOIL TYPES

- A. U.S.D.A. Soil types (illustrated upon map)
- B. Permeability of soil on the site
- C. Rate of percolation of water through the soil for every five (5) acres

808.2 SURFACE WATERS

- A. Distance of site from the nearest surface water and head waters of streams
- B. Sources of runoff water

- C. Rate of runoff from site
- D. Destination of runoff water and method of controlling downstream effects
- E. Chemical additives to runoff water on the site
- F. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne Conservation District.
- G. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

808.3 GROUND COVER INCLUDING TREES

- A. Extent of existing impervious ground cover on the site.
- B. Extent of proposed impervious ground on the site.
- C. Extent of existing vegetative ground cover on the site.
- D. Extent of proposed vegetative ground cover on the site.

808.4 TOPOGRAPHY

- A. Maximum existing elevation of site.
- B. Minimum existing elevation of site.
- C. Maximum proposed elevation of site.
- D. Minimum proposed elevation of site.
- E. Description of the topography of the site and all proposed changes in topography.

808.5 GROUND WATER

- A. Average depth to seasonal high water marks.
- B. Minimum depth to water table on site.
- C. Maximum depth to water table on site.

808.6 WATER SUPPLY

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

808.7 SEWAGE SYSTEM

- A. Sewage disposal system (description and location on the site of system).
- B. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, and other chemicals).
- C. Projected daily volumes of sewage.
- D. Affected sewage treatment plant's present utilization and design capacity.

808.8 SOLID WASTE

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

808.9 AIR QUALITY

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

808.10 NOISE

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

808.11 IMPACT OF PROPOSED USE/DEVELOPMENT

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

- A. Existing plant species (upland and marine), and effects thereon.
- B. Existing animal species and effects thereon.
- C. Existing wild fowl and other birds and effects thereon.
- D. Effects on drainage and runoff.
- E. Effects on ground water quality.
- F. Effects on surface water quality.
- G. Effects on air quality.
- H. Alternatives to proposed use/development, consistent with the zoning of the site.
- I. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

808.12 IMPACT UPON CRITICAL AREAS

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

808.13 OTHER GOVERNMENTAL JURISDICTION

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

808.14 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A. Upon receipt of an Environmental Impact Statement, the Zoning Hearing Board shall promptly forward the Environmental Impact Statement to the Luzerne County Planning Commission, the County Engineer, and any other agency, firm or individual which the Board may desire for their consultation and input.
- B. The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Board with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.
- C. In the event that any information, data, and/or impact analysis indicates a projects and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Board's review of the same, shall constitute sufficient basis for the denial of a special exception use permit.

ARTICLE 9 – FLOOD PLAIN MANAGEMENT

SECTION 901 STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt flood plain management regulations to promote public health, safety, and the general welfare of its citizenry.

SECTION 902 INTENT

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

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

SECTION 903 APPLICABILITY

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Luzerne County unless a permit has been obtained from the Flood Plain Administrator. A permit shall not be required for minor repairs to existing buildings or structures.

SECTION 904 ABROGATION AND GREATER RESTRICTIONS

The regulations within this Article supersede any other conflicting provisions which may be in effect in identified flood plain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

SECTION 905 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Article shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Article, which shall remain in full force and effect, and for this purpose the provisions of this Article are hereby declared to be severable.

SECTION 906 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified flood plain area or that land uses permitted within such areas will be free from flooding or flood damages.

This Article shall not create liability on the part of Luzerne County or any officer or employee thereof for any flood damages that result from reliance on the provisions of this Article or any administrative decision lawfully made thereunder.

SECTION 907 DEFINITIONS

Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give this Article its most reasonable application.

Accessory Use or Structure: a use or structure on the same lot with, and of a nature customarily incidental and subordinated to, the principal use or structure

Base Flood: a flood which has a one (1) percent chance of being equaled or exceeded in any given year (formerly referred to as the '100-year flood')

Base Flood Elevation (BFE): the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-A30 that indicates the water surface elevation resulting from a base flood

Basement: any area of the building having its floor below ground level on all sides

Building: a combination of materials to form a permanent structure having walls and a roof, including all manufactured homes and trailers to be used for human habitation

Development: any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land

Existing Manufactured Home Park or Subdivision: a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community

Expansion to an Existing Manufactured Home Park or Subdivision: the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads)

Flood: a temporary inundation of normally dry land area

Flood Insurance Rate Map (FIRM): the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community

Flood Insurance Study (FIS): the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood boundary and Floodway Map, and the water surface elevation of the base flood

Flood Plain Area: a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject the unusual and rapid accumulation of surface waters from any source

Flood Proofing: any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate of improved real property, water and sanitary facilities, structures and their contents

Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot

Highest Adjacent Grade: the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure

Historic Structure: any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states which have been by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - (1) By an approved state program as determined by the Sec. of the Interior,
 - or
 - (2) Directly by the Sec. of the Interior in states without approve programs

Lowest Floor: the lowest floor of the lowest fully enclosed area, including basement (an unfinished, flood resistant partially enclosed area used solely for parking of vehicles, building access and incidental storage in an area other than a basement area is not considered the lowest floor of a building, providing that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirement of this Article

Manufactured Home: a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities

Manufactured Home Park or Subdivision: a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale

Market Value Determination: for the purposes of this Article, the current assessed improvement value as indicated by Luzerne County Tax Assessor's Office records shall be used the market value of a structure

Minor Repair: the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof; the removal or cutting of any structural beam or bearing support; or the removal or change of any required means of egress; or rearrangement of parts of a structure affecting the egress requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping; electric wiring; or mechanical or other work affecting public health or general safety

New Construction: structures for which the start of construction commenced on or after April 1, 1981, and includes any subsequent improvements thereto

New Manufactured Home Park or Subdivision: a manufactured home park or subdivision whose construction is completed on or after the effective date of flood plain regulations adopted by a community

Person: an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties

Recreational Vehicle: a vehicle which is built on a single chassis; not more than four hundred (400) square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

Regulatory Flood Elevation: the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet

Repetitive Loss: flood related damages sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damages occurred

Special Permit: a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion, of a flood plain

Special Flood Hazard Area (SFHA): means an area in the flood plain subject to a one (1) percent or greater chance of flooding in any given year; shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH

Start of Construction: includes substantial improvement and other proposed new development and means that date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building

Structure: a walled and roofed building, including a gas or liquid storage tank that is principally above ground as well as a manufactured home

Subdivision: the 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 lines for the purpose, whether immediate or future, of lease partition by the court for distribution to heirs, or devisee, transfer of ownership or building or lot development, provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted

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

Substantial Improvement: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50 percent) of the market value of the structure before the 'start of construction' of the improvement. This term includes structures which incurred 'substantial damage or repetitive loss,' regardless of the actual repair work performed. The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- Any alteration of a 'historic structure,' provided that the alteration will not preclude the structure's continued designation as a 'historic structure'

Uniform Construction Code (UCC): the statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the Code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State flood plain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

Violation: means the failure of a structure or other development to be fully compliant with the applicable flood plain management regulations of Luzerne County as set forth in this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4) or (e)(5) and within this Article is presumed to be in violation until such time as that documentation is provided.

