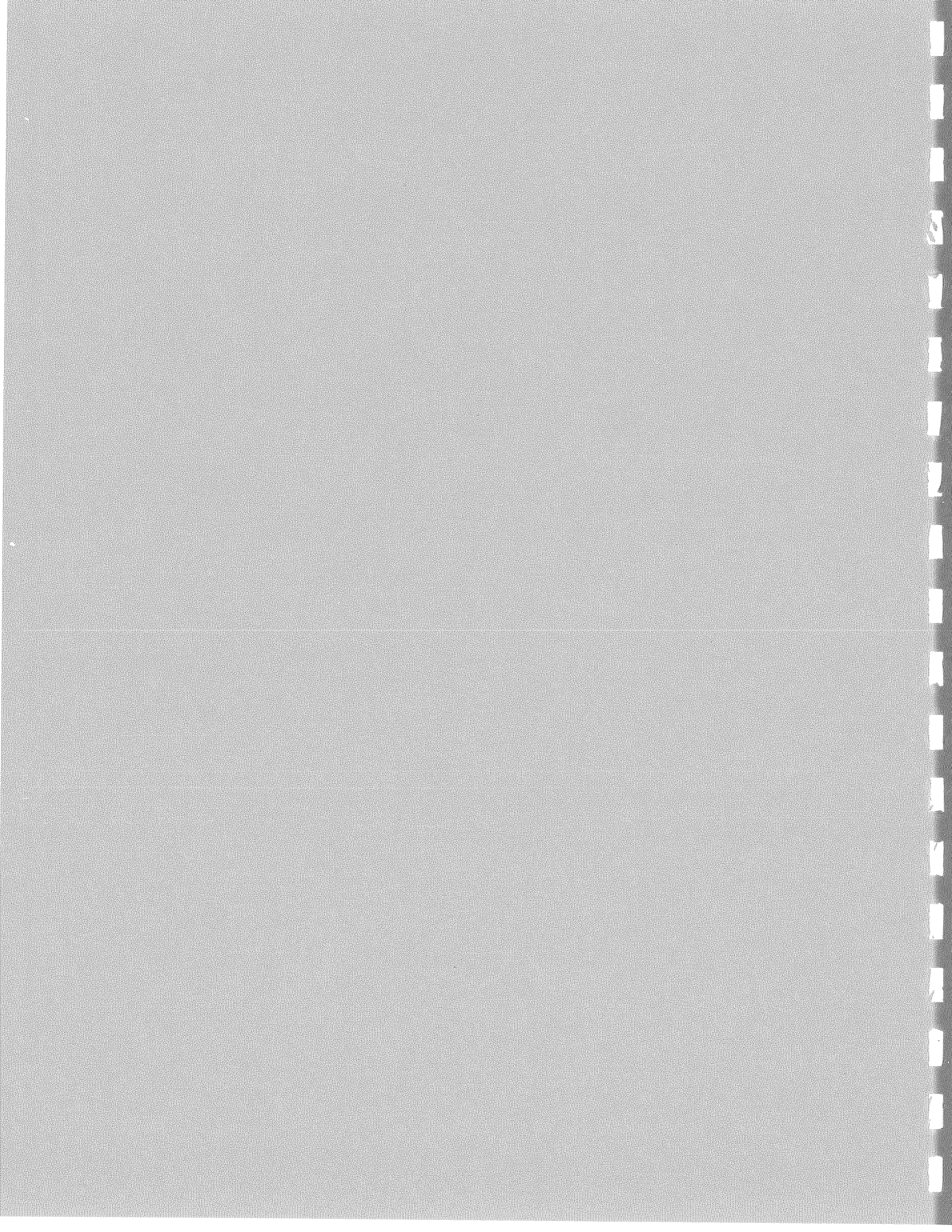


ZONING ORDINANCE

BOROUGH OF DUNMORE

LACKAWANNA COUNTY, PENNSYLVANIA

AUGUST 2000



BOROUGH OF DUNMORE ZONING ORDINANCE

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EXHIBIT

ZONING ORDINANCE
OF THE
BOROUGH OF DUNMORE
LACKAWANNA COUNTY, PENNSYLVANIA

ORDINANCE NO. 9, YEAR 2000

AN ORDINANCE AMENDING AND REPLACING THE ZONING ORDINANCE
OF THE BOROUGH OF DUNMORE DATED 1977.

An Ordinance to permit, prohibit, regulate, restrict, and determine: Uses of land, watercourses, and other bodies of water; size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures; areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; density of population and intensity of use; protection and preservation of natural resources; and providing for: Special exceptions and variances administered by the Zoning Hearing Board, and Conditional Uses administered by the Borough Council; the administration and enforcement of this Ordinance and penalties for the violation thereof.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH
COUNCIL OF THE BOROUGH OF DUNMORE, AS FOLLOWS:

ARTICLE I

TITLE AND PURPOSES

1.100 TITLE

"An Ordinance to limit and restrict to specified districts or zones and to regulate therein, buildings and structures according to their construction and the nature and extent of their use, and the nature and extent of the uses of land in the Borough of Dunmore and providing for the administration and enforcement of the provisions herein contained and fixing penalties for the violation thereof".

1.200 SHORT TITLE

This Ordinance shall be known and may be cited as the "Borough of Dunmore Zoning Ordinance".

1.300 COMMUNITY DEVELOPMENT OBJECTIVES

The Borough of Dunmore has enacted a Zoning Ordinance, of which this statement is a part, in accordance with the Pennsylvania Municipalities Planning Code. The adoption and enforcement of these regulations is intended to provide the Municipality with procedures which will assist in directing its growth and development in accordance with local needs and goals.

Pertinent local goals which these regulations are intended to bring to fruition relate to such factors as land use, population density, streets and traffic and other community facilities and utilities, generally as defined in the Dunmore Borough Master Plan.

1.310 COMMUNITY GOALS

- a. Promote and protect the public health, safety and general welfare.
- b. Prevent loss of life, health or property from fire, panic, floods and other dangers, such as air, water, noise pollution, hazardous waste, toxic, biological and radioactive materials.
- c. Control development so that it occurs in an efficient and logical manner which does not deviate from or harm the character of the immediate neighborhood.
- d. Direct development to designated areas that can readily be served by existing or expanded infrastructure systems, including locations where sewer, water and transportation improvements can be phased in with minimum short and long-term costs to the Borough or its residents.

- e. Provide for essential public services, such as police and fire protection, schools and recreational uses.
- f. Protect property values and integrity of neighborhoods for all classes of uses.
- g. Preserve and enhance quality of life by protection of existing neighborhoods from blighting influences.
- h. Establish clear, concise and definitive guidelines regarding land use regulations and their enforcement.
- I. Violation of these objectives will not be permitted under any circumstance or for any reason.

1.320 ENVIRONMENTAL GOALS

- a. Protect the environmentally sensitive areas of the Borough. Protect groundwater, floodplains, wetlands, mature woodlands, steep slopes, habitats of rare and endangered species, and other environmental features.
- b. Guide development to occur in ways that eliminate degradation of our natural and cultural environments.
- c. Promote land use to control and limit both population and structural density, street congestion, and water runoff and to provide for adequate light and air.
- d. Establish environmental protection standards that will apply to all development.
- e. Violation of these objectives will not be permitted under any circumstance or for any reason.

1.330 LAND USE GOALS

- a. Provide for a diversity of housing opportunities in harmony with existing development and the natural environment.
- b. Designate appropriate locations for industry, research and development, offices, retail sales, and services.
- c. Establish land use patterns that will result in a safe, efficient, mostly congestion-free vehicular circulation system.
- d. Preserve and protect the nature, character and integrity of our neighborhoods.
- e. Violation of these objectives will not be permitted under any circumstance or for any reason.

1.400 SCOPE OF REGULATIONS

1.410 Administration and Enforcement. This Ordinance includes provisions for the administration and the enforcement of the Ordinance and such other provisions as are deemed necessary to implement the purposes of this Ordinance and the purposes of Act 247 as amended.

1.420 Flexibility and Innovation. This Ordinance includes provisions to encourage innovation and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in Act 247 as amended. Such regulations provide authorization to increase the permissible density of population and intensity of uses based upon expressed standards and criteria set forth herein.

1.430 Development Features Regulated. This Ordinance includes provisions regulating:

- (1) Uses of land, watercourses and other bodies of water
- (2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures
- (3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures
- (4) Density of population and intensity of use
- (5) Protection and preservation of natural resources
- (6) Special Exceptions
- (7) Variances
- (8) Conditional Uses

1.500 PURPOSES

These regulations are deemed necessary to achieve the following purposes:

1.510 To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare: coordinated and practical community development and proper density of population: emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, vehicle parking and loading space, transportation, sewerage, schools, recreation facilities, public grounds, the provision of a safe reliable and adequate water supply for domestic, commercial, or industrial use, and other public requirements: as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

1.520 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.

- 1.530 To provide for the use of land within the Municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks.
- 1.540 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.

ARTICLE 2

ZONE DISTRICTS AND ZONING MAP

2.100 DESIGNATION OF ZONE DISTRICTS

In accordance with the Municipality's Master Plan, and with consideration of the character of the Municipality and its various parts, and the suitability of the various parts for particular uses and structures, the Borough of Dunmore is hereby divided into 12 Zoning Districts, differentiated according to permitted uses and building regulations, as follows:

RC	Resource Conservation
R-1A	1 Family Low Density Residential
R-1B	1 Family Medium Density Residential
R-2	2 Family Residential
R-3	Multi-Family Residential
I-1	Institutional
C-1	Neighborhood Commercial
C-2	Central Business District
C-3	Regional Commercial
C-4	Heavy Commercial
IAC	Interchange Activity Center
M-1	Light Manufacturing

2.200 ZONING MAP

The location and boundaries of said zones are hereby established as shown on the Official Zoning Map of the Borough of Dunmore dated _____, 2000 on file in the office of the Secretary of the Borough. Said official Zoning Map, together with any map inserts, is hereby made a part of this Ordinance as if the same were all fully described and set forth herein.

2.300 INTERPRETATION OF BOUNDARIES

2.310 Designation of Zone Boundaries

The zone boundary lines are intended to follow the right-of-way lines of streets and roads, existing lot and property lines, the mean and/or flood level of water bodies and Borough Boundary lines, all as shown on the Zoning Map; but where a zone boundary line does not follow such a line, its location is shown on the Zoning Map by a specific dimension expressing its distance from a street or road line, or other boundary line as indicated, or by a reference to a contour line delineated on the United States Geological Survey Maps.

2.320 Determination of Locations of Boundaries

In the event of uncertainty as to the true location of a zone boundary line in a particular instance, any decision of the Zoning Officer may be appealed before the Zoning Hearing Board by any affected property owner. It shall be the duty of the Zoning Hearing Board to render its determination with respect thereto.

2.330 Division of Lot or Parcel in Single Ownership

Where a Zone boundary line divides a lot or parcel in single ownership at the time of the passage of this Ordinance, any use authorized or permitted in either zone may be extended a distance not to exceed fifty (50) feet beyond the boundary of the zone in which such use is authorized or permitted.

2.400 DEGREE OF RESTRICTIVENESS

The sole purpose of this section is to define the process of determining the use to which a nonconforming use can be changed.

The phrase "more restrictive uses" as employed in this Ordinance shall mean the following:

- a. Those uses permitted in an R-1A Zone are the most restrictive.
- b. All other uses are less restrictive in the order they are permitted in the Zones in the sequence shown: R-1B, R-2, RC, R-3, C-1, C-2, C-3, I-1, IAC, C-4, and M-1.
- c. Where a use is specifically enumerated in a less restrictive zone, such use shall not be permitted in a more restrictive zone unless it is specifically enumerated as a permitted use therein.

2.500 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or part thereof or other structure shall be erected, altered, added 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 zone in which such building or premises are located.

ARTICLE 3

DISTRICT REGULATIONS

TABLE 1

Table 1, Land Use Classifications, sets forth the land uses permitted in each zone district.

TABLE 2

Table 2 establishes land, bulk, setback, and density standards for Residential zones.

TABLE 3

Table 3 establishes land, bulk, and setback standards for the RC zone.

TABLE 4

Table 4 establishes land, bulk, and setback standards for Institutional, Commercial, and Manufacturing zones.

LAND USE CLASSIFICATIONS

APPROVAL LEVELS X/PRINCIPAL PERMITTED CU/CONDITIONAL USE SE/SPECIAL EXCEPTION

ZONING DISTRICT

USE	R-C	R-1A	R-1B	R-2	R-3	I-1	C-1	C-2	C-3	C-4	M-1	REFERENCE SECTION
COMMERCIAL AND OTHER (Continued)												
Laboratory, Testing, Industrial							X		X		X	
Large Scale Commercial Development							X		X			5.630
Liquor Store							X	X	X			
Lumber Yard									X	X		
Machine Shop											X	
Manufacturing, Garment & Other Needle-Type											X	
Medical/Dental Clinics/Offices & Medical Labs.							X	X	X	X		
Methadone Treatment and Other Drug Treatment										CU		
Miniature golf									X			
Mixed Use Structures (Retail & Apts.)								X				
Mobile Home Sales									X	X		
Mortuaries							X	X				5.820
Night Clubs								X	X			
Nursery Schools	X				X	X	X					5.240
Nursing Homes	X					X						
Open Space Conservation	X	X										
Outdoor Storage										X	X	5.930
Parking Areas						X	X	X	X	X	X	5.710
Personal Services												
-Barber							X	X	X			
-Beauty Parlor							X	X	X			
-Physical Therapy							SE	SE	SE			
-Tailor							X	X	X			
Professional Services/Offices												
-Accounting and Other Similar Uses							X	X	X			

LAND USE CLASSIFICATIONS

APPROVAL LEVELS X/PRINCIPAL PERMITTED CU/CONDITIONAL USE SE/SPECIAL EXCEPTION

ZONING DISTRICT

USE	R-C	R-1A	R-1B	R-2	R-3	I-1	C-1	C-2	C-3	C-4	M-1	REFERENCE SECTION
COMMERCIAL AND OTHER (Continued)												
Radio/TV Studios								X	X	X		
Restaurants							X	X	X	X	X	
Retail Stores							X	X	X	X		
Schools												
-Private						SE	SE	SE	SE			5.250
-Public and Semi-Public	SE	SE	SE	SE	SE	SE						
-Trade/Business Schools									X	X	X	
-Colleges and Universities						SE			SE			5.250
Self Storage								X				
Shooting Range, Indoor									SE			
Shooting Range, Outdoor	SE											
Sign, Outdoor Advertising									X	X	X	5.973
Skating Rinks									X			
Supermarket							X		X			
Tavern, Bar, etc.							X	X	X	X		
Telecommunications Facilities, Commercial										SE	SE	5.960
Theatres and similar places of assembly								SE	SE			
Transient Businesses							SE	SE	SE			
Temporary Uses, Nonresidential							SE	SE	SE	SE	SE	5.980
Truck/Freight Terminal/Distribution Center										CU	SE	
Variety and Speciality Shop						X	X	X	X			
Warehousing										X	X	
Wholesale Offices and Showrooms									X	X	X	

LAND USE CLASSIFICATIONS

APPROVAL LEVELS X/PRINCIPAL PERMITTED CU/CONDITIONAL USE SE/SPECIAL EXCEPTION

ZONING DISTRICT

USE	R-C	R-1A	R-1B	R-2	R-3	I-1	C-1	C-2	C-3	C-4	M-1	REFERENCE SECTION
MANUFACTURING AND OTHER	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	5.580
Culm Bank Removal											CU	5.580
Earth Extraction Industries											X	
Food Processing												
Large-Scale Manufacturing Development											SE	5.630
Manufacturing Uses											X	
Recycling Establishments										CU	X	
Sanitary Land Fill												
Solid Waste Transfer Station										CU	CU	5.590
Tire Retreading and Recapping											X	

TABLE NO. 2

DEVELOPMENT STANDARDS (c) FOR RESIDENTIAL ZONES

Land, Bulk and Density Standards

STANDARDS	ZONES (d)			
	R-1A	R-1B	R-2	R-3
Minimum Lot Size/1F DU (000sq.ft.)	12	8	8	8
Minimum Lot Area Per DU/1F DU (000 sq.ft.)	12	8	8	8
Minimum Parcel Size/Town Houses (000 sq.ft.)	20	20	20	20
Minimum Lot Area Per DU/Town Houses (000 sq.ft.)	3	3	3	3
Maximum Density - Town Houses - DU/Ac.	8	8	8	8
Minimum Lot Size 2-F DU (000 sq.ft.)	N.A.	N.A.	10	10
Minimum Lot Area Per DU/2-F DU (000 sq.ft.)	N.A.	N.A.	5	5
Minimum Lot Size/Apartments (000 sq.ft.)	N.A.	N.A.	20	20
Minimum Lot Area Per DU/Apartments (000 sq.ft.)	N.A.	N.A.	5	5
Minimum Lot Width	100	80	80 (a)	80 (a)
Minimum Lot Depth	120	100	100	100
Minimum Setbacks (e)				
Front Yard	25	25	25	25
Side Yard, One (b)	15	10	10	10
Side Yard, Both (b)	30	25	20	20
Rear Yard	25	25	30	30
Maximum Impervious Coverage	30	35	50	50
Maximum Building Height - Stories	2.5	2.5	2.5	4
Maximum Building Height - Feet	35	35	35	50

NOTES:

- (a) Except that for Apartments, the minimum width shall be 100 ft. and for town houses, it shall be 15 ft.
- (b) On corner lots, the minimum side yard shall not be less than the required minimum front yard.
- (c) Except as otherwise provided for accessory uses, large scale developments, special exceptions and conditional uses.
- (d) See Table No. 3 for the RC zone.
- (e) Minimum setbacks for apartments shall be in accordance with Section 5.412b.(2) hereof.

TABLE NO. 3

DEVELOPMENT STANDARDS FOR RC RESIDENTIAL ZONES

STANDARDS	USES				
	SINGLE FAMILY BASIC	SINGLE FAMILY CLUSTER	COMPACT CLUSTER (1)		
			1F	2F	TH (3)
Maximum Density (units per acre)	1.0	1.0	1.2	2.4	3.0
Maximum Tract Density (minimum developable acreage per unit) (2)	1.0	0.5	0.333	0.125	0.067
Minimum Tract Area (acres)	1.0	5.0	5.0	5.0	5.0
Minimum Permanent Open Space (% of tract)	N.A.	50	60	70	80
Maximum Impervious Coverage (% of tract)	10	10	10	10	7
Minimum Lot Width at Building Setback Line (ft.)	100	80	80	80	15
Minimum Building Setback from Right-of-way Line (ft.)	40	30	25	25	25
Minimum Principal Building Setback from Rear Property Line (ft.)	100	50	35	35	35
Minimum Accessory Building Setback from Rear Property Line (ft.)	50	30	30	30	30
Minimum Principal Building Setback from Permanent Open Space Boundary Line (ft.)	N.A.	50	35	35	35
Minimum Accessory Building Setback from Permanent Open Space boundary Line (ft.)	N.A.	50	35	35	35
Maximum Principal Building Height (ft.)	35	35	35	35	35
Maximum Accessory Building Height (ft.)	17	17	17	17	17
Maximum Principal Building Height (Stories)	2.5	2.5	2.5	2.5	2.5
Maximum Accessory Building Height (Stories)	1.5	1.5	1.5	1.5	1.5

- (1) Compact Cluster standards for single-family, two-family and town house residential dwellings.
- (2) In the calculation of density, lands which are unsuitable for development, such as flood plain areas, wetlands and areas where 50% or more of the site exceeds a grade of 15% shall not be included in the ratio of land to dwelling units.
- (3) TH = Town Houses

DENSITY ILLUSTRATION

Single Family Basic - On a tract of 30 acres, there may be up to 30 1-family dwelling units and there is no open space requirement; or on a tract of 20 acres there may be up to 20 such units.

Single Family Cluster - On a tract of 30 acres, there may be up to 30 1-family dwelling units and there is an open space requirement of 15 acres; or on a tract of 20 acres there may be up to 20 1-family dwelling units and there is an open space requirement of 10 acres.

Compact 1 Family Cluster - On a tract of 30 acres, there may be up to 36 1-family dwelling units and there is an open space requirement of 18 acres.

COMPARATIVE ILLUSTRATION

(1F Dwelling Units)

	1-FAMILY BASIC	1-FAMILY CLUSTER	COMPACT CLUSTER
Units Per Acre	1/1.0 ac	1/1.0 ac	1.2/1.0 ac.
30 Acre Illustration			
-Total No. of 1-Family Units	30	30	36
-Open Space Required	N.A.	50%=15 ac	60%=18 ac
-Typical Lot Size (ac)	1.0	0.5	0.33
Typical Dimensions	100x400	100x200	100x145

TABLE NO. 4

**BASIC REGULATIONS GOVERNING THE SIZE OF
LOTS, YARDS AND BUILDINGS (a)
FOR NONRESIDENTIAL ZONES**

DEVELOPMENT FEATURES	I-1	C-1	C-2	C-3	C-4	M-1
Minimum Lot Area (000 Sq.Ft.)	40	20	N.A.	40	40	40
Minimum Lot Width (Ft.)	100	50	N.A.	100	100	100
Minimum Lot Depth (Ft.)	200	100	N.A.	200	200	200
Minimum Front Yard (Ft.)	40	10	N.A.	20	20	20
Minimum Rear Yard (Ft.)	50	25	N.A. (b)	50	50	50
Minimum Side Yard - Each (Ft.)	20	10	N.A. (c)	20	20	20
Minimum Side Yards - Both (Ft.)	40	20	N.A. (d)	40	40	40
Maximum Building Height - Feet	65	35	35	20	50	50
Maximum Building Height - Stories	6	2	2	2	4	2
Maximum Impervious Coverage (%)	30	70	80	80	80	80

- (a) Refer to Section 4.600 or supplementary provisions and for additional regulations governing accessory structures.
- (b) Except when abutting an R-District, then not less than 25 ft.
- (c) Except when abutting an R-District, then not less than 10 ft.
- (d) Except when abutting an R-District, then not less than 20 ft.

ARTICLE 4

SUPPLEMENTARY LOT, HEIGHT AND YARD REGULATIONS

4.100 ZONE LOT REGULATIONS

4.110 Existing Zone Lots of Record

In any District a structure may be erected on a nonconforming zone lot of official record at the effective date of this Ordinance irrespective of its area or width, the owner of which does not own any adjoining property which would create a conforming lot if all or part of said property were combined with subject zone lot. No lot or lots in single ownership shall hereafter be reduced so as to create one (1) or more nonconforming lots.

4.111 Nonconforming Residential Zone Lots of Record

In an R-District, only a single-family detached dwelling may be erected on a nonconforming lot.

A single family detached dwelling or an appurtenant use accessory to an adjacent principal permitted use may be constructed on any vacant nonconforming lot in any R-District regardless of its area or width if it complies with the following:

- (a) Said lot is in existence as an entity at the time of passage of this Ordinance.
- (b) The owner of the lot does not own an adjoining lot.
- (c) The front yard conforms with the requirements of 4.320.
- (d) the rear yard of any such lot shall in no case be less than twenty (20) feet.
- (e) No building shall be erected closer to an adjacent principal building than ten (10) feet, nor shall any side yard be less than seven (7) feet.

4.112 Nonconforming Nonresidential Zone Lots of Record

In Commercial Zones, principal permitted commercial uses may be developed on nonconforming zone lots of record; provided, however, that all required off-street parking and off-street loading shall be provided; and, provided further, that side and rear yards may be reduced as follows:

Reduced Setback Requirements *

<u>Zone</u>	<u>For N-C Zone Lots of Record</u>		
	<u>Rear</u>	<u>Side (one)</u>	<u>Side (both)</u>
C-1	20	6	12
C-2	(Same as conforming lots)		
C-3	40	10	20
C-4	40	10	20

* Where a buffer is required pursuant to Section 4.350 hereof, these reduced setbacks shall not be applicable.

4.120 Required Area or Space Cannot be Reduced

The area or dimension of any zone 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 area or dimension may be continued and shall not be further reduced

4.130 Lot Frontage

The minimum lot frontage of any lot shall be measured along the minimum building setback line as required for the district where located. The width of any lot in any district, except "C" and "M" Districts, shall not be less than thirty (30) percent of the depth of said lot at the front lot line, provided however, that no lot need exceed a width of three hundred (300) feet unless otherwise required in the District where located, nor shall any such lot having a depth of 300 feet or more, be less than one-hundred (100) feet along the front line.

4.140 Corner Lots

At all intersecting public right-of-way lines, no obstructions to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the intersecting public right-of-way and a line drawn between points along such street lot lines 30 feet distant from their points of intersection.

4.150 Through Lots

Where a single lot under individual ownership extends from a street to an alley, the widest street shall be deemed the street upon which the property fronts and no principal structures and no dwelling shall be erected which shall face on the rear of such a lot.

4.160 Orientation of Buildings on Public Rights-of-Way

4.161 Individual Buildings on Public Rights-of-Way. The front facade of a building shall face the road/right of way or parking lot which it abuts; provided, however, that if it is located on a corner parcel and it will face a road, it shall face the widest road; provided, however, that if both roads are of equal or near equal width, it may face on either road, unless the existing pattern of development has predetermined the road that shall be faced. Nothing herein shall preclude compliance with Section 4.722a.2) hereof.

4.162 Nonresidential Developments and Dwelling Groups with Interior Circulation. When a development is designed to be served by an interior pedestrian or vehicular circulation system, buildings may face the interior roadways or parking lots; provided, however, where such an orientation results in the rear or the side(s) of such buildings being within 100 feet of a public right-of-way, then such rear and/or side walls shall be screened from the public right-of-way in accordance with Section 4.723.

4.170 Lots Not Serviced With Public Water or Sewer

Plans for lots not served by a public water or sanitary sewer system must be submitted to, and approved by, the local authority having proper jurisdiction over such matters as well as by the Pennsylvania Department of Health.

4.200 HEIGHT REGULATIONS

4.210 General Application

No building or structure shall have a greater number of stories than are permitted in Article 3 hereof, provided further that the aggregate height of such buildings or structures shall not exceed the number of feet permitted in Article 3, except as otherwise provided herein in Section 4.220.

4.220 Permitted Exceptions

Height limitations stipulated elsewhere in this Ordinance shall not apply to open amusement areas, barns, silos, schools, church spires, belfries, cupolas and domes, monuments, water towers, utility poles, chimneys, smokestacks, flagpoles, residential telecommunications facilities; or to parapet walls extending not more than four (4) feet above the limiting height of the building.

4.230 Protection of Solar Energy Sources

In the event that a system designed for the purpose of providing solar energy for any permitted use has been previously established, no structure, sign, fence or other impediment shall be permitted on adjoining or nearby uses which will materially affect the efficiency of such solar energy system.

4.300 YARD REGULATIONS

4.310 Side Yards

4.311 Side Yard Width May Be Varied. When the side wall of a building is not parallel with the side lot line or if the side lot line is broken or irregular, the side yard may be varied. In such cases the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at any point than one-half (½) the otherwise required minimum width; and, provided further that no building wall shall be nearer to any point on a side property line than five (5) feet.

4.312 Side Yard of Corner Lot. Any corner lot delineated by subdivision after the adoption of this Ordinance shall provide a side street setback line which shall not be less than the minimum front yard required on any adjoining lot fronting on a side street.

4.320 Front Yard Exception

When an unimproved lot is situated between two (2) improved lots, each having a principal building within twenty-five (25) feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two (2) adjoining improved lots, but shall be not less than fifteen (15) feet.

Where any unimproved lot shall front on a right-of-way which is proposed, on the Municipality's Official Map, to be widened, the front yard of such lot shall be as required by Article 3 hereof, and shall be measured from such proposed future right-of-way.

4.330 Front Yard of Corner Lot

The front yard of any corner lot shall be established on the wider of the two (2) streets abutting said lot, except where the widths of the two (2) abutting streets are equal, then the front yard may be established on either street.

4.340 Projections into Required Yards

Certain architectural features may project into required yards as follows:

- a. Cornices, canopies, eaves, and other similar architectural features may project into a side yard a distance of two (2) feet; provided, however, that where a side yard exceeds a width of twelve (12) feet, such extension may be increased by 2 inches for each 1-foot by which the yard exceeds a width of 12 feet.
- b. Fire Escapes may project into side and rear yards a distance not exceeding four (4) feet, six (6) inches.

- c. Bay windows, balconies, fireplaces, uncovered stairways and necessary landings, and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.
- d. Open patios and decks may be located in side yards and rear yards provided that they are not closer than three (3) feet to any adjacent property line. If located closer than eight (8) feet, they shall be screened in accordance with the provisions of Section 4.723 hereof. In case of a corner lot, no enclosed patios shall extend into the side yard adjoining such side street.

4.350 Additional Yards Required Where New Nonresidential Uses Abut R-Uses and/or R-Zone Districts

4.351 C-1 and C-2 Uses. All newly developed/constructed nonresidential uses first permitted in C-1 and C-2 districts, which abut, at the lot line or on the same street, an "R" District, shall provide yards, where they abut, of not less than fifty (50) feet in depth. Such yards shall be maintained as landscaped open spaces and shall not be occupied by parking, loading or outdoor storage uses.

4.352 C-3, C-4 and M-1 Uses. Whenever a use first permitted in a C-3, C-4 or M-1 zone district shall be developed, such uses shall provide buffers, where they abut a residential use or undeveloped land in a residential zone district. Such buffer shall consist of a yard not less than 50 feet in depth. Such buffer shall be maintained as landscaped open spaces and shall not be occupied by parking, loading or outdoor storage uses; and, such yards shall be developed as a buffer screen in accordance with the provisions of Section 4.723c. hereof.

4.400 MAXIMUM COVERAGE

4.410 Impervious Coverage. Land coverage by principal and accessory buildings or structures and other impervious surfaces on each zone lot shall not be greater than is permitted in Article 3 or other pertinent sections of this Ordinance.

4.500 NUMBER OF BUILDINGS RESTRICTED

4.510 There shall be not more than one (1) principal dwelling structure nor more than two (2) accessory structures on each residential zone lot except as otherwise provided herein for dwelling groups and large scale developments; and, provided further that a swimming pool and appurtenant structures shall not be considered to be accessory structures.

4.511 Where two (2) or more principal residential buildings may be located on a parcel in single ownership, such buildings shall conform with the dimensional requirements of this ordinance which would normally apply to each building if each were on a separate zone lot; provided, however, that the provisions of this section shall not apply to minimum lot width requirements.

4.600 ACCESSORY STRUCTURES

4.610 Maximum Permitted Height

One and one-half (1.5) stories or seventeen (17) feet.

4.620 Minimum Yard Regulations

4.621 Unattached Accessory Structures in R-Districts. Accessory structures, which are not attached to a principal structure, may be erected within one (1) of the side yards or within the rear yard, but not in the front yard, in accordance with the following requirements.

- a. Side Yard (interior lot) - 5 feet
- b. Side Yard (corner lot) - same as for principal structure
- c. Rear Yard - 3 feet; if adjacent to an alley - 10 feet
- d. Not closer than 10 feet to a principal structure on an adjacent lot

4.622 Attached Accessory Structures in R-Districts

When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

4.623 Non-Dwelling Accessory Structures in Other Districts. Non-dwelling accessory structures shall comply with front and side yard requirements for the principal structure to which they are accessory and shall be not closer to any rear property line than ten (10) feet.

4.700 LANDSCAPING REGULATIONS

4.710 AREAS REQUIRED TO BE LANDSCAPED

Areas that are required to be landscaped in accordance with the standards set forth herein shall be:

4.711 Permanent Open Space Areas

4.712 Off-street Parking and Loading Areas

4.713 Areas where buffers and/or screening is required to assure privacy and/or to block the view of unattractive development or other features

4.720 LANDSCAPING, SCREENING AND BUFFER STANDARDS

4.721 Permanent Open Space

Permanent Open Space shall be landscaped and maintained in accordance with Section 4.723 and 4.900 hereof.

4.722 Off-street Parking and Loading Areas

a. Location of Off-street Parking and Loading Areas

- 1) No parking space shall be nearer to any property line or right-of-way line than the minimum setback required for a principal building on the subject lot, but in no case less than 10 feet.
- 2) Parking lots shall be provided at the side or to the rear of nonresidential buildings that are visible from public roads; provided, however, that when such placement is not desirable or practicable (in terms of such factors as topography, visibility, aesthetics, shape of parcel, etc.) the off-street parking may be provided between the front of the building and the right-of-way; in such cases, the parking area shall be setback not less than the minimum setback required for the front yard of the principal building, but, not less than 25 feet; and the front yard area shall be developed to form a buffer, as follows: a thickly vegetated buffer shall be provided; and, the width, length and planting materials shall be sufficient to visually screen the view of parked vehicles from the public right-of-way. The buffer area shall not consist of or contain any paved areas, except for pedestrian walkways.

b. Landscaping Off-street Parking Lots

- 1) Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights; to delineate driving lanes; and define rows of parking. Furthermore, parking lots should be adequately landscaped to provide shade in order to reduce the amount of reflected heat and to improve the aesthetics of parking lots. At least one (1) shade tree shall be provided for each 300 square feet (or fraction thereof) of interior landscaping
- 2) The use of small, ornamental trees in parking lots should be avoided, since these trees will never grow tall enough to provide shade and will block store signs and clear sight triangles. Canopy trees will grow tall enough so that signs can be seen under their branches.
- 3) All parking lots with ten (10) or more stalls shall be landscaped according to the following regulations:
 - a) One planting island shall be provided for every ten parking stalls. There shall be no more than ten contiguous parking stalls in a row without a planting island.
 - b) The ends of all parking rows shall be divided from drives by planting islands.

- c) In residential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 40 stalls.
 - d) In nonresidential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 100 stalls.
 - e) Planting islands shall be a minimum of nine feet by eighteen feet (9' x 18') in area, underlain by soil (not base course material); mounded at no more than a 4:1 slope, nor less than a 12:1 slope; and shall be protected by curbing or bollards. Each planting island shall contain one shade tree plus shrubs and/or ground cover to cover the entire area.
 - f) All planting strips shall be a minimum of nine (9) feet wide. Strips shall run the length of the parking row, underlain by soil, and shall be mounded at no more than a 4:1 slope, nor less than a 12:1 slope, and shall be protected by curbs, wheel stops, or bollards. Planting strips shall contain plantings of street-type shade trees at intervals of 30 to 40 feet, plus shrubs and/or ground cover to cover the entire area at maturity. Where planting strips shall exceed a width of twelve (12) feet, the herein-described shrubbery and ground cover requirements may be reduced to lawn grass ground cover.
 - g) Plant materials shall be in accordance with the provisions of Section 4.723d. hereof.
- 4) All parking lots shall be screened from public roads and from adjacent properties as required in Section 4.723b. and 4.723c. hereof.

c. Lighting Off-street Parking Lots

- 1) For all parking areas, driveways and walkways, all pole mounted luminaries shall be low maintenance poles and fixtures; and, all branch circuiting for lighting shall be installed below grade.
- 2) The placement of light standards shall be coordinated with the landscape plan to avoid a conflict with the effectiveness of light fixtures.
- 3) Lighting shall be directed away from adjacent residential uses and residential zones, and shall be shielded from fugitive skyward emissions.

4.723 **Buffer and Screening Requirements**

- a. All subdivisions and land developments shall provide the following types of buffer/screening treatment that is applicable to the use and the environment of the subject development, as follows:
 - 1) Property line buffers that act to integrate new development with its surroundings and to separate incompatible land uses.
 - 2) Site element screens that act to minimize or eliminate views to certain site elements located within 100 feet of property lines or road right-of-ways (either public or private).
- b. **Property Line and Right-of-way Line Buffer Requirements**
 - 1) Property line and right-of-way line buffers shall be required for the following types of development and as otherwise specified herein.
 - a) All nonresidential development adjoining a Residential District
 - b) All multi-family residential structures with a height of 4 stories or more
 - c) All mobile home parks.
 - 2) An on-site investigation by the applicant shall determine the adjacent land uses along each property boundary. In the case of vacant land, the existing zoned uses shall be used. The existing or zoned uses shall be noted on the plan. In the case of several permitted uses on a site, the most restrictive requirements shall apply. The municipality shall have final approval of interpretation of land uses or zoning map.
 - 3) **Buffer Area Location and Dimensions**
 - a) A buffer area of not less than 25 feet in width shall be established along all property lines, and right-of-way lines unless otherwise specified herein.
 - b) The buffer area may be included within the front, side, or rear yard setback.
 - c) The buffer area shall be a continuous pervious planting bed consisting of trees and shrubs, grass or groundcover.
 - d) Parking is not permitted in the buffer area.
 - e) Site element screens are permitted in the buffer area.

- f) Storm water basins are permitted in the buffer area.
- c. Site Element Screens
- 1) Site element screens shall be required in all proposed land developments around the following site elements:
 - a) Parking lots.
 - b) Dumpsters, trash disposal, or recycling areas.
 - c) Service or loading docks.
 - d) Outdoor storage.
 - e) Vehicle storage.
 - f) Sewage treatment plants and pump stations.
 - g) Uses specified in Section 4.352 hereof.
 - h) Other unenclosed uses of a similar nature, and enclosed uses such as rear facades facing public right-of-way.
 - 2) **Screen Location.** The site element screen shall be placed between the site element and the property line or right-of-way, and shall be designed to block views to the maximum extent possible. The screen shall be located as close as possible to the site element and shall surround the element without impeding function or encroaching on clear sight triangles.
 - 3) **Screen Types.** Any of the following types of screens may be utilized in those cases where they will achieve the objective of blocking certain uses from public view.
 - a) *Evergreen or Deciduous Shrubs*
 - b) *Double Row of Evergreen Trees*
 - c) *Opaque Fence* - A six-foot opaque fence surrounding the site element on at least 3 sides
 - d) *Architectural Extension of the Building* - An eight-foot minimum height architectural extension of the building (such as a wing wall) shall enclose service or loading docks. The building materials and style of the extension shall be consistent with the main building.
 - e) *Berm with Ornamental Trees or grass* - A two- to three-foot-high continuous curvilinear berm with ornamental trees. The maximum slope of the berm shall be 3:1.
 - f) *Evergreen Hedge*

- g) *Low Wall* - A wall of brick or stone (not concrete block), at least 50 percent opaque, not less than three nor more than four feet in height.
- 4) Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material at the discretion of the governing body. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.
- 5) Existing topographic conditions, such as embankments or berms, may be substituted for part or all of the required property line buffers at the discretion of the governing body. The minimum visual effect shall be equal to or exceed that of the required screen.
- 6) The applicant may propose the use of alternative screen types or changes in plant materials or designs which fulfill the intent of this Ordinance, with the approval of the governing body.
- 7) Plant materials shall meet the specifications of Section 4.723d. hereof.

d. **Plant Materials**

1) **General Location Requirements**

- a) The location, dimensions, and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as wind, soil, moisture, and sunlight.
- b) Plantings should be selected and located where they will not contribute to conditions hazardous to public safety. Such locations include, but are not limited to, public street rights-of-way, underground and aboveground utilities, and sight triangle areas required for unobstructed views at street intersections.