SECTION 908 DESIGNATION OF THE FLOOD PLAIN ADMINISTRATOR

The Zoning Officer is hereby appointed to administer and enforce this Article and is referred to herein as the Flood Plain Administrator.

SECTION 909 PERMITS REQUIRED

A zoning permit shall be required before any construction or development within a designated flood plain is undertaken within any area under Luzerne County jurisdiction.

SECTION 910 APPLICATION PROCEDURES AND REQUIREMENTS

Luzerne County requirements for zoning permits shall form the basis for applications under this Article, with the following additional requirements for permits involving flood related repairs and improvements, or structures located entirely or partially within designated Special Flood Hazard Areas (SFHA):

910.1 CONSTRUCTION ENTIRELY OR PARTIALLY WITHIN SFHA'S

If any proposed construction or development is located entirely or partially within any identified Special Flood Hazard Area (SFHA), applicants for permits shall provide all the necessary information in sufficient detail and clarity to enable the Flood Plain Administrator to determine that:

- A. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this Article and all other applicable codes and ordinances;
- B. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
- C. Adequate drainage is provided so as to reduce exposure to flood hazards;
- D. Structures will be anchored to prevent flotation, collapse, or lateral movement;
- E. Building materials are flood-resistant;
- F. Appropriate practices that minimize flood damage have been used; and
- G. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.

910.2 APPLICATION REQUIREMENTS

Applicants shall file the following minimum information plus any other pertinent information as may be required by the Flood Plain Administrator to make the above determination:

- A. A completed permit application
- B. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - (1) North arrow, scale, and date;
 - (2) Topographic contour lines, if available;
 - (3) The location of all existing and proposed buildings, structure, and other improvements, including the location of any existing or proposed subdivision and development;
 - (4) The location of all existing streets, drives, and other access ways; and
 - (5) The location of any existing bodies of water or watercourses, identified flood plain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
- C. Plans of all proposed buildings, structures and other improvements, drawn at a suitable scale showing the following:
 - (1) The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - (2) The elevation of the base flood;
 - (3) Supplemental information as may be necessary under 34 PA Code, as amended, and the IBC or IRC codes currently in effect.

D. The following data and documentation:

- (1) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation;
- (2) Detailed information concerning any proposed flood proofing measures and corresponding elevations;
- (3) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within a SFHA, when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point;
- (4) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or development;
- (5) Detailed information needed to determine compliance with Section , Storage, and Section , Development Which May Endanger Human Life, including:
 - (a) The amount, location and purpose of any materials or substances referred to in Sections and which are intended to be used, produced, stored or otherwise maintained on site;
 - (b) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section during a base flood
- (6) The appropriate component of the Department of Environmental Protection's 'Planning Module for Land Development'
- (7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control

SECTION 911 REVIEW OF APPLICATION BY OTHERS

A copy of all plans and applications for any proposed construction or development in any identified SFHA to be considered for approval may be submitted by the Flood Plain Administrator to any other appropriate agencies and/or individuals (e.g., Planning Commission, County Engineer, etc.) for review and comment.

SECTION 912 CHANGES

After the issuance of a permit by the Flood Plain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Flood Plain Administrator. Requests for any such changes shall be in writing, and shall be submitted by the applicant to the Flood Plain Administrator for consideration.

SECTION 913 ENFORCEMENT AND APPEALS

Whenever the Flood Plain Administrator determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or any regulations adopted pursuant thereto, the Flood Plain Administrator shall give notice of such alleged violation according to the provisions of Section 604 of this Ordinance. Penalties shall be the same as provided for in Section 604 with the additional provision that the Governing Body may declare any development or construction within an identified Floodway to be a public nuisance and abatable as such upon the determination of the District Magisterial Court that said violation occurred.

Appeals to a notice of violation from the Flood Plain Administrator shall follow the provisions of Section 604 and Section 802 and 803 of this Ordinance. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

SECTION 914 IDENTIFICATION OF FLOOD PLAIN AREAS

The identified flood plain area shall be any areas of Luzerne County, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs), dated November 2, 2012, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the FIS.

The above-referenced FIS and FIRMs, and any subsequent revisions and amendments, are hereby adopted by Luzerne County and declared to be a part of this Ordinance.

SECTION 915 DESCRIPTION AND SPECIAL REQUIREMENTS OF IDENTIFIED FLOOD PLAIN AREAS

Identified flood plain areas shall consist of the following specific areas:

915.1 FLOODWAY AREA

- A. Description: the area identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those special flood plain areas where no floodway has been identified in the FIS.
- B. Special Requirements:
 - (1) Any encroachment that would cause any increase in flood elevations shall be prohibited.

- (2) No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

915.2 SPECIAL FLOOD PLAIN AREA

- A. Description: the areas identified as Zones AE and A1-A30 in the FIS which are subject to inundation by the one (1) percent annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.
- B. Special Requirements;
 - (1) No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank- of any watercourse.
 - (2) In Special Flood Plain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

915.3 APPROXIMATE FLOOD PLAIN AREA

- A. Description: the areas identified as Zone A in the FIS which are subject to inundation by the one (1) percent annual chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.
- B. Special Requirements:
 - (1) No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
 - (2) When available, information from other Federal, State, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE shall be determined by using a point on the boundary of the identified flood plain area which is nearest the construction site in question.