2) **Design Criteria**

- a) The required plant material shall be distributed over the entire length and width of the buffer area.
- b) Buffer plant material may be arranged symmetrically (formal) or asymmetrically (informal) and may be grouped to form plant clusters. However, informal groupings that reflect the natural character of the region are encouraged.

- c) Plants shall be spaced to provide optimum growing conditions.
 - d) A variety of tree species is required.
- 3) **Substitutions** In accordance with the following guidelines, wherever possible, existing vegetation shall be retained and utilized as a buffer or a screen in accordance with the following guidelines:
- a) Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material at the discretion of the governing body. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.
 - b) Existing topographic conditions, such as embankments or berms, in conjunction with existing vegetation, may be substituted for part or all of the required property line buffers at the discretion of the governing body. The minimum visual effect shall be equal to or exceed that of the required buffer or screen.
- 4) **Plant Material Specifications.** The following requirements are minimum standards which shall apply to all plant materials or transplanted trees as required under this Ordinance; additional plant materials, berms, or architectural elements may be included in the plan at the applicant's discretion.
- a) All plants shall meet the minimum standards for health, form, and root condition as outlined in the American Association of Nurserymen (AAN) Standards.
 - b) All plant material shall be hardy and within the USDA Hardiness Zone applicable to Lackawanna County, Pennsylvania.
 - c) Canopy trees, sometimes called shade trees, shall reach a minimum height and spread of 30 feet at maturity as determined by the AAN Standards and shall be deciduous. New trees shall have a minimum caliper of two and a half inches at planting.
 - d) Ornamental trees or large shrubs shall reach a typical minimum height of 15 feet at maturity, based on AAN Standards. Trees and shrubs may be deciduous or evergreen and shall have a distinctive ornamental character such as showy flowers, fruit, habit, foliage, or bark. New ornamental trees shall have a minimum height of 6 feet or one and a half inch caliper. New large shrubs shall have a minimum height of two and a half to three feet at time of planting.

- e) Small shrubs may be evergreen or deciduous and shall have a minimum height at maturity of 4 feet based on AAN Standards. New shrubs shall have a minimum height of 18 inches at time of planting.
 - f) Evergreen trees shall reach a typical minimum height of 20 feet at maturity based on AAN Standards for that species and shall remain evergreen throughout the year. New evergreens shall have a minimum height at planting of six feet.
- 5) Additional Plant Material Guidelines. Plant material features should be:
- a) Able to thrive in the existing soil or soil that can be amended to reasonable specifications.
 - b) Strong wood, not prone to breakage in wind or ice storms.
 - c) Fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.
 - d) Tolerant to excessive heat, de-icing salt and air pollution.
 - e) Free of unacceptable levels of disease or insect pests, including aphids that coat objects below with sticky "honeydew."
 - f) Fits the site aesthetically and serves an intended function (shade, screen, focal point, etc.)

4.800 MISCELLANEOUS BUILDING REGULATIONS

4.810 Uses to be Enclosed

All nonresidential uses, except for off-street parking and loading facilities, automobile service stations, transportation terminals, storage yards, junk yards, vehicle sales lots, and certain temporary uses, and similar uses shall be conducted wholly within a completely enclosed building.

4.820 Unenclosed Nonresidential Uses

Unenclosed nonresidential uses identified in Section 4.810 hereof, except off-street parking and loading, shall not be located less than 100 feet distant from any Residential District.

4.830 Special Regulations for Housing for the Elderly

4.831 Maximum Density. In any R-District where housing shall be designed exclusively for occupancy by elderly persons, and for other one-room type efficiency units, the minimum lot area required per dwelling unit shall be 2000 square feet of net land area per dwelling unit.

4.832 Off-Street Parking. Accessory off-street parking required to serve housing for the elderly shall be provided in an amount of not less than one (1) space per 3 "elderly" dwelling units.

4.840 Fences

4.841 Privacy Fences. No solid fence exceeding six (6) feet in height, measured along the ground level along the full length of the fence, shall be permitted in any residential district nor between buildings or lots used for dwelling purposes in any district except as otherwise required herein. Open or ornamental fences may be erected to a height not exceeding eight (8) feet, provided the ratio of the solid portion to the open portion shall not exceed one (1) to four (4); and, provided further that no such ratio shall be applied to any screening provided by natural vegetation. No fence or other structure or appurtenance, more than three (3) feet in height, however, may be erected within the clear-sight triangle on all corner lots for a distance of thirty (30) feet measured along street right-of-way lot lines from their point of junction.

4.842 Screening Fences. Unenclosed nonresidential uses except off-street parking areas, commercial recreation areas, automobile sales areas and other similar uses shall be screened from public view and from adjacent properties in accordance with the provisions of Section 4.723c. hereof.

4.843 Condition of Fences. All fences, hedges, walls and shrubs shall be maintained in good condition. When adjoining an R-District no advertising shall be permitted on fences.

4.844 Installation of Fences. When any fence is installed, the supporting posts shall be located on the inside of the fence, facing the property to be fenced; and, the finished side of the fence shall face the adjoining property and/or right-of-way.

4.845 Condition of Fences. All fences, hedges, walls, and shrubs must be maintained in good condition. When adjoining an R-District, no commercial advertising shall be permitted on property line fences. When located in an R-District, no advertising shall be permitted on any fence. Fences owned and maintained by non-profit organizations, however, shall be exempt from this prohibition against advertising.

4.846 Fences and Walls Located in Yards. Fences, walls and hedges not exceeding six (6) feet in height may be located in any yard or court. It is the sense of this section that the total height of walls plus fences etc., shall not extend to a vertical height exceeding six (6) feet from natural ground level.

4.850 Enclosure of Porches

In any new construction, no porch shall extend into any required yard except open patios and decks as provided under Section 4.340 d.

Any open patio, deck, or porch which has been constructed within any required yard prior to the date of this Ordinance shall not be enclosed, except as follows:

- a. On an interior lot where such porch shall be located in a front yard and the enclosure of such porch would be on a property where such enclosure would not extend beyond the front wall of the building or porch of any adjoining property.
- b. On a corner lot, the same provisions described in Section 4.850a. shall apply. In addition, the enclosure of a front porch must also be in accordance with Section 4.140, concerning the clear sight triangle.
- c. The enclosure of a front porch in a required front yard of either a corner lot or an interior lot shall not be allowed if such property adjoins an undeveloped zone lot in separate ownership.
- d. The enclosure is in the rear yard.

4.860 AESTHETIC DESIGN STANDARDS FOR COMMERCIAL AND MANUFACTURING USES

4.861 Aesthetic Goals. All development and construction, in the form of buildings, structures or additions and exterior alterations thereto, and other site improvements and alterations, including paving, lighting and landscaping, at or for each site shall be designed and constructed to achieve the following goals:

- a. To prevent the erection of poorly designed, constructed or proportioned structures, and structures built of improper or unsuitable materials.
- b. To increase and secure the spectrum of attractive business establishments, improvements and facilities on appropriate locations within building sites.
- c. To foster a high quality of development to enhance the value of existing development as well as to enhance the attractiveness of vacant land for future development.

4.862 Aesthetic Design Standards

- a. Construction Materials. All construction in the form of new buildings or additions and exterior alterations shall be consistent with original construction or of comparable materials to harmonize with the external design, both as to quality of workmanship and materials of existing structures. No structure shall contain less than 50% external masonry, glass, dryvit or similar type of construction materials, except that the facades of manufacturing and warehousing buildings may consist of metal materials. The buildings and structures shall not be of woodface composition. The fronts of all buildings and structures shall not expose concrete block composition, other than decorative concrete block.
- b. Waste Disposal
 - 1) No Lot shall be used as a dumping ground for trash.
 - 2) All trash of any nature, shall be securely stored in covered sanitary containers. All containers and other equipment, and the areas and enclosures, for the storage and disposal of trash, shall be kept in a clean and sanitary condition.
 - 3) All trash shall be properly and securely contained within each site and properly and regularly removed therefrom, and disposed as may be required by state and federal law, regulation and other requirements and standards governing same.
 - 4) "Trash" shall mean to include all papers, discards, waste, rubbish, refuse and garbage, of any kind or nature whatsoever, and any malodorous and objectionable materials lying around or stored at each site but not customarily used in its then present condition in the business or activities of the site occupants.
- c. Mechanical/Electrical Equipment. All mechanical/electrical equipment not enclosed in a structure or building (e.g. on-grade, roof-top, etc.) shall complement, enhance and be compatible with the design and construction of the buildings and structures on each site. The color scheme of such equipment shall complement and be compatible with the color scheme of the building's exterior.
- d. Landscaping
 - 1) All terrain, grounds, area left in natural state, or areas not covered by building or paving, shall be landscaped, seeded, and otherwise maintained in a good, clean condition having aesthetic appeal.

- 2) Each site and the landscaped areas shall be kept clean and free of any and all litter, refuse, and papers of any type. No litter, refuse or paper accumulations whatsoever shall occur, be placed on or remain at each Site.
 - 3) Each site shall be developed, improved, used and maintained to preserve and foster as much of the existing mature natural growth as is practically possible.
- e. Utilities. All electric, telephone, and cable television lines shall be underground.

4.900 STANDARDS FOR OPEN SPACE DESIGN AND MAINTENANCE

4.910 USE AND DESIGN OF PERMANENT OPEN SPACE

Permanent Open Space to be provided in accordance with certain Sections of this Ordinance shall be designed in accordance with the following standards:

- a) Permanent Open Space shall be so designated on the submitted plans, and the plans shall contain a notation stating, "Permanent Open Space shall not be separately sold and shall not be further developed or subdivided;"
- b) Permanent Open Space shall be contiguous to the development, not separated by existing streets, and shall not be a part of any lot within the development;
- c) Each area of Permanent Open Space shall contain not less than ten thousand (10,000) square feet;
- d) Permanent Open Space areas shall be designed as a continuous system of open space and shall be interconnected with open space areas on abutting parcels whenever possible;
- e) Permanent Open Space shall be provided with safe and convenient access to the residentially-developed area of the tract by adjoining frontage on streets or easements capable of accommodating pedestrian, bicycle, and maintenance vehicle traffic. The Permanent Open Space shall contain appropriate access improvements and shall be provided with perimeter parking areas where appropriate;
- f) All portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation. Permanent Open Space shall predominantly consist of natural environmental features or planted and maintained vegetation that may contain walking, biking, or equestrian trails. Permanent Open Space may also contain impervious surface areas such as tennis courts, clubhouses, or other active recreation facilities, but such active recreation facilities shall consist of less than twenty-five percent (25%) of the Permanent Open Space;

- g) Permanent Open Space shall be configured so as to create areas of adequate size and shape to permit a variety of uses, active or passive, throughout the system.

4.920 **OWNERSHIP AND MAINTENANCE OF PERMANENT OPEN SPACE**

Permanent open space to be provided in accordance with certain Sections of this Article may be offered for dedication to the Borough, although the Borough need not accept any such offers. Provision for ownership and maintenance of the Permanent Open Space shall be made in a manner so as to ensure its preservation. This shall be accomplished in one of the following manners:

- 4.921 The Borough may accept dedication of the Permanent Open Space or any interest therein for public use and maintenance, but the Borough need not accept a dedication of the Permanent Open Space if offered;
- 4.922 With permission of the Borough, and with appropriate deed restrictions in favor of the Borough and in language acceptable to the Borough Solicitor, the developer may transfer the fee simple title in the Permanent Open Space or a portion thereof to a private, not-for-profit organization among whose purposes is the conservation of open space land and/or natural resources, provided that:
- a) The organization is acceptable to the Borough and is a bona fide conservation organization with a perpetual existence;
 - b) The conveyance contains appropriate provision for proper retransfer or reverter in the event that the organization becomes unable or unwilling to continue to carry out its functions, and;
 - c) A maintenance agreement acceptable to the Borough is entered into by the developer, the organization and the Borough.
- 4.923 The developer shall provide for and establish an organization for the ownership and maintenance of the Permanent Open Space consistent with the requirements for unit owners' associations found in the Pennsylvania Uniform Condominium Act, 68 Pa. C.S.S. 33101 et seq. If such an organization is created, the deeds for the Permanent Open Space and for all individual lots within the development shall contain the following requirements in language acceptable to the Borough Solicitor.
- a) Such organization shall not dispose of the Permanent Open Space by sale or otherwise except to the Borough or other government body unless the Borough has given prior approval. Such transfer shall be made only to another organization that shall maintain the Permanent Open Space in accordance with the provisions of this Ordinance;

- b) **The organization and all lot owners within the development shall agree to maintain the Permanent Open Space. If private ownership fails to do so, the Borough may proceed to maintain deteriorating open space and may assess and lien the properties within the development accordingly;**

- c) **All lot owners shall be required to become members of the organization and pay assessments for the maintenance of the Permanent Open Space, which may be increased for inflation and which may provide for professional management.**

ARTICLE 5

SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL EXCEPTIONS AND CERTAIN OTHER USES

5.100 AMUSEMENT USES

5.110 Indoor Recreational Facilities

- a. Such uses shall be conducted entirely within an enclosed structure.
- b. The lot size shall be not less than two (2) acres.
- c. Applications for indoor theaters, bowling alleys, indoor ice and roller skating rinks, gymnasiums, and indoor handball and tennis courts, shall be accompanied by a site development plan.
- d. The site development plan shall show building placement and dimensions, parking, landscaping, internal circulation, and the size and location of signage.
- e. Parking areas shall be screened from adjoining residential properties in accordance with Subsection 4.723c.
- f. A principal structure shall be not less than twenty (20) feet from any property line, or such greater distance as may be otherwise required in the district where located or as set forth in Section 4.350.
- g. There shall be no offensive noise or vibration; such elements may be emitted only in accordance with the performance standards set forth in Article 6.

5.120 Outdoor Recreation Facilities

- a. Such uses shall include golf courses, swimming pools, tennis courts and other similar uses.
- b. Unenclosed recreational facilities shall be located not less than twenty-five (25) feet from any property line except where greater distances are otherwise required herein and shall be effectively screened from adjoining dwelling uses in accordance with the provisions of Section 4.723c.
- c. Illuminated signs and other lights shall be directed away, or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.

- d. No public address system is permitted except where such system will not be audible at any residential property line.
- e. Private swimming pools, permanent and portable, which shall be accessory to a principal non-commercial dwelling use shall be regulated as follows; except that these regulations shall not apply to portable swimming pools which shall be not more than 3 feet in height nor more than 15 feet in length.
 - 1) May be erected only on the same zone lot as the principal structure.
 - 2) May be erected only in the rear yard of such structure and shall be distant not less than ten (10) feet from any property line, principal structure or accessory structure attached thereto. The side yard setbacks, however, may be reduced to five (5) feet on nonconforming lots of insufficient width.
 - 3) The pool is intended and is 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.
 - 4) Fencing for in-ground swimming pools shall consist of fencing of the swimming pool or the property on which the pool is situated. Said fence shall be not less than four (4) feet in height and shall be designed and constructed to prevent uncontrolled access by children from the street or from adjacent properties; and, said wall or fence shall be maintained in good condition at all times.
 - 5) Above-ground pools shall be exempt from the fencing requirements of the preceding Section 5.120e.4) if it includes an attached fence or fence/deck combination, and if;
 - a) The fence is equipped with a gate that can be closed when the pool is not in use; and
 - b) The height of the fence above the entrance level of the pool is not less than thirty (30) inches.
 - 6) All swimming pools shall be inspected by the Fire Underwriters for electrical safety precautions:
 - 7) Gas heating units shall be installed only by a licensed plumber, certified to install plastic pipes.
- f. Drive-in Theaters shall be subject to the following regulations and applications shall be accompanied by a site development plan:
 - 1) Situated on a minimum zone lot of ten (10) acres.
 - 2) The screen shall be obscured from public streets.

- 3) Lights shall be reflected away from adjoining property and streets.
- 4) The sounds directly appurtenant to the visual presentations at such theaters shall not be audible at the boundary line of any R-District.
- 5) Only one-way interior vehicular circulation.
- 6) Surface drainage shall be such that will not subject adjoining properties or streets to damage. A stormwater management plan and a soil erosion and sedimentation control plan shall be designed to control runoff for a ten (10) year storm, and shall be in accordance with act 167 of 1978. Such plans shall be accompanied by evidence of approval by appropriate agencies and authorities.
- 7) Any activity that is conducted at such theater shall not be closer to any R-District than 500 feet, except where topographic considerations make such requirements excessive or unnecessary.
- 8) Areas of access and egress shall be not less than 24 feet in width, and shall be designed in such a manner so as to preclude the potential traffic hazards on adjacent rights-of-way caused by vehicles entering and leaving the establishment.

5.200 COMMUNITY FACILITIES AND SERVICES

5.210 Essential Services, Enclosed or Permanent Structures

Such uses are intended to include facilities for sewage treatment, electric substations, transformers, switches, and auxiliary apparatus, as well as local governmental services such as police stations, fire houses and similar uses. Where such uses are proposed to be located in a Residential District, they shall be subject to the following regulations:

- 5.211 Such facility shall not be located on a residential street (unless no other site is available), and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
- 5.212 The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
- 5.213 Adequate fences, barriers and other safety devices shall be provided, and shall be landscaped in accordance with the provisions of Section 4.723c.
- 5.214 Noise emitted from electric substations shall not be greater than permitted in accordance with the performance standards set forth herein.

5.220 Essential Services, Open

Such uses shall be limited to the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Such uses shall not include sanitary landfills and related uses such as staging areas or other means of solid waste disposal. Where applicable, the landscaping regulations of Section 4.723c. shall apply.

5.230 Hospitals, Churches, or other Religious or Philanthropic Institutions

All such uses shall be located on a public street which shall have a pavement width of not less than 38 feet, and they shall maintain a landscaped buffered area in accordance with the provisions of Section 4.723b. on all property lines abutting R-Districts and all residential streets. Such uses shall not be located or designed in such a manner as would be detrimental to the privacy, convenience and property values of nearby residential development.

5.240 Nursery School, Child Day Care Center and Group Day Care Home

5.241 Such uses shall be situated on a zone lot of not less than one-half (½) acre, except where a greater area is otherwise required herein, and shall be screened in accordance with the provisions of Section 4.723b.. Such uses shall provide evidence of all required State approvals.

5.242 Child Day Care Centers and Group Day Care Homes shall also comply with the following minimum space and site requirements:

- a. Each facility shall have a minimum of 40 square feet (372 square decimeters) of indoor space for each child, measured wall to wall inclusive of space occupied by cupboards, shelves, furniture, and equipment, but exclusive of halls, bathrooms, offices, kitchens, locker rooms, and related areas.
- b. Each facility shall have a minimum of 65 square feet (604 square decimeters) of accessible outdoor play space for each child. Outdoor play space is considered accessible if it is no more than ½ mile (.8 kilometer) from the building. The following exceptions to the space requirements shall be permitted:

- 1) a minimum of 32.5 square feet (302 square decimeters) 50% less space of accessible outdoor play space shall be required for each infant; a minimum of 48.89 square feet (453 square decimeters) 25% less space of accessible outdoor play space shall be required for each child from age 18-24 months;
- 2) less outdoor space if it is offset by a large indoor activity room, as long as the 65 square feet (604 square decimeters) per child requirement is met and the indoor activity room provides for equivalent activity as outdoor play space; and
- 3) less outdoor space if it is scheduled for alternate use, provided that the 65 square feet (604 square decimeters) per child requirements is met for each child based on the number of children using the space at any one time.
- 4) if there are unsafe areas, such as open drainage ditches, wells, holes, or heavy street traffic, in or near the outdoor play space, there shall be fencing or natural barriers to restrict children from these areas.

c. Such uses shall maintain screening on any property line abutting an R-District, and shall require a minimum 10,000 square foot lot.

5.250 Public and Parochial Schools and Colleges and Private Schools and Colleges for Academic Instruction

In any R-district, such uses, including play areas shall be located not less than 100 feet from any lot line, except where greater distances are otherwise required herein. Schools will be located on or within close proximity to roads having a pavement width of not less than 38 feet.

5.260 Community Buildings, Social Halls, Lodges, Fraternal Organizations, Clubs and Similar Uses in R-Districts

- 5.261 All buildings must be a minimum of 20 feet from all lot lines, except where greater distances are otherwise required herein.
- 5.262 There shall be no external evidence of any gainful activity. Access to any space used for gainful activity shall be from within the building. Retail sales shall be limited to members and guests only.
- 5.263 Any such use shall be located on a street having a pavement width of at least 30 feet, or shall be able to provide access without causing heavy traffic on local residential streets.

5.264 Applicants shall prove that such uses proposed to be located in R-Districts will serve primarily the residents of the surrounding neighborhood and that no other satisfactory location exists.

5.270 Drug Rehabilitation Facilities and Drug Treatment Centers

5.271 No methadone treatment facility shall be permitted unless it is licensed by the PA Department of Health.

5.272 No methadone treatment facility shall be permitted if it is determined by the PA Department of Health that such use would be detrimental to the health, welfare, peace and morale of the inhabitants of the neighborhood within a radius of one-half (½) mile of the facility.

5.273 No methadone treatment facility or any other permitted drug rehabilitation facilities and drug treatment centers shall be nearer to any of the following uses than one-half (½) mile. For the purposes of this section, spacing distances shall be measured as follows: (1) from all property lines of the uses regulated in this Section 5.270 hereof; (2) from the outward line or boundary of all residential zoning districts; (3) from all property lines of any of the following uses:

- a. Church, charitable institution, school or public playground.
- b. Child day-care center or family day-care home.
- c. Pennsylvania liquor store established, operated and maintained pursuant to the terms of Article III of the PA Liquor Code.
- d. Hotel, restaurant or club possessing a retail liquor license issued pursuant to Article IV of the PA Liquor Code.
- e. Older adult daily living center licensed by the PA Department of Aging.
- f. Any "senior center" as defined in Section 3 of the PA Senior Center Grant Program Act.

5.274 Such use shall have frontage on a primary street or a collector street, and, it shall be accessible from such a street.

5.300 CONDITIONAL USES

5.310 General. Conditional Uses shall be allowed only in the districts where they are designated, and only upon a determination by the Borough Council that they comply with the standards and criteria set forth herein.

5.311 Additional Requirements. The Borough Council may, upon a review of the application including the environmental assessment, establish such additional requirements for the development and the operation of the conditional use as may be required to protect the public health, safety and general welfare of the community.

5.320 Administrative Procedures

5.321 Application. Application for a Conditional Use shall be made directly to the governing body. Applications shall be in accordance with Section 9.220 hereof and as otherwise specified herein. All such applications shall be referred to the Planning Commission for review; and, no such application shall be finally authorized until the Planning Commission has submitted its review findings, or until 30 days after referral to the Planning Commission, whichever occurs first.

5.322 Public Hearing. No Conditional Use shall be authorized without a public hearing thereon. Hearings shall be conducted pursuant to Section 8.140 hereof; provided, however, that such hearings shall be conducted by the Borough Council.

5.330 Standards and Criteria for Conditional Uses

5.331 General Criteria

- a. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.
- b. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- c. That the use shall be compatible with adjoining development and the proposed character of the zone district where it is to be located.
- d. That adequate landscaping and screening is provided as required in Section 4.700 and as otherwise provided herein.
- e. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- f. That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large-scale developments.
- g. That the use is compatible with the Borough's Master Plan.
- h. An environmental assessment shall be submitted with all applications for conditional uses in accordance with Section 5.340 hereof.

5.332 Standards

- a. Traffic. The proposed development shall not be located on a site where primary access to the site is from a minor street designed primarily to provide vehicular access to abutting properties. The development shall be designed in a manner which will not be injurious to the safe and convenient flow of vehicular traffic. A traffic plan, with estimates of the number of vehicles shall be submitted to the Borough.
- b. Performance Standards. The proposed development will comply with the performance standards specified in Article 6 hereof and such additional performance standards that shall be specified by the Borough Council to protect the health, safety and welfare of the Borough.
- c. Permits. There shall be provided evidence of all required State and Federal permits.
- d. Distance from Existing Development. No Conditional Use shall be nearer to existing development than 1,000 feet or such greater distance as may be required to assure the health, safety and welfare of the Community, or any lesser distance specified in this ordinance.
- e. Transfer of Products and Waste. Vehicles used in the transfer of waste shall be designed to preclude the accidental dumping of any part of such wastes while in transit; and, transportation routes shall be designed to minimize traversing densely populated areas except for waste pick-ups.

5.340 Environmental Assessment

- 5.341 General. All applications for a Conditional Use must be accompanied by an Environmental Assessment as specified herein; provided, however, that upon the request of the developer, components of the Environmental Assessment may be waived by the Borough Council when such components are deemed unnecessary for certain Conditional Uses.
- 5.342 Purpose. The purpose of the Environmental Assessment is to provide the Borough Council with sufficient information to determine if the proposed use will be harmful or beneficial to the Borough; and to determine corrective actions if needed to mitigate potential adverse environmental impacts.
- 5.343 Assurances. Due to the importance of securing professional, objective data in the Environmental Assessment, the selection of the professionals to be engaged in its preparation shall be subject to the approval of the Borough Council. The developer will further provide the Borough Council with assurances, adequate to protect the Borough from violations of non-compliance with measures required to mitigate identified adverse environmental impacts.

5.344 Content of the Environmental Assessment

a. Description of the Proposal

Describe the proposed or recommended actions, its purpose, where it is to be located, when it is proposed to take place, and its interrelationship with other projects or proposals, including information and technical data sufficient to permit assessment of environmental impact by the Borough.

b. Description of the Environment

Include a comprehensive description of the existing environment without the proposal and the probable future environment with the proposal. This description should focus both on the environmental details most likely to be affected by the proposal and on the broader regional aspects of the environment, including ecological interrelationships. Particular attention should be given to the potential effects of past or present use of the site as a repository for toxic or hazardous wastes.

c. The Environmental Impact of the Proposed Activities

Describe the environmental impacts of the proposed action. These impacts are defined as direct or indirect changes in the existing environment, both beneficial or detrimental. Whenever possible these impacts should be quantified. This discussion should include the impact not only upon the natural environment but upon land use as well. Provide separate discussion for such potential impacts as man-caused accidents and natural catastrophes and their probabilities and risks. Specific mention should also be made of unknown or partially understood impacts.

d. Mitigating Measures Included in the Proposed Action

Include a description of measures which are proposed to be taken or which are required to be taken to enhance, protect, or mitigate impacts upon the environment, including any associated research or monitoring.

e. Any Adverse Effects which Cannot be Avoided Should the Proposal be Implemented

Include a discussion of the unavoidable adverse impacts described in 5.344c and 5.344d, above, and an analysis of who or what will be affected and the degree of impact.

f. The Relationship Between Local Short-Term Use of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity

Describe the local short-term use of the environment involved in the proposed action in relation to its cumulative and long-term impacts and give special attention to its relationship to trends of similar actions which would significantly affect ecological interrelationships or pose long-term risk to health or safety. Short-term and long-term do not refer to any fixed time period, but should be viewed in terms of the various significant ecological and geophysical consequences of the proposed action.

g. Any Irreversible and Irretrievable Commitments of Resources Which Would be Involved in the Proposed Action Should it be Implemented

Describe, and quantify where possible, any irrevocable uses of resources, including such things as resource extraction, erosion, destruction of archaeological or historical sites, elimination of endangered species' habitat, and significant changes in land use.

h. Alternatives to the Proposed Action

Identify alternatives to the proposed action, and describe the environmental impacts, both beneficial and adverse, of the various alternatives considered.

5.345 Outline Considerations for Developing Environmental Assessment

a. Description of the Proposal

1. Who is proposing the action?
2. What is the nature of the action to be taken?
3. What is it designed to accomplish? What identified needs will be met and to what degree?
4. Where will it take place?
5. When will it take place? Indicate phasing of acquisition and development activities, if applicable, and timetables for completion.
6. How does it fit in with local planning efforts, comprehensive plans, etc.

b. Description of the Environment

1. Present and past land uses of the site and of the surrounding area.
2. Special topographic features which may be present.

3. Describe the site's surface and subsurface geologic characteristics.
4. Describe the nature of the soils in the area, particularly their fertility and susceptibility to erosion.
5. Describe the area's water resources, with specific reference to ground water, water quality, aquifers and aquifer recharge areas, and areas subject to flooding.
6. Describe the area's vegetation, including species composition, distribution, commercial utility and aesthetics. Special reference should be made to unusual or unique species.
7. Describe the nature of existing transportation routes in the immediate area and the accessibility to the project site.

c. Environmental Impact of the Proposed Action

1. What will be the effect on land uses in the area?
2. Will the project affect a site listed on the National Register of Historic Places?
3. In what way will soils and topography be affected? Consider such things as soil compaction, erosion, exposure of slopes, excavation which may create unstable slope/soil configurations, cutting and filling, removal of topsoil, paving, loss of existing natural landscape qualities, blockage of viewlines to landmarks, blockage of view corridors, etc.
4. Will solid wastes be generated? How and where will they be disposed of? Indicate what types and volumes will be generated and how and where it will be stored prior to disposal and method of disposal. Discuss removal of clearance, demolition, and construction wastes.
5. How will water resources be affected? Consider the water table, runoff, sewer systems, rivers and streams, water supply, etc. Indicate content of any effluent which will be discharged. Address loss of floodwater absorption capacity in natural absorption areas, effects on stream volume, velocity, and seasonal flows, diversion or blockage of surface water, alterations of natural watercourses, introduction or increase of effluents or toxic, hazardous, or radioactive substances to runoff or water bodies, effects on aquatic life, any blockage or impairment of access to watercourses, effects on groundwater recharge, release of groundwater supply, withdrawal of groundwater supplies, blockage of groundwater flow, contamination of groundwater supply, effect on water temperatures, sedimentation, changes in levels of water bodies.

6. How will vegetation be affected? Discuss the removal of ground cover, loss of valuable local species, loss of wildlife habitat, introduction of vegetation which will spread to adjacent lands, introduction of exotic vegetation, creation of areas of highly visible, drying, or decaying vegetation.
7. How will fauna be affected? Consider habitat destruction, reduction of population, impact caused by human intrusion, mobility restrictions, food chains, etc.
8. How will transportation routes be affected? Consider congestion, hazards, capacities of affected roads and intersections and traffic to be generated, generation of truck traffic.
9. Effect on air quality and ambient noise level? Include what odors will originate; types and concentrations of gases, vapors, particulates, and smoke; noise and vibration levels at property lines and the level of heat and/or glare. Indicate levels of electromagnetic radiation at property lines. Indicate effects on local temperatures and wind circulation and whether there are any plants, animals, or materials in the area that are particularly susceptible to expected emissions. Indicate the nature, concentration and quantity of radioactive material to be discharged to the environment, pathways for entering the environment, dose to populations and biota, and possible concentrations through food chains.
10. Describe management practices proposed for the area.

d. Mitigating Measures Included in the Proposed Action

Describe actions or measures which will be taken to avoid or alleviate adverse environmental effects. Include reference to erosion control methods and adherence to air, noise or water pollution control techniques and standards.

e. Unavoidable Adverse Effects

If adverse effects have been identified under other sections of the Environmental Impact Study and cannot be mitigated, they should be again identified here. Describe who or what will be affected, and to what degree. Quantify wherever possible.

f. Relationship Between the Local Short-Term Use of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity

What are the impacts of the proposal in the context of other similar projects? In what way will future generations be affected by the currently proposed actions?

How do the immediate and long-range impacts on the area with the project compare with the immediate and long-range impacts without the project?

g. Any Irreversible and Irrecoverable Commitments of Resources

Describe any irrevocable commitments of resources resulting from implementation of the proposal. An evaluation must be made of the extent to which the proposed action curtails or restricts the range of possible resources uses. Such commitments may occur because of resources extraction, erosion, destruction of archaeological, geological or historic features, destruction of fragile habitat or endangered species habitat, unalterable changes in land use, and resources used in project development.

h. Alternatives to the Proposed Action

Identify alternatives which may be considered, including modification of the present proposal and different approaches to gaining the same result.

The beneficial and adverse effects of the alternatives should be discussed, along with the reasons for rejection. where appropriate, consideration should be given to alternate construction methods which may avoid environmental degradation.

5.400 RESIDENTIAL AND RESIDENTIAL-RELATED COMMERCIAL USES

5.410 Two-Family and Multi-Family Dwellings

5.411 All two-family, townhouse and other multi-family development sites shall be provided with an existing or approved public and/or community type water supply and sanitary sewer system, approved by appropriate local and State health authorities having jurisdiction. Excepted from this regulation is the development of a two-family dwelling on an individual zone lot.

5.412 Minimum Lot Area, Coverage and Yard Requirements

a. Two Family Dwellings. The minimum lot area per dwelling unit shall be as specified in Article 3 hereof for the zone district where situated. Minimum frontage, depth, yards, and maximum coverage shall be as specified for the zone district where situated.

b. Multi-Family Dwellings

(1) Minimum Lot Size. Garden apartment, townhouse, or other multi-family developments shall not be erected on a zone lot of less than 20,000 sq. ft.. The minimum width of such a lot shall not be less than 100 feet at the front property line.

(2) Yards. The following yard requirements shall not apply to townhouses, or to 2-family dwellings on individual lots.

(a) Front Yard: no structure shall be located nearer to a front street property line than fifty (50) feet.

(b) Rear Yard: no structure shall be located nearer to a rear property line than fifty (50) feet.

(c) Side Yard: no structure shall be located nearer to a side property line than thirty (30) feet.

(d) A building wall exposing both windows and an entrance way shall be located not closer to another building than a distance equal to the height of the taller building of the two, but in no case less than fifty (50) feet.

(e) A building wall exposing only windows or only an entrance way shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than twenty-five (25) feet.

5.413 Maximum Number of Dwelling Units. Garden apartments and townhouses shall not exceed eight (8) dwelling units per structure.

5.414 Permanent Open Space. In addition to the yard, setback, and off-street parking requirements of this Ordinance, there shall be provided a minimum of 10 percent of the gross area of the site to be permanently set aside for a usable open recreation area, which shall be for the common use of the residents thereof.

5.415 Off-Street Parking. Provision for off-street parking shall be as required in Section 5.700.

5.416 Fire Escape. Fire escapes shall generally be located in the rear of a building. Where needed for safety; and, if incapable of serving dwellings by being placed in the rear of the building, they may be located on the side(s) of a building; but, in no event shall they be located in the front of a building.

5.420 Motels, Motor Courts, Motor Hotels and Similar Uses

5.421 Such uses shall have a minimum area for each unit of occupancy of 150 square feet and shall include a minimum of one (1) bedroom and an enclosed bathroom containing a bathtub or shower, commode and lavatory and be supplied with hot and cold running water.

- 5.422 Illuminated signs and other lights shall be directed away from or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.
- 5.423 Such uses shall not be closer than two hundred (200) feet to an R-District, shall be located on a major public street, and shall provide ingress and egress so as to minimize traffic congestion.

5.424 Site Development Standards

In districts where permitted, motels shall be subject to the following safeguards and regulations:

- a. A site development plan shall accompany each application and shall show: building placement, parking, vehicular safety control features, including entrances, exits, driveways, roads and walks, specific landscaping components, plan for water supply, sewage disposal, and supply of electricity, and the size and location of signage.
- b. Lot size shall be not less than two (2) acres.
- c. Lot width shall be not less than two hundred and fifty (250) feet.
- d. Surface drainage shall be such that will not subject adjoining properties or streets to damage. A stormwater management plan and a soil erosion and sedimentation control plan shall be designed to control runoff for a ten (10) year storm, and shall be in accordance with Act 167 of 1978. Such plans shall be accompanied by evidence of approval by appropriate agencies and authorities.
- e. An architectural rendering showing the appearance of the facade(s) of the structure(s) visible from the highway which it faces must be submitted along with the site development plan.
- f. Cabins or parts thereof shall be placed no closer to any lot line than thirty (30) feet.
- g. At least one (1) parking space shall be provided on the premises for each accommodation. Off-street parking and loading spaces for other facilities developed on the motel premises shall be provided as required by Tables I and II respectively.
- h. Every cabin or unit shall be provided with running water and toilet facilities for each accommodation.

5.430 Manufactured Housing

5.431 Where Permitted. Manufactured housing, other than recreation vehicles, which are not placed on a permanent foundation, which meet the requirements of this section shall be permitted only in manufactured home parks pursuant to 5.432 hereof.

5.432 Manufactured (Mobile) Home Parks. Includes the development of Manufactured (Mobile) Home Parks which are planned as a unit and located on parcels of land, not less than ten (10) acres in size. All permitted Manufactured (Mobile) Home Parks shall comply with appropriate regulations of the State of Pennsylvania relating to Manufactured (Mobile) Home Parks and shall also comply with the following additional regulations:

- a. Each of the manufactured (mobile) home units shall be for the exclusive use of one family or individual.
- b. Each manufactured (mobile) unit must be designed for long-term occupancy and shall contain sleeping accommodations, a flush toilet, a tub or shower bath, kitchen facilities and with plumbing and electrical connections provided for attachment to outside systems. Toilets shall be located in separate compartments equipped with self-closing doors.
- c. Individual manufactured (mobile) home lots shall be the same size as required for single-family dwellings in the Zone District in which they shall be permitted.
- d. No manufactured (mobile) home shall be located closer than fifty (50) feet to any of the Manufactured (Mobile) Home Park's boundary lines.
- e. No manufactured (mobile) home shall be located within ten (10) feet of its respective site lines, provided further that there shall be no less than a twenty-five (25) foot clearance between manufactured (mobile) homes and any non-accessory building within the park.
- f. Roadway or Area Lighting shall be reflected away from adjoining properties.
- g. The sale of manufactured (mobile) homes from a Manufactured (Mobile) Home Park shall be prohibited. This restriction, however, is not to be construed as to prevent the sale of a manufactured (mobile) home within a Manufactured (Mobile) Home Park, but is, rather, included to prevent the establishment of a commercial enterprise.
- h. Only one accessory building per individual parcel shall be permitted and such accessory building shall not contain a greater area than the area of the manufactured (mobile) home located on the same parcel.