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

915.4 SHALLOW FLOODING AREA

- A. Description: the areas identified as Zones AO and AH in the FIS. These areas are subject to inundation by one (1) percent annual chance shallow flooding where average depths are between one (1) and three (3) feet.
- B. Special Requirements:
 - (1) Residential: elevate utilities and wood framing to a level at or above the regulatory flood elevation and provide approved flood venting to prevent hydrostatic pressure damage
 - (2) Commercial: flood proof structures to a level at or above the regulatory flood elevation

SECTION 916 TECHNICAL PROVISIONS

- A. Alteration or Relocation of Watercourse
 - (1) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality within which such development is to occur, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
 - (2) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
 - (3) In addition, FEMA and the Pennsylvania Department of Community and Economic Development shall be notified prior to any alteration or relocation of any watercourse.
- B. Technical or scientific data shall be submitted to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE.
- C. Any new construction, development, uses or activities allowed within any identified flood plain area shall be undertaken in strict compliance with the provisions contained in this Article and any other applicable codes, ordinances and regulations.

SECTION 917 ELEVATION AND FLOOD PROOFING REQUIREMENTS

917.1 RESIDENTIAL STRUCTURES

- A. In AE, A1-A30 and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard (regulatory flood elevation).
- B. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement)

elevated up to or above the regulatory flood elevation as determined in Section 915.3.B.2 of this Article.

- C. The design and construction standards and specification contained in the International Residential Code, as amended, shall be utilized.

917.2 NON-RESIDENTIAL STRUCTURES

- A. In AE, A1-A30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated to the regulatory flood elevation or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - (1) Is flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water, and
 - (2) Has structural components with the capability of resisting hydrostatic and hydrodynamics loads and effects of buoyancy.
- B. In A Zones, where are no BFEs specified on the FIRM, and new construction or substantial improvement shall have the lowest floor elevated to a point above the regulatory flood elevation as determined in Section 915.3.B.2 of this Article.
- C. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be flood proofed in accordance with the W1 or W2 space classification standards contained in the publication entitled 'Flood-Proofing Regulations' published the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specification for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
- D. The design and construction standards and specifications contained in the International Building Code, as amended, shall be utilized.

917.3 SPACE BELOW THE LOWEST FLOOR

- A. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term 'fully enclosed space' also includes crawl spaces.
- B. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (1) a minimum of two (2) openings have a net total area of not less than one (1) square inch for every square foot of enclosed space,
 - (2) the bottom of all openings shall be no higher than one (1) foot above grade, and

- (3) openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

917.4 ACCESSORY STRUCTURES

Structures accessory to a principal building need not be elevated or flood proofed to remain dry, but shall comply, at a minimum, with the following requirements:

- A. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles or to the storage of tools, material and equipment related to the principal use of activity.
- B. The structure will have a low damage potential.
- C. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- D. Power lines, wiring and electrical outlets will be elevated to the regulatory flood elevation.
- E. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- F. Sanitary facilities are prohibited.
- G. The structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of flood water for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (1) a minimum of two (2) openings having a net total area of not less than one (1) square inch for every square foot of enclosed space,
 - (2) the bottom of all openings shall be no higher than one (1) foot above grade, and
 - (3) openings may be equipped with screens, louvers, etc. or other covering or devices provided that they permit the automatic entry and exit of flood waters.

SECTION 918 DESIGN AND CONSTRUCTION STANDARDS

The following minimum standards shall apply for all construction and development proposed within any identified flood plain area:

918.1 FILL

If fill is used, it shall:

- A. extend laterally at least fifteen (15) feet beyond the building line from all points;
- B. consist of soil or small rock materials only; sanitary landfills shall not be permitted;
- C. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- D. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data, justifying steeper slopes are submitted to, and approved by, the Flood Plain Administrator; and

- E. be used to the extent to which it does not adversely affect adjacent properties.

918.2 DRAINAGE FACILITIES

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

918.3 WATER AND SANITARY SEWER FACILITIES AND SYSTEMS

- A. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- B. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- C. No part of any on-site sewage system shall be located within any identified flood plain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- D. The design and construction provisions of the U.C.C. and FEMA #348, Protecting Building Utilities From Flood Damages, and The International Private Sewage Disposal Code shall be utilized.

918.4 OTHER UTILITIES

All other utilities such as gas lines, electrical, cable and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

918.5 STREETS

The finished elevation of all new streets shall be no more than one (1) foot below the regulatory flood elevation.

918.6 STORAGE

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 919, Development Which May Endanger Human Life, shall be stored at or above the regulatory flood elevation and/or flood proofed to the maximum extent possible.

918.7 PLACEMENT OF BUILDINGS AND STRUCTURES

All building and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

918.8 ANCHORING

- A. All buildings and structure shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- B. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotations.

918.9 FLOORS, WALLS AND CEILINGS

- A. Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- B. Plywood used at or below the regulatory flood elevation shall be of a 'marine' or 'water-resistant' variety.
- C. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are 'water-resistant' and will withstand inundation.
- D. Windows, door, and other components at or below the regulatory flood elevation shall be made of metal or other 'water-resistant' material.

918.10 PAINTS AND ADHESIVES

- A. Paints and other finishes used at or below the regulatory flood elevation shall be of 'marine' or 'water-resistant' quality.
- B. Adhesives used at or below the regulatory flood elevations shall be of a 'marine' or 'water-resistant' variety.
- C. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a 'marine' or 'water-resistant' paint or other finishing material.

918.11 ELECTRICAL COMPONENTS

- A. Electrical distribution panels shall be at least three (3) feet above the BFE.
- B. Separate electrical circuits shall serve lower levels and shall be dropped from above.

918.12 EQUIPMENT

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

918.13 FUEL SUPPLY SYSTEMS

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

918.14 UNIFORM CONSTRUCTION CODE COORDINATION

The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and limited to the following provisions shall apply to the above and other sections and sub-sections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.

International Building Code (IBC) 2115 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G

International Residential Code (IRC) 2115, or the latest edition thereof:
Secs. R104, R109, R323, Appendix AE101, Appendix E, and Appendix J

SECTION 919 DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE

919.1

In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

- A. will be used for the production or storage of any of the following dangerous materials or substances; or
- B. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or
- C. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- acetone
- ammonia
- benzene
- calcium carbide
- carbon disulfide
- celluloid
- chlorine
- hydrochloric acid
- hydrocyanic acid
- magnesium
- nitric acid and oxides of nitrogen
- petroleum products (gasoline, fuel oil, etc.)
- phosphorus
- potassium

- sodium
- sulphur and sulphur products
- pesticides (including insecticides, fungicides, and rodenticides)
- radioactive substance, insofar as such substance are not otherwise regulated

919.2

Within any floodway area, any structure of the kind described in subsection 919.1, above, shall be prohibited.

919.3

Within any flood plain area, any new or substantially improved structure of the kind described in subsection 919.1, above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

919.4

Where permitted within any flood plain area, any new or substantially improved structure of the kind describe in subsection 919.1, above, shall be:

- A. elevated or designed and constructed to remain completely dry up to at least regulatory flood elevation,
- B. designed to prevent pollution from the structure or activity during the course of a base flood event.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry flood proofing contained in the publication 'Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

SECTION 920 SPECIAL REQUIREMENTS FOR SUBDIVISIONS

All subdivision proposals and development proposals containing at least fifty (50) lots or at least five (5) acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

SECTION 921 SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES

921.1

Within any floodway area, manufactured homes shall be prohibited

921.2

Within Approximate Flood Plain or Special Flood Plain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

921.3

Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:

- A. placed on a permanent foundation;
- B. elevated so that the lowest floor of the manufactured home is at or above the regulatory flood elevation; and
- C. anchored to resist flotation, collapse, or lateral movement.

921.4

Installation of manufactured homes shall be done in accordance with the manufacturer's installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the IRC or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 184 Edition, draft or latest revision thereto shall apply, and 34 PA Code Chapter 401-405.

SECTION 922 SPECIAL REQUIREMENT FOR RECREATIONAL VEHICLES

Recreational vehicles in Zones A, A1-A30, AE and AH must either:

- A. be on the site for fewer than 180 consecutive days, or
- B. be fully licensed and ready for highway use so as to move in advance of a base flood event.

SECTION 923 PROHIBITED USES

The development of the following uses and/or activities including new construction, expansion, enlargement, and/or substantial improvement, is hereby prohibited in any area of a designated Special Flood Hazard Area (Zones A, A1-A10, AE, and AH):

- hospitals
- nursing homes (public or private)
- jails, prisons, or any similar detention facility
- manufactured home park or manufactured home subdivision.

SECTION 924 SPECIAL TECHNICAL REQUIREMENTS

924.1

In addition to all applicable procedures contained within Section 916 through and including Section 922 of this Article, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those contained within Section 916 through and including Section 922 of this Article, or in any other code, ordinance, regulation, the more restrictive provisions shall apply.

924.2

No application for a special exception shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

- A. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall designed, located and constructed so that:
 - (1) The structure will survive inundation by waters of the base flood elevation without any lateral movement or damage to either the structure, itself, or to any of its equipment or contents below the BFE
 - (2) The lowest floor (including basement) will be elevated to at least the regulatory flood elevation
 - (3) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood event.

- B. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to all a thorough technical review the Luzerne County and the Department of Community and Economic Development.

SECTION 925 EXISTING STRUCTURES IN IDENTIFIED FLOOD PLAIN AREAS

925.1 EXISTING STRUCTURES

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 925.2 shall apply.

925.2 IMPROVEMENTS

The following provisions shall apply whenever any improvement is made to an existing structure located wholly or partially within any identified flood plain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any SFHA that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50 percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.
- D. The above activity shall also address the requirements of the IBC and IRC and 34 PA Code, as amended.
- E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of 'repetitive loss' shall be undertaken only in full compliance with the provisions of this Article.

SECTION 926 VARIANCES

926.1 GENERAL

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer, or landowner, the Zoning Hearing Board of Luzerne County may, upon request, grant relief from the strict application of the requirements.

926.2 VARIANCE PROCEDURES AND CONDITIONS

Requests for variances shall be considered by the Zoning Hearing Board of Luzerne County in accordance with the procedures contained in Section 913 of this Article and Sections 802 and 803 of this Ordinance, and the following:

- A. No variance shall be granted for any construction, development, use or activity within identified flood plain areas that would cause any increase of the BFE.
- B. No variance shall be granted for any use, activity and/or development that is prohibited under Section 923 of this Article.
- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Section 919, Development Which May Endanger Human Life.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare, and to achieve the objectives of this Article.

- F. Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - (1) The granting of the variance may result in increased premium rates for flood insurance; and
 - (2) Such variances may increase the rights to life and property.
- G. In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - (1) That there is good and sufficient cause;
 - (2) That failure to grant the variance would result in exceptional hardship to the applicant;
 - (3) That the granting of the variance will:
 - (a) Neither result in an unacceptable or prohibited increase in base flood elevations, additional threats to public safety and health, or extraordinary public expense;
 - (b) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- H. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one (1) percent annual chance flood.

APPENDIX 1.1

LUZERNE COUNTY DISTRICTS AND USES

For the purpose of this Ordinance, the area of Luzerne County, Pennsylvania, exclusive of the territory within any City, Borough, or Township having a zoning Ordinance in effect, is hereby divided into the following Districts:

“CO”	Conservation District
“AG”	Agricultural District
“SR”	Suburban Residence District
“R-1”	One-Family Residence District
“R-2”	Two-Family Residence District
“RA”	Apartment Residence District
“NB”	Neighborhood Business District
“CB”	Community Business District
“HB”	Highway Business District
“GB”	General Business District
“MI”	Mining District
“LI”	Light Industrial District
“HI”	Heavy Industrial District
“MRB”	Mixed Residential Business District

“CO” Conservation District

Permitted Uses:

Agri-Tourism
Agriculture Uses
Branch Telephone Exchanges
Communication Antenna
Greenhouse & Nurseries
Manufactured (mobile) Homes
Medical Marijuana Growing/Processing
No-Impact Home Occupations
Place of Worship
Public Uses (ex. Recreational)
Recreational Facilities, Private
Residential, Single Family
Semi-Public Uses (not contagious)
Utilities (except yards & buildings)

“AG” Agricultural District

Permitted Uses:

Agri-Tourism
Agriculture Uses
Branch Telephone Exchanges
Communication Antenna
Greenhouse & Nurseries
Home Occupations
Manufactured (mobile) Homes
Medical Marijuana Growing/Processing
No-Impact Home Occupations
Place of Worship
Recreational Facilities, Private
Residential, Single Family
Residential, Two Family
Semi-Public Uses (not contagious)
Utilities (except yards & buildings)

“CO” Special Exception Uses:

Animal Cemetery
Bed and Breakfast
Cemetery
Commercial Campgrounds
Commercial Fur-Bearing Animal Farm
Commercial Greenhouses & Nurseries
Commercial Recreation
Communication Towers
Compressor Gas Stations
Continuing Care Facility
Drug Treatment Center
Extraction of Minerals
Extraction of Peat Moss
Extraction & Storage of Gas & Oil
Golf Courses
Home Occupations
Manufactured (mobile) Home Park
Outdoor Wood-Fired Boilers
Planned Residential Developments
Radio or TV sending Stations
Raising Fur-Bearing Animals (ex. Pets)
Recreational Facilities, Commercial
Recreational Facilities, Public
Roadside Stands
Semi-Public Uses (contagious)
Solar Energy Farm or Commercial System
Storage of Explosives
Utility Buildings and Yards
Utilities (except yards)
Wind Energy Facility
Windmill, Non-Commercial

“AG Special Exception Uses:

Airports
Animal Cemetery
Animal Clinic or Hospital
Animal Kennel
Bed and Breakfast
Cemetery
Commercial Fur-Bearing Animal Farm
Commercial Greenhouses & Nurseries
Commercial Hog Farms
Communication Towers
Compressor Gas Stations
Continuing Care Facility
Day Care Facilities
Equipment Sales & Repair
Extraction of Minerals
Extraction of Peat Moss
Extraction & Storage of Gas & Oil
Feed & Grain Sales & Storage
Golf Courses
Manufactured (mobile) Home Park
Outdoor Wood-Fired Boilers
Planned Residential Developments
Radio or TV sending Stations
Raising Fur-Bearing Animals (ex. Pets)
Recreational Facilities, Public
Sawmills
Semi-Public Uses (contagious)
Sewerage Disposal Plant
Solar Energy Farm, Commercial System
Storage of Explosives
Tourist Homes
Utility Buildings and Yards
Utilities (except yards)
Wind Energy Facility
Windmill, Non-Commercial

“SR” Suburban Residence District

Permitted Uses:

Continuing Care Facility
No-Impact Home Occupations
Place of Worship
Public Uses (ex. Recreational)
Residential, Single Family
Semi-Public Uses (not contagious)
Utilities (except yards & buildings)

“SR” Special Exception Uses:

Bed and Breakfast
Cemetery
Home Occupations
Hospitals or Sanitaria (not contagious)
Manufactured (mobile) Homes
Outdoor Wood-Fired Boilers
Planned Residential Developments
Professional Offices
Recreational Facilities, Public
Short Term Residential Rental Units

“R-2 Two-Family Residence District

Permitted Uses:

Hospital or Sanitaria (not contagious)
No-Impact Home Occupations
Place of Worship
Public Uses (ex. Recreational)
Residential, Single Family
Residential, Two Family
Semi-Public Uses (not contagious)
Utilities (except yards & buildings)

“R-1” One-Family Residence District

Permitted Uses:

No-Impact Home Occupations
Place of Worship
Public Uses (ex. Recreational)
Residential, Single Family
Semi-Public Uses (not contagious)
Utilities (except yards & buildings)

“R-1” Special Exception Uses:

Bed and Breakfast
Cemetery
Home Occupations
Hospitals or Sanitaria (not contagious)
Manufactured (mobile) Homes
Outdoor Wood-Fired Boilers
Planned Residential Developments
Professional Offices
Recreational Facilities, Private
Recreational Facilities, Public
Short Term Residential Rental Units

“RA” Apartment Residence District

Permitted Uses:

Apartments (Multiple Dwellings)
Boarding House/Rooming House
Home Occupations
Hospital or Sanitaria (not contagious)
No-Impact Home Occupations
Place of Worship
Professional Offices
Public Uses
Public Uses (ex. Recreational)
Residential, Single Family
Residential, Two Family
Residential, Multiple Dwellings
Semi-Public Uses (not contagious)
Utilities (except yards & buildings)

“R-2” Special Exception Uses:

Boarding House/Rooming House
Cemetery
Home Occupations
Manufactured (mobile) Homes
Planned Residential Developments
Professional Offices
Recreational Facilities, Private
Recreational Facilities, Public

“RA” Special Exception Uses:

Cemetery
Clubs & Lodges
Continuing Care Facility
Day Care Facilities
Dormitories, Fraternities, & Sororities
Manufactured (mobile) Home
Mortuaries
Nursery School
Planned Residential Developments
Recreational Facilities, Private

“NB” Neighborhood Business District

Permitted Uses:

Banks & Similar Financial Services
Beauty & Barber Shops
Branch Telephone Exchanges
Cafes or Restaurants (ex. Entertainment)
Communications Antenna
Hospitals or Sanitaria (not contagious)
Mortuaries
Neighborhood Retail Stores
Personal Services
Place of Worship
Professional Offices
Public Uses
Public Uses (ex. Recreational)
Semi-Public Uses (not contagious)
Semi-Public Uses (contagious)
Service Stations (minor repairs)
Soda Fountains
Tattoo Parlor or Body-Piercing Studio
Taverns
Utilities (except yards & buildings)

“CB” Community Business District

Permitted Uses:

Automotive Supplies (sale of)
Banks & Similar Financial Services
Bakery
Beauty & Barber Shops
Branch Telephone Exchanges
Cafes or Restaurants (ex. Entertainment)
Clubs & Lodges
Commercial Offices
Communications Antenna
Convenience Store
Convenience Store with Gas Sales
Hospitals or Sanitaria
Medical Marijuana Dispensary
Mortuaries
Neighborhood Retail Stores
Personal Services
Place of Worship
Professional Offices
Public Uses
Public Uses (ex. Recreational)
Retail Stores or Businesses
Semi-Public Uses (not contagious)
Semi-Public Uses (contagious)
Service Stations (minor repairs)
Service Stations
Soda Fountains
Tattoo Parlor or Body-Piercing Studio
Taverns
Utilities (except yards & buildings)

“NB” Special Exception Uses:

Apartments (Multiple Dwellings)
Clubs & Lodges
Residential, Multiple Dwellings
Utilities (except yards)

“CB” Special Exception Uses:

Apartments (Multiple Dwellings)
Billiard or Pool Rooms/Halls
Bottle Club or BYOB Club
Car Wash & Auto Detailing
Commercial Drive-in (ex. Theaters)
Day Care Facilities
Entertainment Facility (ex. Adult)
Residential, Multiple Dwellings
Utilities (except yards)