- i. The longitudinal gradient and cross slope of any manufactured (mobile) home lot shall not exceed five (5) percent, except for terracing at the periphery, and the minimum slope in any direction shall be one (1) percent.
- j. The area of the manufactured (mobile) home lot shall be improved to provide an adequate foundation for the placement of the manufactured (mobile) home, thereby securing the superstructure against uplift, sliding, or rotation; in addition:
 - 1) The manufactured (mobile) home stand shall not heave, shift or settle unevenly under the weight of the manufactured (mobile) home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
 - 2) The manufactured (mobile) home stand shall be provided with anchors and tiedowns such as "deadmen" eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the manufactured (mobile) home.
 - 3) Each manufactured (mobile) home lot shall have a paved patio of at least 190 square feet. The least dimension shall not be less than 8 feet.
- k. Each Manufactured (Mobile) Home Park shall be furnished with lighting so as to adequately illuminate driveways and walkways for the safe movement of vehicles and pedestrians at night.
- l. Other Facilities
 1. Every Manufactured (Mobile) Home Park shall have a structure clearly designated as the office of the manufactured (mobile) home park manager.
 2. At least three hundred (300) cubic feet of enclosed storage space shall be provided for each manufactured (mobile) home lot.
 3. Service and accessory buildings located in a Manufactured (Mobile) Home Park shall be used only by the residents of the Manufactured (Mobile) Home Park.
- m. Not less than ten (10%) percent of the gross area of the park shall be improved for the recreational use of the residents of the park.
- n. Responsibilities of the Court Management
 1. The Manufactured (Mobile) Home Park owner or manager shall operate the court in compliance with this Ordinance and shall provide adequate supervision to maintain the court, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The court management shall supervise the placement of each manufactured (mobile) home on its manufactured (mobile) home stand which includes assurance of stability and installation of all utilities and connections.
 3. The court management shall give any health officer free access to all manufactured (mobile) home lots, service buildings and other community service facilities for the purpose of inspection.
 4. The management shall maintain a register containing the names of all court occupants. Such register shall be available to any authorized person inspecting the court.
 5. The management shall notify the appropriate officials in accordance with state and local taxation laws on the arrival and departure of each manufactured (mobile) home.
- o. All regulations governing land uses within the Zone District in which a Manufactured (Mobile) Home Park shall be permitted shall apply to Manufactured (Mobile) Home Parks. Each Manufactured (Mobile) Home Park shall be considered as a residential Subdivision and as such must also conform to the regulations of the municipal Subdivision and Land Development Ordinance. These include, but are not limited to, streets, curbs, sidewalks buffer yards and screening, off-street parking, drainage, easements, utility line locations, erosion and sedimentation control, site planning and design standards.

5.440 Conversions

- 5.441 Conversions, Year-Round Dwellings. Conversion of a single-family residence to a two-family residence shall be permitted only in an R-2, or an R-3 district provided that:
- a. The minimum lot area per dwelling shall be as required for the zone district where the zone lot to be converted shall be located.
 - b. Where such conversion is undertaken there shall be provided on the same zone lot not less than two (2) additional off-street parking space in accordance with the provisions of Section 5.700 hereof.
 - c. Such structure shall contain not less than 1,700 square feet of living space and no dwelling unit therein shall contain less than 850 square feet of living space.
 - d. There shall be no structural alteration to the exterior so it would appear as other than a single-family structure.

5.442 Conversion of Non-Dwelling Structures.

- a. Non-dwelling structures may be converted to other non-dwelling structures which shall be of equal or greater restrictiveness than the use being converted.
- b. No non-dwelling structure having plate glass windows shall, however, be converted to a residential use unless such windows are removed from the structure; and, no such building which has already been converted shall be further converted to provide for additional dwelling units unless the plate glass windows are removed.

5.450 Group Housing for Handicapped. Group housing for handicapped persons is permitted as a Conditional Use in all residential zones, and shall comply with the following standards in addition to the regulations governing the zone in which it is located.

- 5.451 Such housing shall not exceed seven (7) persons per facility, including resident supervisory personnel.
- 5.452 It must include supervision by at least one (1) person.
- 5.453 It must be operated by a not-for-profit charitable institution or by a governmental agency. It shall not be operated as a business.
- 5.454 It shall not be hazardous to the health, safety and welfare of the residential neighborhood where it is to be located.
- 5.455 Such uses shall not be a residence for transients. There shall be no fixed length of time for occupancy by the residents.
- 5.456 It must show evidence of such licensing as may be required by the Pennsylvania Department of Public Welfare.

5.460 Home Occupations

Permitted home occupations operated in any dwelling unit may be operated only if it complies with all of the following conditions:

- 5.461 Where Permitted. Within a single dwelling unit, and only by the person or persons maintaining a dwelling therein and not more than two (2) additional persons shall be employed in the home occupation; provided, however, that the total number of persons employed in the home occupation shall not exceed four (4) regardless of their place of residence. Such restrictions on the number of employees shall apply to all home occupations, except as otherwise provided herein.

- 5.462 Evidence of Use. Does not display or create outside the building any evidence of the home occupation, except that one (1) unanimated, non-illuminated sign having an area of not more than two (2) square feet shall be permitted on each street front of the zone lot on which the building is situated.
- 5.463 Extent of Use. Does not include more than one (1) home occupation; and does not utilize more than twenty (20%) percent of the gross floor area of the dwelling unit (except foster family care), and except that professional offices may utilize not more than thirty-three (33%) percent of the gross floor area of the dwelling unit.
- 5.464 Permitted Uses. Includes not more than one (1) of the following uses:
- a. Professional offices in accordance with provisions of Section 5.700 for off-street parking.
 - b. Rooming and/or boarding of not more than two (2) unrelated persons. Adequate off-street parking shall be provided pursuant to Section 5.710 hereof.
 - c. Custom dressmaking, tailoring, millinery.
 - d. Foster family care (for not more than four (4) children simultaneously).
 - e. Commercial photography and other similar uses, excluding studios for individual and group portraits.
 - f. Barber shop and beauty parlor with not more than 1 non-resident employee. Adequate off-street parking shall be provided pursuant to Section 5.710 hereof.
 - g. Tutoring for not more than four (4) students simultaneously. Provided that the sound produced is not audible at any property line. It is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
 - h. Licensed family day care homes for not more than 6 non-resident children. No non-resident employees shall be permitted.
 - i. Antique repair and refinishing, catering, mail order, quilting, taxidermy service, T.V. repairs, upholstery, and other similar uses, subject to interpretation by the Zoning Hearing Board regarding their similarity to uses enumerated herein. Determination by the Zoning Hearing Board shall be based on all of the following criteria in addition to the regulations set forth in Section 5.461, 5.462 and 5.463 hereof.

- (1) Such uses will not have an adverse affect on the residential neighborhood where they are to be located.
- (2) Such uses shall be similar in character to the specified permitted home occupations.
- (3) Such uses shall be limited to service and craft-types of uses. Retail sales shall be limited to products crafted or assembled on the premises.
- (4) Certain types of uses are specifically prohibited. Such prohibited uses include:
 - (a) Retail sales of products not crafted or assembled on the premises, except when incidental to a permitted service use.
 - (b) Automobile repairs, machine shops, machine repairs, and other similar uses.
 - (c) Manufacture of products from raw materials, except ceramics and similar artistic activities.

5.470 Animals in Residential Districts

Farm animals, including but not limited to ponies and horses, shall not be kept in residential districts. Customary household pets shall be limited to an aggregate of four (4) per family in residential districts.

5.480 College/University Housing

- a. Shall be limited to full-time students, faculty or staff of an accredited college, university, nursing school, medical training program or teaching hospital.
- b. The building shall be a minimum of 80 feet from any existing single family detached dwelling or single family semi-detached (twin) dwelling that is not owned by the institution providing such dormitory.
- c. A dormitory shall include a maximum of one (1) cooking area for every 20 students.

5.490 Assisted Living Facilities

Assisted Living Facilities shall comply with the following site standards:

- a. Minimum of five (5) acres.
- b. Setbacks of 50 feet from all property lines.

5.500 COMMERCIAL AND MANUFACTURING USES

5.510 Adult Entertainment

A. Legislative Findings. The Borough Council finds that:

1. A concentration of adult book stores can cause a deleterious effect on the aesthetics and economics of the areas in which these uses are located;
2. In order to prevent the deterioration of communities and neighborhoods in the Borough of Dunmore and to provide for the orderly planned future development of the Borough, that, certain special regulations are necessary to insure that such developments will not contribute to the blighting or downgrading of surrounding neighborhoods; and
3. For the purpose of controlling the concentration of certain uses, special regulations relating to the location of these uses are necessary.

B. Definitions

1. Adult book store. An establishment having a substantial or significant portion of its stock-in-trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or related to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such material.
2. Adult mini-motion picture theater. An enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein either individually or as part of an audience group of less than 50 persons.
3. Adult motion picture theater. An enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
4. Cabaret. An adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities.

5. Specified anatomical areas

a. Less than completely and opaquely covered

- (1) Human genitals, pubic region;
- (2) Buttocks; and
- (3) Female breasts below a point immediately above the top of the areola;
and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

6. Specified sexual activities

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse or sodomy;

c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

7. Drug paraphernalia stores. Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession of is subject to the provisions of "The Controlled Substance Drug, Device and Cosmetic Act", 1972, April 14, P.L. 233, No. 64, 51 et seq., 35 P.S. Section 780-101 et seq., including but not limited to, water pipes, pipe "screens", hashish pipes, "roach clips", "coke" spoons, "bongs" and cigarette rolling paper, except that this shall not be deemed to include the sale of cigarette rolling papers by a store that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.

8. Massage Parlors. Any establishment wherein body massage services are provided regardless of the gender of the provider or the customer, except where such service is provided by a certified masseur/masseuse.

C. Application. The following uses are designated as regulated uses:

1. Adult books stores;
2. Adult mini-motion picture theater;
3. Adult motion picture theater;
4. Cabaret;
5. Drug paraphernalia stores;
6. Massage parlors.
7. BYOB Clubs

D. Prohibited Conduct. No regulated use shall be permitted:

1. Within one thousand (1,000) feet of any other existing regulated use; and/or,
2. Within one thousand (1,000) feet of any residentially zoned district, or any of the following residentially related uses:
 - a. Churches, chapels, convents, rectories, religious article or religious apparel stores;
 - b. Schools, up to and including the twelfth (12th) grade, and their adjunct play areas;
 - c. Public playgrounds, public swimming pools, public parks and public libraries;
 - d. All other public buildings and offices.
3. For the purposes of this section, spacing distances shall be measured as follows:
 - a. From all property lines of any "regulated use" in Section C.1. through C.6. above;
 - b. From the outward line or boundary of all residential zoning districts;
 - c. From all property lines of any uses identified in D.2.a. through D.2.d. above.

E. Signs and Other Visible Messages. All regulated uses shall be permitted signs and visible messages based on the allowable sign area of the zoning district in which they are located; provided:

1. Signs.
 - a. Sign messages shall be limited to verbal description of material or services available on the premises, and,
 - b. Sign messages shall not include any graphic or pictorial depiction of material or services available on the premises.
2. Other Visible Messages.
 - a. Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display material, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing, or services offered on the premises.

- F. Discontinuance of Operation. Should any of the regulated uses listed in C.1. through C.6. above cease or discontinue operation for a period of ninety or more consecutive days, it may not resume, nor be replaced by any other "regulated use" unless it complies with all the requirements set forth in Subsections D and E above.
- G. Hours of Operation. No regulated use shall operate during any hours which the Commonwealth of Pennsylvania prohibits for the operation of a State licensed establishment which sells liquor on a retail basis under the PA Liquor Code. Extended hours for establishments which also sell food in addition to liquor shall not apply to any regulated use.

5.520 Animal Hospitals, Kennels, Pounds and Similar Uses

In any zone district where permitted, no such use shall be located closer than two hundred (200) feet to any R-District, restaurant, or hotel, and shall show that adequate measures and controls shall be taken to prevent offensive noise and odor. No incineration shall be permitted on the premises.

5.530 Bakeries

Bakeries first permitted in any C-1 District shall be located no closer to an R-District than fifty (50) feet and goods produced on the premises shall be sold only at retail on the premises.

5.540 Retail Uses in M Districts

Such uses, designated in Schedule III hereof, shall be permitted only where the applicant proves that such use is or will be necessary to serve manufacturing uses and will not adversely affect the industrial development of adjoining land. Where such uses are permitted, the minimum lot size requirement shall be 10,000 square feet.

5.550 Manufacturing Uses

Manufacturing uses in any "M" District, when abutting an R-District, shall be screened from such district in accordance with the provisions of Section 4.700; and, no property devoted to manufacturing uses shall be located closer than 250 feet to any R-District.

5.560 Retail Sales for Guests Only

Where such uses are permitted the following shall apply:

- a. There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity, other than from within the building.
- b. There shall be no harm to adjoining existing or potential residential development due to excessive traffic generation or noise or other circumstances.

5.570 Junk Yards and Similar Storage Areas-Including Automobile Wrecking

- 5.571 No new junk yards shall be permitted within the Borough limits after the date of passage of this Ordinance. Such uses existing at said date of adoption may continue their operations as nonconforming uses.
- 5.572 No operations shall be conducted which shall cause a general nuisance or endanger the public health of the surrounding neighborhood.
- 5.573 No highly inflammable or explosive material shall be stored in bulk above ground, with the exception of fuel tanks or drums which are directly connected with heating appliances. Inflammable and explosive material storage shall be in compliance with all applicable Federal and State laws and regulations.
- 5.574 All materials or wastes causing fumes or dust, constituting a fire hazard, or attractive to rodents or insects, may be stored outdoors only in enclosed containers.

5.580 Earth-Extraction Industrial Activities

5.581 Procedure

- a. All types of earth-extraction industrial activities shall be considered a temporary use of land and may be permitted by the Borough Council as a Conditional Use in the M-1 Districts in accordance with the procedures established herein for Conditional Uses; said application shall not include any such earth extraction activities which will be completed within 60 days of the passage of this Ordinance. Such use shall only be authorized as a temporary use for a period of not more than ten (10) years or such lesser period as may be established on a case-by-case basis by the Borough Council. Such temporary use may be extended for periods of time equal to or less than the original temporary use permit; provided, however, that each such request for an extension shall be in accordance with the procedures for any new application for a Conditional Use. Any such request for an extension of authorization shall be initiated not less than 120 days prior to the scheduled termination of the temporary use.
- b. All applications for earth extraction permits shall be filed with the Zoning Officer and shall include the following:
1. A map in duplicate drawn to scale of not less than one inch equals 200 feet, which outlines the entire proposed area of earth extraction activities and shows the surface features, including buildings, dwellings, schools, railroads and highways within a distance of 500 feet from the perimeter of the proposed activities. In addition, said map will indicate the approximate or proposed depth of excavation and the number of surface acres of land subject to these activities.

2. A bond payable to the Borough of Dunmore conditioned on saving the Borough and its officials of and from any and all claims, suits or demands caused by any blasting and further, to guarantee backfilling as required herein. The amount of said bond shall be set by an engineer designated by the Borough and based on his estimate of the reasonable cost of such replacement, but in no case shall the amount be less than \$1500 per acre of land to be excavated. Such bond shall be signed by the applicant and a corporate surety licensed to do business in the State of Pennsylvania, or the applicant may elect to deposit cash or United States Securities in lieu of surety bond. Upon covering the exposed surface and approval thereof by the Engineer, the Borough will release the applicant and his surety from their bond.
3. A certificate of insurance with limits of \$100,000 for personal injuries and \$300,000 for property damage for the benefit of all persons who might be injured or suffer property damage as a result of said earth extraction operations.
4. All earth extraction operations shall be backfilled and all overburden material shall be replaced in a manner which will restore the premises to an equal or same grade as existed on the original site before the commencement of the proposed earth extraction operation.
5. The perimeter of any earth extraction operation shall not be nearer than 100 feet to any public right-of-way.
6. If required by the Borough Council to ensure the public safety and welfare of persons and property in the immediate vicinity open excavation and pits shall be enclosed with a fence of not less than six (6) feet in height.
7. A statement signed by the applicant agreeing to comply with the requirement that no earth-extraction activities will be operated earlier than 7:00 A.M. nor later than 8:00 P.M. during each day and such activities shall not be operated on Sundays.

5.582 Excavation of Topsoil, Gravel, Sand or Rock

- a. All excavations must be enclosed by a fence not less than six (6) feet in height located at least ten (10) feet from the sides or perimeter of the excavation. All such excavation must be adequately drained to prevent the formation of pools of water. The side walls of all such excavations shall slope at an angle no steeper than one (1) foot of vertical distance for each two (2) feet of horizontal distance.

- b. A rock crusher or processing plant shall not be located nearer than five hundred (500) feet to any adjoining residence.
- c. Topsoil or sod may be removed only under the following conditions:
 - 1) As part of the construction or alteration of a building, or the grading incidental to such building.
 - 2) In connection with normal lawn preparation and maintenance on the lot from which such topsoil or sod is removed.
 - 3) In connection with the construction or alteration of a street.
- d. In no event shall any excavated materials be permitted to form waste piles or mounds, it being the intent of this provision that any excavated material be used as fill or refill or otherwise distributed so as to avoid any unsightly or unnecessary accumulation.

5.583 Culm Bank Removal

Culm bank removal shall be permitted only as a Special Exception in the zone district or districts where it is so authorized in Article 3 hereof, subject to all of the criteria, conditions, and procedures governing Special Exceptions and the following:

- a. Such use shall be permitted only as a temporary use.
- b. All such uses shall comply with the applicable provisions of Section 5.580; provided, however, that the term "strip mining" shall include the term "culm bank removal"; and, such use shall be governed by the regulations applicable to Special Exceptions instead of Conditional Uses. In addition, such use shall be governed by the Performance Standards set forth in Article 6 hereof.
- c. Temporary Use Permit. A temporary use permit shall be issued by the Zoning Officer only upon authorization by the Zoning Hearing Board. Such temporary permit shall authorize such use for a period of not more than one (1) year; provided, however, that a separate application shall be submitted for each additional year subsequent to the first temporary permit; and, provided further that there shall be an aggregate of not more than five (5) temporary one (1) year permits issued for any such reclamation site. In each instance the Zoning Hearing Board shall hold a public hearing on the request and shall consider the impact of the preceding temporary permit on the environs of the subject property.

- d. Revocation of Permit. If it is determined by the Zoning Hearing Board that the operation of such use is in violation of the terms and conditions set forth in this ordinance and any other terms and conditions set forth in the temporary use permit, such violations shall be abated within 72 hours of such determination. Failure to abate such violation shall result in the revocation of the permit therefor.

5.590 Solid Waste Disposal Areas (Sanitary Landfills), Transfer Stations and Staging Areas

5.591 General. All Solid Waste Disposal Facilities, Transfer Stations and Staging Areas are herein referred to as "the facility." Such uses shall be permitted only as conditional uses in the districts specified in Article 3 hereof. Sanitary landfills shall only be permitted as a conditional use in accordance with all applicable regulations contained in this ordinance governing conditional uses as well as all regulations contained herein governing earth-moving activities and all applicable State and Federal regulations. Staging areas required in conjunction with sanitary landfills shall only be operated within the confines of a licensed sanitary landfill site, but in no event shall such staging area be distant less than 1000 feet from any Residential Zone. Staging areas shall be screened from public view in accordance with Section 4.700 hereof. Such uses shall comply with all applicable regulations specified elsewhere in this ordinance and with the following requirements:

5.592 Source and Content

- a. Solid Waste Material Permitted at Facilities. No facility in Dunmore Borough shall accept any solid waste other than Municipal Solid Waste as defined herein in Section 11.195 or Residual Waste as defined by D.E.P.
- b. Source of Solid Waste. No facility in Dunmore Borough shall accept solid waste generated elsewhere than in Lackawanna County; provided, however, that on a case-by-case basis, the operator of a solid waste disposal facility may dispose of solid wastes generated outside of Lackawanna County if approved as a Special Exception by the Zoning Hearing Board. In approving such a Special Exception, the Zoning Hearing Board shall determine that the disposal of such solid wastes in a solid waste disposal facility operated in Dunmore Borough shall not be or potentially be hazardous to the health and safety of any resident of Dunmore Borough or its environs.

5.593 Environmental Assessment. All proposed solid waste disposal facilities shall prepare and submit to the Borough an Environmental Assessment pursuant to Section 5.340 hereof and shall fully comply with the regulations of the Pennsylvania Department of Environmental Protection.