“HB” Highway Business District

Permitted Uses:

Amusement Parks
Animal Clinic or Hospital
Animal Kennel
Automotive Repair Facility
Automotive Sales
Automotive Supplies (sale of)
Banks & Similar Financial Services
Bakery
Beauty & Barber Shops
Big Box Retail Stores
Billiard or Pool Rooms/Halls
Branch Telephone Exchanges
Cafes or Restaurants (ex. Entertainment)
Car Wash & Auto Detailing
Cemetery
Clubs & Lodges
Commercial Drive-in Use (ex. Theaters)
Commercial Greenhouses & Nurseries
Commercial Horse Track & Riding Stables
Commercial Offices
Communications Antenna
Convenience Store
Convenience Store with Gas Sales
Day Care Facilities
Entertainment Facility (ex. Adult)
Equipment Sales & Repair
Feed & Grain Sales & Storage
Golf Driving Range & Miniature Golf
Greenhouses & Nurseries
Hospitals & Sanitaria (not contagious)
Lumberyards
Medical Marijuana Dispensary

“GB” General Business District

Permitted Uses:

Animal Clinic or Hospital
Animal Kennel
Automotive Repair Facility
Automotive Sales
Automotive Supplies (sale of)
Banks & Similar Financial Services
Bakery
Beauty & Barber Shops
Branch Telephone Exchanges
Bulk Fuel Storage Facility
Cafes or Restaurants (ex. Entertainment)
Car Wash & Auto Detailing
Cleaning, Laundry, & Dyeing Plants
Clubs & Lodges
Commercial Drive-in Use (ex. Theaters)
Commercial Offices
Commercial Recreation
Communications Antenna
Convenience Store
Convenience Store with Gas Sales
Entertainment Facility (ex. Adult)
Equipment Sales & Repair
Food Processing
Hospitals & Sanitaria (not contagious)
Hotels
Lumberyards
Machine Shops
Medical Marijuana Dispensary
Mortuaries
Neighborhood Retail Stores
Outdoor Advertisements (Billboards)
Personal Services

“HB” Highway Business District

Permitted Uses Cont’d:

Mortuaries
Neighborhood Retail Stores
Personal Services
Place of Worship
Professional Services
Public Uses
Public Uses (ex. Recreational)
Retail Stores or Businesses
Semi-Public Uses (not contagious)
Semi-Public Uses (contagious)
Service Garages (ex. Body Work)
Service Stations (minor repairs)
Service Stations
Soda Fountains
Tattoo Parlor or Body-Piercing Studio
Taverns
Tourist Homes
Utilities
Utility Buildings and Yards
Utilities (except yards & buildings)
Utilities (except yards)

“HB” Special Exception Uses:

Apartments (Multiple Dwellings)
Bottle Club or BYOB Club
Compressor Stations
Crematories
Drive-in Theater
Race Tracks, Motorized Vehicles
Residential, Multiple Dwellings
Truck Terminals
Vehicle Storage Yard
Warehouse Facilities (inc. storage yards)
Wholesale Business

“GB” General Business District

Permitted Uses Cont’d:

Place of Worship
Public Uses
Public Uses (ex. Recreational)
Publishing Plants
Recreational Facilities (Commercial)
Research & Testing Facilities
Restaurants
Retail Stores or Businesses
Second Hand Stores or Pawn Shops
Semi-Public Uses (not contagious)
Semi-Public Uses (contagious)
Service Garages (ex. Body Work)
Service Stations (minor repairs)
Service Stations
Soda Fountains
Tattoo Parlor or Body-Piercing Studio
Taverns
Tire Retreading & Recapping
Utilities
Utility Buildings and Yards
Utilities (except yards & buildings)
Utilities (except yards)
Welding Shops
Wholesale Business

“GB” Special Exception Uses:

Adult Uses
Contractor Yards
Crematories
Self-Storage Facility
Vehicle Storage Yard

“MI” Mining District

Permitted Uses:

Branch Telephone Exchanges
Bulk Fuel Storage Facility
Communication Antenna
Contractor Yards
Extraction of Minerals
Railroad Yards
Storage of Excavated Materials
Tipples
Trucking Contractor Yards
Utilities
Utility Building and Yards
Utilities (except yards & buildings)
Utilities (except yards)

“LI” Light Industrial District

Permitted Uses:

Branch Telephone Exchanges
Bulk Fuel Storage Facility
Communication Antenna
Contractor Yards
Equipment Sales & Repair
Food Processing
Industry, Light (see definition)
Machine Shops
Manufacturing Uses
Publishing Plants
Research & Testing Facilities
Self-Storage Facility
Tourist Homes
Truck Terminals
Trucking Contractor Yards
Utilities
Utility Building and Yards
Utilities (except yards & buildings)
Utilities (except yards)
Warehouse Facilities (inc. storage yards)
Welding Shops

“MI” Special Exception Uses:

Communication Towers
Compressor Gas Stations
Correctional Institution
Crematories
Deep Coal Mining
Detention Facility
Extraction of Peat Moss
Excavation of Sand & Gravel
Extraction & Storage of Gas & Oil
Junkyards
Manufacturing Uses
Rock Quarry
Solar Energy Farm or Commercial System
Solid Waste Facility
Storage of Explosives
Strip Mining

“LI” Special Exception Uses:

Big Box Retail Store
Communication Towers
Crematories
Day Care Facilities
Solar Energy Farm/Commercial System
Solid Waste Facility
Vehicle Storage Yard

“HI” Heavy Industrial District

Permitted Uses:

Branch Telephone Exchanges
Bulk Fuel Storage Facility
Communication Antenna
Contractor Yards
Equipment Sales & Repair
Food Processing
Industry, Heavy (see definition)
Industry, Light (see definition)
Machine Shops
Manufacturing Uses
Publishing Plants
Research & Testing Facilities
Self-Storage Facility
Tire Retreading & Recapping
Truck Terminals
Trucking Contractor Yards
Utilities
Utility Building and Yards
Utilities (except yards & buildings)
Utilities (except yards)
Warehouse Facilities (inc. storage yards)
Welding Shops

“HI” Special Exception Uses:

Asphalt, Batch or Concrete Plant
Automotive Wrecking Yard
Communication Towers
Crematories
Drug Treatment Center
Junkyards
Medical Marijuana Dispensary
Solar Energy Farm or Commercial System
Solid Waste Facility
Vehicle Storage Yard

“MRB” Mixed Residential Business

District Permitted Uses:

Apartments (Multiple Dwellings)
Banks & Similar Financial Services
Beauty & Barber Shops
Branch Telephone Exchanges
Cafes or Restaurants (ex. Entertainment)
Communication Antenna
Convenience Store
Hospitals or Sanitaria (not contagious)
Neighborhood Retail Stores
No-Impact Home Occupations
Personal Services
Place of Worship
Professional Services
Public Uses
Public Uses (ex. Recreational)
Residential, Single Family
Residential, Two Family
Residential, Multiple Dwellings
Retail Stores or Businesses
Semi-Public Uses (not contagious)
Soda Fountains
Tattoo Parlor or Body-Piercing Studio
Taverns
Utilities (except yards & buildings)

“MRB” Special Exception Uses:

Automotive Supplies (sale of)
Bakery
Big Box Retail Store
Car Wash & Auto Detailing
Cemetery
Clubs & Lodges
Commercial Offices
Continuing Care Facility
Convenience Store with Gas Sales
Day Care Facilities
Dormitories, Fraternities, or Sororities
Entertainment Facility (ex. Adult)
Home Occupations
Mortuaries
Nursery School

“MRB” Special Exception Uses

Cont’d:

Planned Residential Developments

Recreational Facilities, Private

Rooming or Boarding Houses

Semi-Public Uses (contagious)

Service Garages (excluding bodywork)

Service Stations (minor repairs)

Service Stations

Utilities (except yards)

APPENDIX 1.2

LUZERNE COUNTY ZONING USE TABLE

Symbol Key: P - Permitted Use

SE - Special Exception Use

Blank - Non-Permitted Use

LAND USE	ZONING DISTRICTS													
	CO	AG	SR	R-1	R-2	RA	NB	CB	HB	GB	MI	LI	HI	MRB
Adult Uses										SE				
Agri-Tourism	P	P												
Agriculture Uses	P	P												
Airports		SE												
Amusement Parks									P					
Animal Cemetery	SE	SE												
Animal Clinic or Hospital		SE							P	P				
Animal Kennel		SE							P	P				
Apartments (Multiple Dwellings)						P	SE	SE	SE					P
Asphalt, Batch or Concrete Plant													SE	
Automotive Repair Facility														
Auto Body Shop									SE	P				
Commercial Vehicle Shop									SE	SE		P	P	
Service Station (Minor)								P	P	P				
Service Station (Major)								SE	P	P				
Automotive Sales									P	P				
Automotive Supplies (sale of)								P	P	P				SE
Automotive Wrecking Yard													SE	
Banks & Similar Financial Services							P	P	P	P				P
Bakery								P	P	P				SE
Beauty & Barber Shops							P	P	P	P				P
Bed and Breakfast	SE	SE	SE	SE										
Big Box Retail Store									P			SE		SE
Billiard or Pool Rooms/Halls								SE	P					
Boarding House/Rooming House					SE	P								
Bottle Club or BYOB Club								SE	SE					
Branch Telephone Exchanges	P	P					P	P	P	P	P	P	P	P
Bulk Fuel Storage Facility										P	P	P	P	N
Cafes or Restaurants (ex. entertainment)							P	P	P	P				P
Car Wash & Auto Detailing								SE	P	P				SE
Cemetery	SE	SE	SE	SE	SE	SE			P					SE
Cleaning, Laundry, & Dyeing Plants										P				
Clubs & Lodges						SE	SE	P	P	P				SE
Commercial Campgrounds	SE													

LAND USE	CO	AG	SR	R-1	R-2	RA	NB	CB	HB	GB	MI	LI	HI	MRB
Commercial Drive-In Use (ex. theaters)								SE	P	P				
Commercial Fur-Bearing Animal Farm	SE	SE												
Commercial Greenhouses & Nurseries	SE	SE							P					
Commercial Hog Farms		SE												
Commercial Horse Track & Riding Stables									P					
Commercial Offices								P	P	P				SE
Commercial Recreation	SE									P				
Communications Antenna (mounted on a building or other structure, and communications equipment building)	P	P					P	P	P	P	P	P	P	P
Communications Antenna (mounted on an existing public utility transmission tower)	P	P					P	P	P	P	P	P	P	P
Communication Towers	SE	SE									SE	SE	SE	
Compressor Stations (Gas)	SE	SE							SE		SE			
Continuing Care Facility	SE	SE	P			SE								SE
Contractor Yards										SE	P	P	P	
Convenience Store								P	P	P				P
Convenience Store with Gas Sales								P	P	P				SE
Correctional Institution											SE			
Crematories									SE	SE	SE	SE	SE	
Day Care Facilities		SE				SE		SE	P			SE		SE
Deep Coal Mining											SE			
Detention Facility											SE			
Dormitories, Fraternities, or Sororities						SE								SE
Drive-In Theater									SE					
Drug Treatment Facility														
Residential In-Patient Facility	SE	SE												
Out-Patient Rehabilitation Facility									SE	SE				
Methadone Clinic									SE	SE				
Entertainment Facility (ex. Adult Facility)								SE	P	P				SE
Equipment Sales & Repair		SE							P	P		P	P	
Extraction of Minerals	SE	SE									P			
Extraction of Peat Moss	SE	SE									SE			
Excavation of Sand & Gravel											SE			
Extraction & Storage of Gas & Oil	SE	SE									SE			
Feed & Grain Sales & Storage		SE							P					
Food Processing										P		P	P	
Golf Courses	SE	SE												
Golf Driving Range & Miniature Golf									P					
Greenhouses & Nurseries	P	P							P					
Home Occupations	SE	P	SE	SE	SE	P								SE
No-Impact Home Occupations	P	P	P	P	P	P								P
Hospitals or Sanitaria (not contagious)			SE	SE	P	P	P	P	P	P				P
Hotels										P				