Such Environmental Assessments shall also include a traffic study and plan which shall comply with the following requirements:

- a. Any facility located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration.
- b. Any facility located adjacent to a State Highway shall comply with all regulations of the Pennsylvania Department of Transportation.
- c. The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any hospital, residential home, commercial, retail establishment, public school or religious institution.
- d. The traffic impact study and plan shall include proposed remedial actions to be taken in the event of a solid waste spill or accident involving a vehicle transporting solid waste.

5.594 Traffic Control Requirements

No trucks or other vehicles shall be allowed to be parked along any public right-of-way prior to entering the facility. It shall be the responsibility of the facility's operator to schedule vehicles in a manner which will preclude this occurrence and/or to provide adequate on-site vehicle storage facilities in order to comply with this standard.

5.595 Storage of Waste

- a. All solid waste facilities, including transfer stations and staging areas, which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted unless the aforesaid motor vehicles, truck trailers or other containers shall be stored within a building in accordance with Section 5.595b. hereof.
- b. All municipal solid waste which is brought to the site shall be removed from the site by the end of the business on the date that it is brought to that site, notwithstanding any DEP regulations which would allow said municipal waste to remain thereon for a longer period of time; provided, however, that not more than one (1) loaded or partially loaded vehicle may be stored overnight in an enclosed building for a period of not more than eighteen (18) hours. Solid wastes, classified by D.E.P. as hazardous waste, infectious waste or residual waste shall not be disposed of at a facility in the Borough of Dunmore. Such wastes shall not be stored overnight in the Borough except as otherwise provided herein.
- c. Facility operators shall be responsible for the cleanup of the facility's road entrance and surrounding area, throughout the work period, with a final cleanup at the conclusion of the work period.

5.596 Screening, Fencing and Other Security Requirements

- a. All solid waste disposal facilities shall be completely enclosed by a litter fence. The fence shall be fully enclosed with slats to a height of not less than ten (10) feet for the purposes of retaining all litter waste within the confines of the site. The erection of said fence shall be completed within six (6) months after the issuance of a license for a facility. A locked gate system shall be installed on the property so as to prevent any and all illegal dumping which may take place on this site and its surroundings. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. Such fence shall not be located closer than two hundred (200) feet to any property line. In cases where natural vegetation is not adequate to screen the facility from view from adjoining properties or roads, a dense evergreen planting to effect such screening shall be provided and maintained by the applicant in accordance with a planting plan submitted by the applicant and approved by the Borough.
- b. An evergreen buffered area shall be provided outside of the litter fence, but on the same property. Such natural vegetation shall be designed to act as a visual screen against the site from all adjoining land owners.
- c. Security guards shall be placed at the site for the purposes of control against illegal dumping.

5.597 Location Restrictions. After the effective date of this ordinance no facility shall be located closer than seven hundred and fifty (750) feet to an existing public right-of-way or property line; residential structure existing at the time of adoption of this ordinance; public, semi-public or institutional use; or commercial or recreational facility.

5.598 Vector Control. All facilities shall establish a vector control program designed to eradicate all rodent problems at the subject site and on surrounding sites. A description of the planned vector control program shall be submitted with all applications for facilities.

5.599 Water Quality

- a. Treatment and Disposal of Effluent. The facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in processing the solid waste. The facility must provide for treatment of all leachate and all other liquid effluent and discharge, unless a sewage treatment facility exists on a site which is approved by the Pennsylvania Department of Environmental Protection, and all leachate and/or liquid discharge will be transported from the site at regular intervals so as not to cause a hazardous situation at the site, and such leachate shall be removed from the site pursuant to any and

all applicable ordinances of Dunmore Borough, regulations of the Pennsylvania Department of Environmental Protection and any and all other applicable statutes or ordinances.

- b. **Monitoring Water Quality.** The owner of any solid waste disposal facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted in accordance with the Department of Environmental Protection testing requirements as set forth in the Pennsylvania Code for water quality monitoring and ground water assessment. The results of these tests shall be provided to the Borough. In the event that the facility as defined in this section shall not comply with the regulations as set forth herein, water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said stream. For each testing period two samples shall be collected; one sample shall be taken from the stream at a point above the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, any well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Governing Body, and results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the solid waste disposal facility shall cease operation until such time as the sources of the contamination have been identified and corrected.
- c. **Treatment of Stormwater.** All stormwater collected on site which is exposed to and/or contaminated by solid or residual waste shall be treated by the facility's wastewater treatment system. Stormwater which does not come in contact with the on-site solid or residual waste shall be handled by the facility stormwater management plan which must specifically provide that said water is segregated from exposure to the solid or residual waste located at the facility. Parking of trucks loaded with solid waste which have not been properly cleaned and washed shall only be permitted in buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.
- d. **Alternative Requirements.** If the facility is maintained in accordance with the requirements of the Pennsylvania Department of Environmental Protection, then in lieu of the requirements of Section 5.599 a, b, and c, the operator of the facility shall submit to the Borough Zoning Officer duplicate copies of all applicable permits, reports required by the permits, and any action taken by the permittee related to the permit.

5.600 LARGE-SCALE DEVELOPMENTS

The purpose of this Section shall be to permit large-scale development in such a manner as to provide for the flexibility of design and arrangement of structures which would achieve the objectives of this Ordinance but would not be bound by the standards established for individual lot by lot developments. Such developments shall, however, be subject to the broader standards set forth below.

Large-scale developments as defined herein shall be permitted as a Special Exceptions in the districts enumerated in Article 3. and shall be developed in accordance with the following requirements:

5.610 Conformity with Comprehensive Plan

The proposed large-scale development shall conform to the Municipality's Comprehensive Plan in terms of general location.

5.620 Large-scale Residential Developments

The purpose of this Section shall be to permit the large-scale development of housing in such a manner as to provide for the flexibility of design and arrangement of dwelling structures which would achieve the objectives of this Ordinance but would not be bound by the standards established for individual lot by lot developments. Such developments, shall however, be subject to the broader standards set forth below.

5.621 Spacing and Orientation of Residential Developments. Spacing between buildings and orientation in residential building groups shall be as follows:

- a. In buildings containing multiple dwelling units, walls containing main window exposures or main entrances, shall be so oriented as to insure adequate light and air exposures.
- b. Such buildings shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- c. Large Scale Developments with Interior Circulation. When a development is designed to be served by an interior pedestrian or vehicular circulation system, buildings may face the interior roadways; provided, however, where such an orientation results in the rear or the side(s) of such buildings being within 100 feet of a public right-of-way, then such rear and/or side walls shall be screened from the public right-of-way in accordance with Section 4.723b.

5.622 Vehicle and Pedestrian Circulation. Adequate provision for vehicle and pedestrian circulation shall be designed as follows:

- a. Safe and convenient arrangement of walks, roadways, driveways, and off-street parking and loading space.
- b. Separation of general vehicle traffic from pedestrian walks and public transportation loading places.
- c. A building group may not be so arranged that any temporary or permanently inhabited building is inaccessible by emergency vehicles.

5.623 Paving and Drainage. The developer shall install throughout any proposed large scale residential development, hard-surfaced streets, which shall include curbs or gutters, catch basins and storm sewers.

5.624 Development Standards

a. Minimum Lot Area Per Dwelling Unit

- 1) Single-Family Detached. Although the average minimum lot area per dwelling unit shall not be less than the minimum area requirement for the District where the development is located, the size of each lot may be reduced as needed, to not less than two-thirds of the minimum required in the District where located, provided, however, that for "cluster" developments each lot may be reduced to one-third of the minimum lot area, but the average area per dwelling unit, within each development section including open space shall not be less than the minimum otherwise required for the District where located.
- 2) Two-family Dwellings, and Multi-family Dwellings. The average minimum lot area per dwelling unit shall not be less than the minimum area required for each respective type of dwelling structure in the district where such principal permitted uses are first permitted. The dimensions of each individual lot may, however, be reduced by not more than one-third of the minimum requirement, provided that the average lot area per dwelling unit within each development district shall not be less than the area otherwise required.

b. Minimum Lot Size

There shall be no minimum lot size requirements for any housing types other than the average minimum lot area required for such dwellings as described in Subsection 5.624 a. hereof.

c. Minimum Lot Frontage

The minimum lot frontage requirement shall be as follows:

- 1) 1-family and 2-family dwellings, detached: 80 feet
- 2) 1-family and 2-family dwellings, semi-detached: 50 feet for each side
- 3) 1-family dwellings, attached (town-houses): 20 feet per dwelling unit plus an additional 25 feet at each end of all rows
- 4) 1-family cluster development: None
- 5) Multi-family dwelling structures: None

d. Minimum Lot Depth

No lot for any residential structure or group of residential structures shall have a lot depth of less than 100 feet.

e. Minimum Front Yards

The minimum front yard for all residential structures shall be 30 feet, except that garden apartments and other multi-family structures not including town houses shall have a minimum front yard of not less than 50 feet; provided, however, that these minimum front yard requirements may be reduced by not more than 20 percent if the developer shall provide adequate justification acceptable to both the Planning Commission and the Zoning Hearing Board.

f. Minimum Side Yards and Other Distances Between Buildings

Minimum side yards for all single-family dwellings including "cluster" developments shall be as specified in Table No. 2 and Table No. 3 hereof for the District where located. There shall be no side yard requirements for all other residential structures, except as follows:

- 1) Side Yards adjoining public rights-of-way or other thoroughfares shall be not less than 25 feet.
- 2) All other distances between buildings shall be as set forth under Section 5.412 and 5.621 hereof.

g. Maximum Lot Coverage

There shall be no maximum lot coverage limitation on a lot-by-lot basis; provided, however, that the overall coverage of land by buildings and other impervious surfaces within any development section shall not exceed 60 percent of the net land area (excluding land used for rights-of-way).

5.625 Supporting Commercial Facilities

Local retail and service commercial facilities, including those uses designated as principal permitted uses in a C-1 Commercial District may be permitted in a Large-scale Residential Development provided that such commercial development including required off-street parking, off-street loading and landscaping shall not exceed 10 percent of the net land area of the large-scale residential development; provided that such uses shall not include automobile service stations, bars, cocktail lounges, and similar uses; and, provided further, that the location of such commercial facilities shall be approved by the Planning Commission. Such permitted retail and service uses shall be designed to primarily serve the residents of the large scale development of which they are a part.

5.626 Esthetic Considerations

Due to the potential impact of a large-scale development on the Borough as a whole; and since the developer is provided the opportunity to modify otherwise minimum development standards, the Zoning Hearing Board may withhold the overall approval of such projects as well as the approval of reduced standards pending their review and approval of the proposed overall design, arrangement and layout of the buildings to be erected, including the exterior design of such buildings to insure that the architectural character of the large-scale development area will be compatible with that of the adjoining areas.

5.630 Large-Scale Commercial and Manufacturing Development

- 5.631 Spacing and Orientation of Commercial and Manufacturing Developments. Spacing between buildings and orientation in commercial and industrial building groups shall be as follows:
- a. Exterior walls of opposite buildings shall be located no closer than a distance equal to the height of the taller building.
 - b. A building group may not be so arranged that any permanently or temporarily inhabited building is inaccessible by emergency vehicles.
 - c) Individual Buildings on Public Rights-of-Way. The front facade of a building shall face the road/right of way which it abuts; provided, however, that if it is located on a corner parcel, it shall face the widest road; provided, however, that if both roads are of equal or near equal width, it may face on either road, unless the existing pattern of development has predetermined the road that shall be faced.

5.632 **Signs and Lighting.** All signs and lighting devices shall be of a type and design that will not conflict with traffic control signs and lights and shall be so oriented that they do not produce glare on the highway or adjacent residential development.

In any commercial development of 5 acres or more, identification signs may be erected in accordance with the provision of Section 5.980 hereof, except as follows:

- a. There shall be not more than one (1) such sign for each commercial establishment, but there may be a maximum of one additional sign identifying the large-scale development and the occupants thereof; provided, however, that where there is more than one (1) main entrance, such signs may be erected at each entrance.
- b. Signs identifying a large-scale commercial development may be free-standing or attached to a wall.
- c. Any free standing sign shall be located at the entrance way of the use which it identifies. No such free-standing sign shall extend more than 30 feet above the mean ground level where it is located.
- d. No sign identifying a building group shall have an area of more than 10 percent of the vertical wall area of the front of the building nor shall the total area of the sign of each tenant exceed 10 percent of the vertical building wall area of the front of the space occupied by the tenant.
- e. Except for signs identifying the large-scale development, all signs shall be attached to the principal buildings.
- f. No business sign shall project more than two (2) feet from the building facade to which it is attached.
- g. No business sign shall be erected or maintained upon the roof of a building nor shall any sign extend above the roof of a building a distance of more than five (5) feet, provided, however, that a business sign may be affixed to a parapet. It may not extend above the top of the parapet, except that it may extend not more than five (5) feet above the roof of the building and no such sign shall project more than one (1) foot from the parapet.
- h. The area of any sign shall include the entire face of the sign and any structural work incidental to its erection and/or decoration. If the sign is composed of individual letters, figures or designs, the space between and around such letter, figures, or designs shall be considered as part of the area.

- i. Plans showing proposed location and design of all signs, including directional traffic signs and parking signs shall be submitted to the Planning Commission for its review and recommendation to the Zoning Hearing Board which shall be responsible for approval. In granting such approval, special attention shall be given to considerations of safety and convenience of traffic movement, and the appropriate and harmonious relationships between buildings, structures, and signs, both on the site and in adjacent areas.
- j. Proper arrangement of signs and lighting devices with respect to traffic control equipment and adjacent residential districts shall be observed.
- k. Directional signs indicating the location of the occupant(s) may be erected and maintained, provided, however, that the size of such sign shall not exceed an area of six (6) square feet nor a length of four (4) feet, and provided further that there shall be not more than one (1) such sign for each entrance to any premises.
- l. The lesser dimension of any sign shall not exceed five (5) feet, provided, however, that for large-scale development signs, this provision shall not apply.

5.633 **Planting and Screening.** In business building groups abutting or within one hundred (100) feet of residential districts, fences, walls or year-round screen planting shall be provided when necessary to shield adjacent residential districts from parking lot illumination, headlights, heat, blowing papers and dust and to reduce the visual encroachments of commercial architecture, signs and activity.

- 5.640 Planned, integrated Shopping Centers and Industrial Parks shall be subject to the following requirements regardless of the applicants' request for consideration as a large scale development.
- 5.641 A tract of no less than 175,000 sq. ft. is required.
 - 5.642 Only one ingress and one egress point is permitted for each 300 front feet along a Major Highway.
 - 5.643 A site design plan showing building placement and vehicular safety control features, specific landscaping components, and the size and location of signage shall be submitted with all applications.
 - 5.644 An architectural rendering showing the appearance of the facade(s) of the structure(s) visible from the Major Highway shall be submitted along with the site plan.

5.650 Justification for Exception

Where such exceptions are requested, they shall be granted solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such developments as well as of neighboring properties than would be obtained under the standard requirements of this Ordinance.

5.700 SERVICES, AUTOMOTIVE

5.710 Off-Street Parking

In all districts, in connection with every manufacturing, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking space for automobiles available to the occupants of such buildings and to visitors thereto at no charge. Off-street parking developed in all districts shall be in accordance with the requirements set forth herein.

5.711 Size and Access. Each off-street parking space in a parking lot shall have an area of not less than one hundred fifty (150) square feet exclusive of access drives or aisles, and shall be of usable shape and condition. Except in the case of dwellings, no parking area shall contain less than 3 spaces.

There shall be adequate provisions for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined locations and in no case shall there be permitted unrestricted access along the length of the street or alley upon which the parking area abuts.

No off-street parking shall be located in the front yard of any residential lot.

No point of ingress or egress shall be nearer, one to the other, than 300 feet, except where inadequate highway frontage precludes the feasibility of complying with this requirement.

5.712 Number of Parking Spaces Required. The number of off-street parking spaces required shall be as set forth in Table I following in accordance with the definition of "floor area" as set forth in Article 11 hereof, provided further that in any R-District, on any lot having an area of one (1) acre or less, private garage space may be provided for not more than four (4) motor vehicles. Space for one (1) additional motor vehicle may be provided for each one-fifth (1/5) acre by which the area of the lot exceeds one (1) acre; and in any R-District, not more than one garage space provided on any lot shall be used for the housing of a commercial motor vehicle greater than one-half (1/2) ton capacity.

In any case of a building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, in the opinion of the Zoning Hearing Board, shall apply.

- 5.713 Off-Site Facilities. All permitted and required accessory off-street parking spaces, open or enclosed, shall be located on the same zone lot as the use to which such spaces are accessory, except that such spaces may be provided elsewhere but shall be provided with a radius of no greater distance than 400 feet from the zone lot, and provided further, that required spaces are provided off the site in accordance with the provisions set forth herein and that such spaces shall be in the same ownership as the use to which they are accessory, or under permanent easement or lease to run throughout the life of the use and shall be subject to deed restrictions filed in an office of record, binding the owner and his heirs and/or assigns to maintain the required number of spaces available throughout the life of such use, and such spaces shall conform to all regulations of the district in which they are located.

TABLE I

USES	MINIMUM REQUIRED PARKING SPACES
1. Churches and Schools	1 for each 3.5 seats in an auditorium or for each 17 classroom seats, whichever is greater.
2. Business and Professional Offices and Banks, except Medical and Dental Offices	3 for each 1,000 square feet of floor area.
3. Community Buildings, and Social Halls	1 for each 100 square feet of floor area.
4. Country Clubs, Golf Courses	1 for each 200 sq. ft. of floor area occupied by all principal and accessory structures, except those used for parking purposes. **
5. Single-family Dwellings	2 for each family or dwelling unit.
6. Motels, Hotels and Rooming Houses	1 for each rental unit.
7. Apartments, Townhouses and Garden Apartments *	2 for each dwelling unit.
8. Funeral Homes, Mortuaries	25 for each parlor.
9. Hospitals, Nursing and Convalescing Homes	1 for each 3 beds plus 1 for each employee in the maximum working shift.
10. Manufacturing Plants, Research or Testing Laboratories	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 percent of the building floor area.
11. Medical or Dental Clinics, or Offices	5 spaces for each Doctor and each Dentist plus 1 space for each employee in the maximum working shift.
12. Restaurants, Beer Parlors and Night Clubs	1 for each 2.5 seats.
13. Retail Stores, Store Groups, Shops, and Personal Services	One (1) for each 300 feet of floor area.
14. Wholesale Establishments or Warehouses	1 for each 1 employee in maximum working shift, but not less than 25% of building floor area.
15. Outdoor Recreational Facilities	An adequate number of spaces should be provided so that all vehicles located at the facility can be accommodated in existing parking lots and not on the Borough's roads.
16. Auctions, Galleries	5 for each 500 sq. ft. of floor area.
17. Bowling Alleys	5 for each lane.
18. Movie Theaters, Auditoriums and Sport Stadiums	1 for each 2.5 seats.
19. Assisted Living Facilities	One (1) space for each three (3) units and one (1) space per employee in maximum working shift.

* Except Elderly Housing where 1 parking space for each 3 dwelling units shall be provided.

** There shall be not less than 20 off-street parking spaces for each use.

5.720 Off-Street Loading

In any district, in connection with every building, or building group or part thereof hereafter erected and having a gross floor area of five thousand (5,000) square feet or more, which is to be occupied by manufacturing, or commercial uses, or distribution of material or merchandise by vehicles, there shall be provided and maintained, on the same zone lot with such building, off-street loading berths in accordance with the requirement of Table II following.