LAND USE	C0	AG	SR	R-1	R-2	RA	NB	CB	HB	GB	MI	LI	HI	MRB
Industry, Heavy (see definition)													P	
Industry, Light (see definition)												P	P	
Junkyards											SE		SE	
Lumberyards									P	P				
Machine Shops										P		P	P	
Manufactured (mobile) Homes	P	P	SE	SE	SE	SE								
Manufactured (mobile) Home Park	SE	SE												
Manufacturing Uses											SE	P	P	
Medical Marijuana Dispensary								P	P	P			SE	
Medical Marijuana Growing/Processing	P	P												
Mortuaries						SE	P	P	P	P				SE
Motels & Tourist Courts									P					
Neighborhood Retail Stores							P	P	P	P				P
Nursery School						SE								SE
Outdoor Advertisements (Billboards)									P	P				
Outdoor Wood-Fired Boilers	SE	SE	SE	SE										
Personal Services							P	P	P	P				P
Place of Worship	P	P	P	P	P	P	P	P	P	P				P
Planned Residential Developments	SE	SE	SE	SE	SE	SE								SE
Professional Offices			SE	SE	SE	P	P	P	P					P
Public Uses						P	P	P	P	P				P
Public Uses (ex. Recreational)	P		P	P	P	P	P	P	P	P				P
Publishing Plants										P		P	P	
Radio or TV Sending or Boosting Stations	SE	SE												
Race Tracks, Motorized Vehicles									SE					
Railroad Yards											P			
Raising Fur-Bearing Animals (ex. pets)	SE	SE												
Recreational Facilities, Commercial	SE									P				
Recreational Facilities, Private	P	P		SE	SE	SE								SE
Recreational Facilities, Public	SE	SE	SE	SE	SE									
Research & Testing Facilities										P		P	P	
Residential, Single Family	P	P	P	P	P	P								P
Residential, Two Family		P			P	P								P
Residential, Multiple Dwellings						P	SE	SE	SE					P
Restaurants									P	P				
Retail Stores or Businesses								P	P	P				P
Roadside Stands	SE													
Rock Quarry											SE			
Rooming or Boarding Houses					SE	P								SE
Sawmills		SE												
Second Hand Stores & Pawn Shops										P				
Self-Storage Facility									P	SE		P	P	
Semi-Public Uses (not contagious)	P	P	P	P	P	P	P	P	P	P				P
Semi-Public Uses (contagious)	SE	SE					P	P	P	P				SE

LAND USE	CO	AG	SR	R-1	R-2	RA	NB	CB	HB	GB	MI	LI	HI	MRB
Service Garages (excluding body work)									P	P				SE
Service Stations (minor repairs)							P	P	P	P				SE
Service Stations								P	P	P				SE
Sewerage Disposal Plant		SE												
Short Term Residential Rental Units			SE	SE										
Soda Fountains							P	P	P	P				P
Solar Energy Farm or Commercial System	SE	SE									SE	SE	SE	
Solid Waste Facility											SE	SE	SE	
Storage of Excavated Materials											P			
Storage of Explosives	SE	SE									SE			
Strip Mining											SE			
Tattoo Parlor or Body-Piercing Studio							P	P	P	P				P
Taverns							P	P	P	P				P
Tipples											P			
Tire Retreading & Recapping										P		P	P	
Tourist Homes		SE							P					
Truck Terminals									SE			P	P	
Trucking Contractor Yards											P	P	P	
Utilities									P	P	P	P	P	
Utility Buildings and Yards	SE	SE							P	P	P	P	P	
Utilities (except yards & buildings)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utilities (except yards)	SE	SE					SE	SE	P	P	P	P	P	SE
Vehicle Storage Yard									SE	SE		SE	SE	
Warehouse Facilities (inc. storage yards)									SE			P	P	
Welding Shops										P		P	P	
Wholesale Business									SE	P				
Wind Energy Facility	SE	SE												
Windmill, Non-Commercial	SE	SE												

APPENDIX 2

LUZERNE COUNTY YARD AREA AND HEIGHT REGULATIONS

TYPE OF REGULATION	Conservation District	Agriculture District	Suburban Residence District	Single Fam. Residence District	Two Family Residence District	Apartment & Mixed Res./Bus. Districts	Neighborhood Business District	Community Business District	Highway Business District	General Business District	Mining District	Light Industrial District	Heavy Industrial District
	CO	AG	SR	R-1	R-2	RA/MRB	NB	CB	HB	GB	MI	LI	HI
MINIMUM YARDS IN FEET													
Front Yard	50	50	40	30	25	25	20	15	30	15	40	25	20
Rear Yard	50	50	40	35	30	30	25	30	40	30	50	30	25
Side Yards:													
One Side Yard	30	25	15	12	8	5	None(1)	None(1)	15	None(1)	25	15	20
Combined Side Yds	60	50	30	25	16	13	None(1)	None(1)	40	None(1)	50	30	40
MINIMUM LOT DIMENSIONS													
(Area in sq. feet unless acreages are indicated.)	2 Acres	1 Acre	20,000(2)	20,000(2)	20,000(2)	20,000(2)	None	None	None(5)	None	None	None	None
			11,250(3)	11,250(3)	11,250(3)	11,250(3)							
				7,200(4)	6,000(4)	6,000(4)							
					3,500/d.u.	2,000/d.u.							
WIDTH IN FEET	200	150	100(2)	100(2)	100(2)	100(2)	None	None	None(6)	None	None	None	None
			75(3)	75(3)	75(3)	75(3)							
				60(4)	60(4)	60(4)							
MINIMUM INTERIOR HOUSING													
Area in Sq. Feet(8)	525(7)	525(7)	800	700	600	525	None	None	None	None	N.A.	N.A.	N.A.
MAXIMUM BUILDING HEIGHT (5)													
Stories	2.5	2.5	2.5	2.5	2.5		2	3	3	3	None	3	None
Feet	35	35	35	35	35	Distance from street centerline	30	40	40	40	None	40	None
MAXIMUM PERCENTAGE OF													
LOT COVERAGE	20	None	30	40	45	50	25	35	30	40	10	30	40
FOOTNOTES:													
(1) Except when abutting a Residence District. (See Article 7.02)													
(2) Neither public water nor public sewer.													
(3) Either public water but individual sewerage disposal system on each lot, or on-lot water systems but a public sewer system on each lot.													
In an S-1 District 11,250 is minimum lot size even if they have public water and public sewers.													
(4) Sewerage collected from lot and disposed of in another area; 6,000 sq. ft. for a single family, as minimum in R-2 districts.													
(5) Except for motels, tourist courts and trailer camps where minimum is one acre.													
(6) Except for motels, tourist courts and trailer camps where minimum is 150 feet.													
(7) Except in Recreation areas for occupancy on a temporary basis.													
(8) Not including any basement area.													