5.721 Size and Location. Each loading space shall be of sufficient size to accommodate vehicles that are likely to utilize the berth, but not less than 10 feet in width, 25 feet in length and 14 feet in height, and may occupy all or any part of any required yard, except where located adjacent to any R-District where they shall be set back a minimum of 6 feet from any such property line.

TABLE II

<u>USES</u>	<u>SQUARE FEET OF FLOOR AREA</u>	<u>REQUIRED OFF-STREET LOADING BERTHS</u>
1. Schools	15,000 or more	1
2. Hospitals (in addition to space for ambulance)	From 10,000 - 30,000 For each additional 30,000 or major fraction thereof.	1 1 additional
3. Undertakers and Funeral Homes	5,000 For each additional 5,000 or major fraction thereof.	1 1 additional
4. Hotels & Offices	10,000 or more	1
5. Retail, Commercial, Wholesale, Manufacturing, Storage & Miscellaneous	From 10,000 - 25,000 From 25,000 - 40,000 From 40,000 - 60,000 From 60,000 - 100,000 For each additional 50,000 or major fraction thereof	1 2 3 4 1 additional

5.730 Joint Facilities for Parking or Loading

Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use and provided that all regulations governing the location of accessory spaces in relation to the use served are adhered to. Further, no accessory space or portion thereof shall serve as a required space for more than one use unless otherwise approved by the Zoning Hearing Board in accordance with the purposes and procedures set forth herein.

5.740 Development and Maintenance of Parking and Loading Areas

Every parcel of land hereafter used as a public or private parking area or loading area including a commercial parking lot shall be developed and maintained in accordance with the following requirements.

- 5.741 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 premises situated in any R-District, or institutional premises, by a solid fence or hedge in accordance with Section 4.700 hereof. Any space between such fence or hedge and the side lot line adjoining premises, or the front lot line facing premises, in any R-District shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.
- 5.742 Surfacing. Any off-street parking or loading area shall be surfaced with an asphaltic or cement binder pavement or similar durable and dustless surface which shall be so graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide for the orderly and safe loading, parking and storage of self-propelled vehicles.
- 5.743 Lighting. Any lighting used to illuminate any off-street parking or loading areas shall be so arranged as to reflect the light away from the adjoining premises in any R-District.
- 5.744 Modification of Requirements. The Zoning Hearing Board may authorize on appeal, a modification, reduction or waiver of the foregoing requirements, if it should find that in the particular case appealed the peculiar nature of the use, or the exceptional situation or condition must justify such action. Such modification shall be granted only in accordance with the procedure for variances, Section 8.210 hereof.

5.750 Automobile Service Stations and Parking Lots

- 5.751 Location of Establishments and Access Thereto. Vehicular Service Stations, commercial parking lots for five (5) or more motor vehicles, automobile repair shops, or any vehicular access thereto are regulated as follows:

- a. A site development plan shall accompany all applications and shall show building and fuel pump placement and dimensions, parking, landscaping, internal circulation, and the size and location of signage.
- b. All vehicular servicing activities except for those normally performed at fuel pumps shall be performed within completely enclosed buildings.
- c. Location of Gasoline Pumps. Gasoline pumps and all other service equipment shall be set back not less than twenty-five (25) feet from any lot line and shall be so located that vehicles stopped for service will not extend over the property line.
- d. Fuel pumps shall not interfere with parking spaces or internal circulation and shall be located at least thirty (30) feet from all parking areas.
- e. A minimum width of two hundred and fifty (250) feet at the building setback line is required.
- f. Shall not be located within 100 feet of any boundary line of any R-District; provided, however, that where the rear lot line of the property shall be less than 100 feet distant from an R-District there shall be established along such rear lot line a buffer zone which shall be landscaped in accordance with the provisions of Section 4.723 hereof; and, no part of any parking space shall be less than 20 feet from any residential property line.
- g. Shall not be located within two hundred (200) feet of property dedicated to or intended for schools, playgrounds, churches, hospitals, public libraries and institutions for dependents or for children, when located along the same street or road and in the same block as said properties.
- h. Vehicular access to the above automotive uses shall be well-defined driveways and shall not be closer to the intersection of any two (2) street right-of-way lines than fifty (50) feet.

5.760 Commercial or Recreational Vehicle Parking in Residential Areas

Off-Street parking of the following commercial vehicles shall be prohibited in all residential zones:

- a. Tractors
- b. Tractor-Trailers
- c. Pick-up trucks with a capacity of more than one (1) ton
- d. Commercial machinery and equipment
- e. Buses

The off-street parking of the following commercial and recreational vehicles shall be permitted in all residential zones:

- a. Pick-up trucks with a capacity of not more than one (1) ton
- b. Vans and panel trucks
- c. Recreational vehicles

The vehicles described above, shall be allowed only in accordance with the following requirements:

- a. There shall be not more than one (1) such vehicle parked on any zone lot.
- b. Such vehicles shall not be located within a front yard.
- c. Such vehicles shall not be visible from the public or private right-of-way on which the property abuts.
- d. Such vehicles shall be screened from adjacent Residential property.
- e. The motor of such a vehicle shall not be left running for more than thirty (30) minutes during any 24 hour period; provided, however, that said 30 minute period shall not be between 9:00 P.M. and 6:00 A.M.
- f. No refrigeration units on such vehicles shall be operated on a residential zone lot.
- g. No vehicle having a length in excess of 40 feet shall be parked overnight on a residential zone lot.

5.770 Drive-In and Drive-Through Businesses

5.771 For banks, financial institutions, fast food businesses, and any other "drive-in" business uses and/or "drive-through" facilities shall be accompanied by a site development plan showing building placement and dimensions, the location of all "drive-through" facilities (where applicable), parking, internal circulation and the location and size of signage.

5.772 Such businesses shall be not closer than two hundred (200) feet to an R-District and shall be located on a major public street and shall provide ingress and egress so as to minimize traffic congestion, and shall comply with the following:

- a. A minimum of eight (8) on-site vehicular waiting spaces are required for occupied vehicles waiting for window service.
- b. The above spaces shall not interfere with parking spaces intended for non-drive through customers, internal circulation or pedestrian safety.
- c. Trash receptacles shall be provided outside the restaurant for patron use.

5.780 MOTOR VEHICLE ACCESS

Whenever motor vehicle access is provided from the street or private road onto the lot, access to the lot shall comply with the following regulations:

- a. Access shall be by not more than two (2) driveways for each one hundred (100) feet frontage on any street.
- b. No such driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than three (3) feet, and no flare shall cross an extended side property line.
- c. Each driveway shall be not more than thirty-five (35) feet in width measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way.
- d. Driveways shall be no closer than thirty (30) feet to the point of intersection of two property lines at any corner as measured along the property line, and shall not extend across such extended property line.
- e. For non-dwelling uses, where there is an existing curb and gutter or sidewalks on the street there shall be provided a safety island along the entire frontage of the property, except for the permitted driveways. On the two ends and street or private road side of each such island shall be constructed a concrete curb, the height locations, and structural specifications of which shall be approved by the municipal engineer. Maximum and minimum curb return radii permitted and minimum driveway approach angles to the center line of the street or private road are required as shown on Plate 1, attached to this Ordinance and made by this Ordinance as if fully described and detailed herein.
- f. For non-dwelling uses, where there is not an existing curb and gutter or sidewalk, a curb, fence, or pipe rail not exceeding two feet or less than eight inches in height as shown on Plate 1, attached to this Ordinance shall be constructed along the entire length of the property line, except in front of the permitted driveways.
- g. No access to public highways shall be permitted within three hundred (300) feet of the intersection of said public street with interchange ramps.

5.800 SERVICES, GENERAL

5.810 Cemetery, Mausoleum

Both of these uses shall provide entrances on a street or road with ingress and egress so designed as to minimize traffic congestion, and shall provide, in accordance with Section 4.723b. a permanently maintained planting strip on all property lines abutting any R-District or residential street.

5.820 Mortuaries

Undertaking and funeral parlor establishments may be permitted as a special exception in those zone districts where they are enumerated in Articles 3, hereof, provided that

all required parking is made available; the outward appearance of the building does not detract from the residential area where it may be proposed; and it is to be located on a street where the collection and movement of vehicles participating in a funeral procession will not adversely affect the major or secondary vehicular circulation pattern of the community.

Applications for such uses shall be accompanied by maps showing the proposed routing of funeral processions.

5.900 MISCELLANEOUS USES

5.910 Heliports

Heliports may be permitted, including the construction of runways and landing pads, provided that plans for such construction shall be approved by the Federal Aviation Administration and that such construction will not interfere with the comprehensive plan for the area which may be affected by it, nor create any hazards or inconvenience in presently developed areas. Except in the event of an emergency helicopter landings shall be permitted only at approved heliports.

5.920 Interchange Ramp Protection

Roads on any Approach Highway shall be prohibited for a distance of up to 1,000 feet from the end of any interchange ramp which intersects with the Approach Highway.

5.930 Outdoor Storage Areas

Such uses shall not abut existing residential development, a residential street or any R-District and the operation thereof shall be governed by the following provisions and any other conditions as may be required by the Zoning Hearing Board to protect the public health, safety, comfort, convenience, and general welfare and especially with regard to abutting properties and the occupants thereof.

5.931 Inflammables and Explosives. No highly inflammable or explosive liquids, solids or gases shall be stored in bulk above ground, except as permitted by state and federal regulations. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same premises as the tanks or drums of fuel are excluded from this provision.

5.932 Fencing and Setbacks. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than 10 feet from any property line and shall be distant not less than 25 feet from any public street.

- 5.933 Deposit of Wastes. No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.
- 5.934 Other Hazardous Materials. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
- 5.940 Water Storage Areas
- 5.941 Settling Ponds and Reservoirs. If the contents of settling ponds is poisonous, toxic or caustic, the settling pond must be fenced by an eight (8) foot fence of cyclone fencing or tighter topped by three (3) strands of barbed wire; if the contents emit noxious fumes, suitable ventilation controls must be exercised to prevent air pollution.
- 5.942 Retention and Detention Ponds/Basins. Except as otherwise provided in Section 5.971 hereof, any man-made water storage areas shall be fenced by an eight (8) foot fence of cyclone fencing or tighter.
- 5.950 Radio and Television Towers, Masts and Aerials. Such uses shall be subject to all applicable regulations of the F.C.C. and other applicable Federal and State Regulating Bodies as evidenced by their approval of all plans thereof.
- 5.960 Telecommunications Facilities
- 5.961. Conditions That Apply to the Location of All Telecommunications Towers and Telecommunications Facility Buildings
- a. All applications for the location of Telecommunications Towers and Telecommunications Facility Buildings are subject to the requirements of the Dunmore Borough Subdivision and Land Development Ordinance, and are subject to the Site Plan Review by the Planning Commission and Approval by the Borough Council.
 - b. The Telecommunications tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended.
 - c. A soil report complying with the standards of Appendix I, Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, shall be submitted to the Borough to document and verify design specifications of the foundation for the Telecommunications Tower, and anchors for the guy wires if used.
 - d. Telecommunications Towers shall be designed to withstand wind gusts of at least 100 miles per hour.

- e. A Telecommunications Tower may not be located on a lot that is listed on a historic register or in an officially designated state or federal historic district.
- f. The applicant for the placement of a Telecommunications Tower shall be required to submit to the Borough evidence of the need for the Telecommunications Tower and that the applicant has exhausted all alternatives to constructing a Telecommunications Tower. Applicants are required to prove need by:
 - (1) Demonstrating via written evidence that, in terms of location and construction, there are no existing towers, Telecommunications Towers, buildings, structures, elevated tanks or similar uses able to provide the platform for the Telecommunications Antenna; and,
 - (2) Providing evidence, including coverage diagrams and technical reports, demonstrating that co-location on existing Telecommunications Towers is not technically possible in order to serve the desired need. Co-location is not possible if:
 - (a) Planned equipment would exceed the structural capacity of existing Telecommunications Towers within the Borough, considering existing and planned use of those Telecommunications Towers, and existing Telecommunications Towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost; or
 - (b) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for the Telecommunications Tower, and the interference cannot be prevented at a reasonable cost; or
 - (c) Existing or approved Telecommunications Towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned; or
 - (d) Other reasons make it impractical to place the equipment planned by the applicant on existing and approved Telecommunications Towers.
- g. Telecommunications Towers shall not be closer than five hundred (500) feet to another Telecommunications Tower, such distance being measured as a horizontal from tower to tower.
- h. Telecommunications Towers shall be subject to a minimum setback from all overhead electric transmissions lines of a distance equaling the height of the tower.

- i. The applicant shall present documentation that the Telecommunications Tower is designed in accordance with all applicable state and federal regulations. Except as required by the Federal Aviation Administration, or other Federal or state agencies, no Telecommunications Tower may use artificial lighting or strobe lighting at night.
- j. An applicant for a Zoning Permit for a Telecommunications Tower must execute an agreement with the Borough, in a form legally sufficient to the Borough, requiring the removal of the Telecommunications Tower within one (1) year after the Telecommunications Tower ceases to function as such.
- k. Except when located on the roof of a building, a security fence, of approved design, of not less than eight (8) feet, and no greater than ten (10) feet, shall completely enclose the Telecommunications Tower. A fence of not less than eight (8) feet and no greater than ten (10) feet shall also completely enclose the anchored locations of guy wires, if used. This fencing shall be designed to be compatible with surrounding land uses.
- l. Except when located on the roof of a building, the applicant shall submit a landscaping plan. Sites in which Telecommunications towers are located shall be required to comply with the following landscaping requirements:
 - (1) Landscaping and planting of an approved design shall be provided for a depth of ten (10) feet along all public rights-of-way abutting the lot where the Telecommunications Tower is located. This requirement may be waived by the Zoning Hearing Board, provided that there is existing acceptable vegetation along the public rights-of-way abutting the lot.
 - (2) Landscaping, consisting of trees and shrubs, shall be required at the perimeter of the security fences and the Telecommunications Facility Building. Evergreen trees of ten (10) feet height at planting, and growth of a minimum of fifty (50) feet at maturity, shall be planted a maximum of fifteen (15) feet from each other around the perimeter of the security fence. Areas between the trees shall be interspersed with approved shrubbery planting of a height of not less than five (5) feet.
 - (3) Landscaping, consisting of approved evergreen trees of ten (10) feet height of planting, at a maximum of fifteen (15) feet from each other shall be required along all property lines abutting an existing residence, school, park or church. This requirement may be waived by the Zoning Hearing Board provided the abutting property owner(s) submit in writing to the Borough that they are waiving their right to this landscaping, or the Zoning Hearing Board may waive this requirement if there is existing acceptable vegetation along the property lines.

- m. A minimum of two (2) parking spaces shall be required. Spaces shall meet the applicable requirements of Section 5.700 hereof.
- n. Telecommunications Towers shall be fully automated and unattended on a daily basis. The site shall be visited only for periodic maintenance.
- o. The Telecommunications Facility Buildings shall be identified as Accessory Buildings, and the applicable regulations for the host zoning district shall apply.
- p. Guy wires, if utilized, must be anchored no closer than twenty-five (25) feet from any property line. Guy wires shall not cross or encroach any overhead telephone or electric power lines.
- q. Tower height shall be measured from the top of the foundation to the top point of the tower or the top point of the Telecommunications Antenna, whichever is higher.
- r. Internal access to the Telecommunications tower shall be provided by a minimum twelve (12) foot width cartway with a durable and dustless surface, such as concrete or a bituminous concrete surface for a minimum of fifty (50) feet from any public or private street. The length of the cartway beyond this fifty feet shall, at a minimum, be surfaced with a durable and dustless gravel surface. The vehicular access to the Telecommunications Tower and Telecommunications Facility Building, shall, whenever feasible, be provided along existing circulation driveways.
- s. Setbacks: Telecommunications Towers shall be required to be set back from adjacent property lines a minimum of one and one-half (1.5) times the height of the Telecommunications Tower. Such distance shall be measured in a straight line from the Telecommunications Tower to the property line. This setback shall be increased if a zoning district with a higher setback requirement abuts the property in which the Telecommunications Tower is located. In that situation, the largest setback requirement shall apply.
- t. A Telecommunications Tower shall be no higher than one hundred seventy five (175) feet.
- u. There shall be no more than one Telecommunications Tower on one lot.

5.962 Conditions on the Location and Placement of Telecommunications Antennas

Telecommunications Antennas may be attached to any nonresidential building or structure that is a permitted use in the district, including but not limited to, a church, a municipal or governmental building or facility, a building owned by a utility, or a Telecommunications Tower. Subdivision and Land Development Review is not required by the Planning Commission or the

Governing Body for the location of Telecommunications Antennas on a building. The following conditions shall be met:

- a. No more than one (1) Telecommunications Antenna may be attached to any nonresidential building as a Permitted Use. A permit for one (1) Telecommunications Antenna on one building may be issued by the Zoning Officer after a review of the requirements stated in this Section.
- b. The location of two (2) or more Telecommunications antennas on any nonresidential building shall be considered as a Special Exception. There shall be a minimum distance equal to the height of the Telecommunications Antenna located on a nonresidential building and the location of any additional Telecommunications Antennas.
- c. The location of one (1) or more Telecommunications Antennas on any non-occupied structure, such as a Telecommunications Tower, a water tank, or an observation tower shall be considered as a Principal Permitted Use. Permit(s) for Telecommunications Antenna on non-occupied structures may be issued by the Zoning Officer after a review of the requirements stated in this Section. Subdivision and Land Development Review is not required by the Planning Commission or the Borough Council for the location of Telecommunications Antenna on a non-occupied structure.
- d. Height Limits for Telecommunications antennas: not to exceed 20 feet above the structure or building on which it is located.
- e. The top point height of any Telecommunications Antennas located on a Telecommunications Tower shall not exceed the height requirements for Telecommunications Towers stated in this Ordinance.
- f. Setback: Telecommunications Antennas located on buildings and structures shall be required to be set back from all property lines a minimum of the front yard setback requirement of the host district plus the height of the Telecommunications Antenna.

5.963 Telecommunications Towers and Telecommunications Antennas That are Related to the Operations of a Principal Use on the Same Lot

The following regulations shall apply to Telecommunications Towers and Telecommunications Antennas that are related to the operations of a principal use in any zoning district:

- a. No subdivision of land shall be required for the placement of a Telecommunications Tower on any lot where the use of that Telecommunications tower relates to the operations of a principal use on that lot.

- b. Telecommunications Antennas located on any building or structure where the use of that Telecommunications Antenna relates to the operations of a principal use on that building or structure shall be considered as Principal Permitted Uses in all zoning districts where they are authorized, and shall not require Site Plan and Land Development Approval from the Governing Body.

5.964 T.V. Satellite Dish Antennae and Other Antennae

- a. Purpose. The following regulations governing antennae are designed to protect the aesthetic environment of the vicinity where they are to be located as well as to protect the public health, safety and welfare. The provisions of this Section 5.964 shall not apply to a T.V. Satellite Dish Antennae and Other Antennae having a diameter of 36 inches or less.
- b. Permit Requirements. A special Satellite Reception Permit shall be required only for specific situations described below in Sections 5.964c. and 5.964d.
- c. Allowed Locations. In C-districts and M-districts they shall be allowed anywhere on the site or on the building. In R-districts they shall be limited to the rear yard. If the applicant adequately documents that reception is infeasible in the rear yard they may be located in any side yard. If, however, reception is infeasible in either of these areas, they may be located in the front yard or on the roof of the building to which they are appurtenant. If they are to be located in the front yard or on the roof of the building, a special Satellite Reception Permit shall be required as specified in Section 5.964b. hereof.
- d. Size and Height. In C-districts and M-districts, there shall be no restrictions regarding their size or height. In all R-districts, however, except as otherwise provided herein, they shall not exceed a diameter of 12 feet or a height of 20 feet. However, where such height and/or size restrictions preclude the feasibility of reception, these dimensions may be exceeded, but a special Satellite Reception Permit shall be required.
- e. Additional Requirements
 - 1. Except in a C-district or M-district, satellite television antennas shall be located and designed (to the extent reasonably feasible) to reduce visual impact on surrounding properties.
 - 2. Antennae shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.
 - 3. Every antenna must be adequately grounded for protection against a direct strike of lightning.

4. Every Antenna shall be effectively screened from the adjoining premises and/or public right-of-way.

5.970 Signs

Signs may be erected, reconstructed and maintained only when in compliance with the following provisions and the Building Code of the Borough of Dunmore.

5.971 Signs in Residential Districts. The following types of non-illuminated, non-advertising signs are permitted in all Residential Districts as follows:

a. Nameplates and Identification Signs

1. Signs indicating the name or address of the occupant, or a permitted home occupation, provided that they shall not be larger than two (2) square feet in area. Only one such sign per dwelling unit shall be permitted except in the case of corner lots where two such signs (one facing each street) shall be permitted for each dwelling unit.
2. For buildings other than dwellings a single identification sign not exceeding six (6) square feet in area and indicating only the name and address of the building and the name of the management may be displayed, provided that on a corner lot two such signs (one facing each street) shall be permitted.

b. Sale or Rental Signs. Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs bearing the word "sold" or "rented" with the name of persons effecting the sale or rental may be erected or maintained, provided:

1. The size of any such sign is not in excess of six (6) square feet; and
2. Not more than two (2) sign is placed upon any property unless such property fronts upon more than one street, in which event two (2) more sign may be erected on each additional frontage.

c. Institutional Signs. Signs of schools, colleges, churches, hospitals, sanatoria, or other institutions of a similar public or semi-public nature may be erected and maintained, provided:

1. The size of any such sign is not in excess of 20 square feet; and
2. Not more than one (1) such sign is placed on a property, unless such property fronts upon more than one street, in which event two such signs may be erected, one on each frontage.

- d. Signs Accessory to Parking Areas. Signs designating entrances or exits to or from a parking area and limited to one sign for each such exit or entrance and to a maximum size of two (2) square feet each shall be permitted for each direction of traffic flow. One sign per parking area designating the conditions of use and identity of such parking area and limited to a maximum size of nine (9) square feet shall be permitted, provided that on a corner lot two such signs shall be permitted, one facing each street.
- e. Development Signs. Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other persons interested in such sale or development, may be erected and maintained, provided:
1. The size of any sign is not in excess of 20 sq. ft.
 2. Not more than two (2) signs are placed upon any property, unless such property fronts upon more than one street, in which event two (2) such signs may be erected on such frontage; and
 3. Any such signs except signs identifying the development shall be removed by the developer within thirty (30) days of the final sale of property.
- f. Directional Signs. Signs indicating the location and direction of premises available for or in process of development, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder, or agent, may be erected and maintained, provided:
1. The size of any such sign is not in excess of six (6) square feet, and not in excess of four (4) feet in length; and
 2. Not more than one such sign is erected on each five hundred (500) feet of street frontage.
- g. Artisans' Signs. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided:
1. The size thereof is not in excess of twelve (12) square feet; and
 2. Such signs are removed promptly upon completion of the work.
- h. Private Driveways. Signs indicating the private nature of a driveway, or trespassing sign, provided that the size of any such sign shall not exceed two (2) square feet.

- i. Height and Projection of Signs. No sign in an R-District shall project into the public way or project higher than one story or twenty (20) feet, whichever is lower.
- 5.972 Signs in "C" and "M" Districts. Business signs shall be permitted as follows:
- a. Size of Signs. (Detached). No detached sign shall have a gross surface of more than 100 sq. ft. in any "C" District or 150 sq. ft. in any "M" District.
 - b. Size of Signs. (Attached). No attached sign shall have a gross surface area in excess of 20 percent of the building side on which it is attached.
 - c. Location of Signs. In any C-1 District, all signs shall be securely attached to a building. Free-standing signs shall be permitted in C-3, C-4 and "M" Districts only, provided that no such sign shall be nearer to any property line than the height of such sign, but in no case less than twenty (20) feet.
 - d. Illumination of Signs. Flashing signs are prohibited. Revolving illuminated signs shall be considered as a Special Exception permitted in M-Districts provided that such signs shall not create any traffic hazard, or abut or face any residential property or any residential zone lot. Stationary illuminated signs are permitted in "C" or "M" Districts only.
 - e. Portable Signs. Portable signs other than temporary artisans" signs are prohibited; provided, however, that portable signs shall be permitted only on a temporary basis, for a period of not more than one (1) month; provided, further, that, upon written application such temporary permit for a portable sign may be extended by the Zoning Officer, for cause, for a period of not more than one (1) additional month.
- 5.973 Outdoor Advertising. Outdoor advertisements (billboards) are permitted in C-3, C-4 and "M" Zones only.
- a. No outdoor advertisement shall be permitted within five hundred (500) feet of any residential district; nor shall any such use face any public or parochial school, library, church, hospital or similar institutional use, if closer than five hundred (500) feet; provided, however, that when such sign is separated from the residential district by a main arterial highway, such distance may be reduced to 250 feet.
 - b. No two outdoor advertisements shall be located closer to one another than five-hundred (500) feet. Double outdoor advertising signs shall be treated as a single sign regarding this restriction governing the minimum distance between signs.
 - c. Outdoor advertisements shall conform with all yard spaces required for the district in which they are located.

- d. The total surface area of any outdoor advertisements, exclusive of structural supports, and trim, shall not exceed, in square feet, four times the frontage of the lot or tract on which it or they stand, nor shall any individual outdoor advertisement exceed 672 square feet.
- e. No outdoor advertising sign shall be nearer to any property line than the height of such sign, but in no case less than 25 feet.

5.974 General Regulations. The following regulations shall apply to all permitted signs:

- a. Maintenance. Signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- b. Wall Signs. Display signs placed against the exterior walls of buildings or structures shall not extend more than 15 inches out from the wall surface. Wall signs exceeding forty (40) square feet in area shall be of non-combustible material.
- c. Projecting Signs. Attached signs shall not project from any building more than three (3) feet in the direction of a public street or public walk-way area nor shall any such sign extend over a public street or walk-way area. A clear space of not less than ten (10) feet shall be provided below all parts of projecting signs. Projecting signs exceeding forty (40) square feet in area shall be made of non-combustible material.
- d. Height of Signs.
 - (1) Attached Signs. No sign shall extend above the height of the building to which it is attached, nor shall any sign be located upon the roof of a building; provided, however, that a business sign may be affixed to a parapet.
 - (2) No free-standing sign shall extend more than thirty (30) feet above the mean ground level where it is located; provided, however, that when an outdoor advertising signs adjoins a road which is at a higher elevation than the ground on which it is placed, the height of such outdoor advertising signs shall be measured from the ground level of the abutting road towards which the sign is directed, but in no case shall the height of such outdoor advertising sign exceed a height of 150 above the mean ground level on which they are situated, nor more than 30 feet above the level of the road towards which it is directed.

- e. Permits (Building) for Signs. Building permits shall be required for all signs except temporary political signs, signs provided for in Subsection 5.971 and other accessory residential signs. For signs in the interest of the public information and convenience, the Zoning Officer, upon approval by the Zoning Hearing Board, may issue a temporary permit for a period to be designated by the said Board. Such temporary signs shall be removed by the property owner at the termination of any permit for the erection thereof. In the case of political signs, they shall be removed within 48 hours of the election which they address.
- f. Fees. Fees for all signs requiring permits shall be in accordance with Section 9.600 hereof; provided, however, that no fee shall be charged for the erection of a sign necessary to the public welfare. Fees for all other signs shall be in accordance with Section 9.600 hereof.

5.980 Temporary Uses

- 5.981 Temporary Tract Office, Tract Sign, Model Home. Such temporary use in any district shall be located on the property to which it is appurtenant and it shall be limited to a six (6) month period at the expiration of which time the applicant may request a further extension of time. Otherwise such temporary use shall be removed at the expense of the owner.

5.982 Other Temporary Uses

- a. Types of Other Temporary Uses. Temporary uses, other than those specified in Section 5.981 hereof, shall be permitted only as Special Exceptions and may include such uses as a use which involves a structure such as a temporary tent to house a circus, carnival, bazaar, flea market, concert, retail sales, and other special exhibits, as well as the removal of culm banks and other waste deposits.
- b. Time Limitation on Permits. Except for tract offices, tract signs, model homes, and the removal of culm banks and other waste deposits, no temporary permits shall be issued for a period of more than thirty (30) consecutive days. For events of one (1) to two (2) day duration the permit shall be limited accordingly. Such limitation shall not, however, preclude the applicant from securing temporary permit renewals not to exceed a period of thirty (30) days covered by any such temporary permit. Application shall be filed with the Borough Council not less than one (1) month prior to the regular meeting of the Borough Council at which approval shall be considered.
- c. Condition of Site of Temporary Event. Upon the termination of the temporary event, the applicant shall restore the site to its original condition.

- d. **Other Conditions.** The applicant shall provide the Borough Council with evidence of adequate liability insurance in an amount to be determined by the Borough on a case-by-case basis, as well as evidence of adequate resources to assure the safety of the participants and the surrounding area.
- e. Any use which involves a structure such as a temporary tent shall conform with all other Borough codes and ordinances such as applicable BOCA codes.
- f. Temporary uses which involve a structure on a fixed site shall provide evidence of a Highway Occupancy Permit for any site located on a State Highway.
- g. **Additional Requirements.** The Borough Council may establish additional requirements related to the terms and conditions, and the duration of each such temporary use on a case-by-case basis as needed to protect the public health, safety and welfare.

ARTICLE 6

PERFORMANCE STANDARDS

6.100 GENERAL APPLICATION

All existing and proposed permitted uses, special exceptions, and conditional uses and uses accessory thereto, are subject to the following performance standards and procedures.

6.200 PERFORMANCE STANDARDS PROCEDURES

6.210 Prior to Construction and Operation

Any application for a building permit for a use, which shall be subject to performance standards, shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein.

Such application shall further be accompanied by a report prepared by a licensed professional engineer describing the methods or procedures to be undertaken to assure compliance with the Performance Standards specified herein; provided, however, that the Zoning Hearing Board will consider requests for a waiver of this requirement and may waive this requirement for uses which are not considered likely to violate any of the standards set forth herein.

6.220 Continued Compliance

Continued compliance with performance standards is required and enforcement of continued compliance with these performance standards shall be the responsibility of the Zoning Officer.

6.230 Determination of Violation

The Zoning Officer shall investigate any purported violation of performance standards and, if there is reasonable ground for the same, shall initiate the procedures set forth in Section 9.500 hereof.

6.300 REGULATION OF NUISANCE ELEMENTS

6.310 Definition of Elements

No land or building in any District which shall be used or operated in such a manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other nuisance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as "Dangerous or objectionable elements"); provided that any use permitted by this Ordinance may be undertaken and maintained in any District if it conforms to the regulations of this Subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

6.320 Locations Where Determinations Are to be Made for Enforcement of Performance Standards

The determination of the existence of any dangerous and objectionable elements shall be made at:

- a. The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.
- b. The property lines of the use creating such elements for noise, for vibration, for glare and for odors.

6.400 STANDARDS TO BE ENFORCED

6.410 Fire and Explosion Hazards

- a. In all activities involving, and all storage of, inflammable and explosive materials, the owner or operator of such use shall provide adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of State and local laws and regulations shall also apply.
- b. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above the ground except in structures according to Commonwealth and Federal Specifications.

- c. All outdoor storage facilities for fuel shall be enclosed by an approved safety fence to prevent access thereto by unauthorized individuals.
- d. All materials or wastes which might cause fumes, constitute a fire hazard, or attract rodents or insects may only be stored if enclosed in buildings or containers which are adequate to eliminate such hazards.
- e. No materials, fuels, wastes, or flammable substances may be deposited or stored on a lot in such a manner as to allow them to be transferred off the lot by natural causes or forces. No substances, including but not limited to gasoline, oil, waste oil, and chemicals which can contaminate a stream or water course or render such stream or water source unusable or undesirable as a source of water supply, or recreation or which will destroy or damage aquatic life shall be stored in such a location so that it could be introduced into the said stream or water course by natural causes or forces, or by rupture of storage containers or accidental discharge.

6.420 Radioactivity or Electrical Disturbance

No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

6.430 Noise

At the points of measurement specified in Section 6.320, the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table III after applying the corrections shown in Table IV. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association.

(American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds Z24.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y., shall be used.)

TABLE III

Octave Band Frequency (Hz)		Residential District (Decibels)	Non-Residential (Decibels)
>	≤		
20	75	72	79
75	150	67	74
150	300	59	66
300	800	52	59
800	1200	46	53
1200	2400	40	47
2400	4800	34	41
4800	-	32	39

If the noise is not smooth and continuous and is not radiated between the hours of 10 P.M. and 7 A.M. one or more of the corrections in Table IV shall be applied to the octave band levels given in Table III.

TABLE IV

Type or Location of Operations or Character of Noise	Correction in Decibels
1. Daytime operation only	5
2. Noise source operates less than*	
a. 20% of any one-hour period	5
b. 5% of any one-hour period	10
3. Noise of impulsive character, hammering, etc.	-5
4. Noise of periodic character, hum, screech, etc..	-5
5. Property is located in an "M" District and is not within 500 feet measured horizontally or vertically of any R District	10

* Apply one of these corrections only.

6.440 Vibration

No activity or operation shall produce at any point along the property line continuous earthborne vibrations greater than the maximum displacement as permitted in the following table:

Frequency (Hz)		Residential District Displacement (In Inches)	Non-Residential District Displacement (In Inches)
>	≤		
0	10	.0004	.0020
10	20	.0002	.0010
20	30	.0001	.0006
30	40	.0001	.0004
40	50	.0001	.0003
50	-	.0001	.0002

Discrete pulses that do not exceed 100 impulses per minute may not produce more than twice the displacement specified in the table.

6.450 Glare

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified in Subsection 6.320. This restriction shall not apply to signs otherwise permitted by the provisions of this Ordinance. In no event shall a lighting intensity greater than one twenty-five hundredths (.25) footcandle (2.7 lux), measured at grade, be permitted beyond property lines.

6.460 Smoke, Dust, Fumes, Vapor, and Gas Control

The emission of dust, dirt, flyash, fumes, vapors, or gases which cause any damage to human health, to animals or to vegetation or other forms of property, or which can cause soiling or staining of persons or property at any point beyond the lot line of the use creating such emission is hereby prohibited.

No activity in any industrial district shall be reactivated, established, modified, constructed, or operated without having obtained valid permits and/or certificates from the Pennsylvania Department of Environmental Protection or its successor agency for airborne emissions. Such proof of compliance shall consist of duplicate copies of such permits and/or certificates for the current time period. In addition to the requirements of the Department of Environmental Protection or its successor agency, the following requirements shall apply:

- a. **Particulate Matter.** No use shall exceed the national ambient air quality standards established in the federal Clean Air Act or the requirements of Titles 25 and 35 of the Pennsylvania Code as they are amended and adopted for particulate matter.
- b. **Smoke or Steam.** No use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringelmann No. 1, except that an emission that does not exceed a density of equivalent capacity of Ringelmann No. 2 is permissible for a duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of a residential district. All measurements shall be taken at the point of emission of the smoke. [For the purpose of determining the density of equivalent opacity of smoke, the Ringelmann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringelmann number referred to in this section refers to the number of the area of the Ringelmann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringelmann No. 1 indicates a 20 percent density of the smoke observed.]
- c. **Toxic Matter and Hazardous Material.** Emissions of chemicals, gases, components, or elements, listed as being toxic matter or hazardous material by the American Conference of Governmental Industrial Hygienists, the Pennsylvania Department of Environmental Protection or the U.S. Environmental Protection Agency, or their successor agencies, shall not exceed any stated Threshold Limit Value in any industrial district. No emission of toxic matter shall exceed fifty percent (50%) of the Threshold Limit Value in any adjacent residential or commercial district.

6.470 Odors

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

6.480 Liquid and Solid Wastes

No operation shall discharge wastes of any kind into a surface water or a groundwater source. All methods of waste disposal shall be approved by the Pennsylvania Department of Environmental Protection. Such evidence of approval shall be provided. Such evidence of approval shall be provided to the Borough. The owner of any parcel governed by this ordinance may be required at the discretion of the Borough to monitor the ground water and surface water in the vicinity of his premises. Water testing shall be conducted at an interval deemed appropriate by the governing body on any stream located on the premises or any stream within five hundred (500) feet of any area used for storage of liquid or solid wastes. In addition, the well located on the premises shall also be sampled at an interval to be deemed appropriate by the governing body. The sample shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the governing body and results shall be provided to the Borough. If samples exceed the limits established by the Pennsylvania Department of Environmental Protection, remedial action shall be taken in accordance with this Ordinance.

6.490 Heat

No activity or use shall produce heat perceptible beyond its property lines and no use shall be permitted that would cause the ambient water temperature, as defined by the Pennsylvania Department of Environmental Protection, or its successor agency, to rise or fall more than five (5) degrees Fahrenheit (2.8 degrees Celsius) during the ten (10) year, seven (7) day low flow in any natural pond, stream, river, or other watercourse.

ARTICLE 7

NONCONFORMING USES AND BUILDINGS

7.100 CONTINUATION OF USE

A use, building or structure lawfully in existence prior to the adoption of this Ordinance, which does not comply with the applicable use provisions of this Ordinance or any applicable amendment thereto may be continued except as otherwise provided in this Article. Although legally existing nonconforming uses may be continued, it is the goal of the Borough to encourage the relocation of such uses to zones where they will be in conformance with this Ordinance.

7.200 REGULATION OF NONCONFORMING USES

No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted, or structurally altered except when changed to a conforming use, or when required to do so by law or order and as follows:

7.210 Restoration

Any nonconforming building or structure which is damaged may be restored, reconstructed, or used as before, provided it shall not exceed 25 percent of the floor area which existed prior to such damage, as provided under Subsection 7.250 hereof; and, provided further that it shall be completed within one year of such happening, and that such restoration shall be in conformity with the requirements of this Ordinance; provided, however, that if such restoration is delayed due to related litigation, the time required to resolve such litigation shall not be counted towards such one (1) year limit.

7.220 Displacement

A nonconforming use shall not be extended to displace a conforming use.

7.230 Change of Use

- a. A nonconforming use or structure shall not be changed into a use which is permitted in a less restrictive district than the district where the nonconforming use is first permitted.
- b. A nonconforming use may be changed into a conforming use.
- c. A nonconforming use which is not permitted in any district or which is permitted only as a special exception or a conditional use may only be changed into a conforming use.

- d. When a nonconforming use shall be changed in accordance with the provisions hereof, the use of the building or other structure or tract of land shall not thereafter be changed again except in accordance with these regulations.

7.240 Repairs

- a. Normal maintenance, repairs, and incidental alteration of a building or other structure containing a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use.
- b. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability, provided that no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.
- c. When a nonconforming use has been destroyed by more than 50% of its floor area, it shall be removed; provided, however, that it may be reconstructed as it existed prior to destruction; provided, however, that such reconstruction is started not more than one (1) year and completed within two (2) years following the date of destruction.

7.250 Expansion

A nonconforming use or structure may be expanded up to twenty-five (25%) percent of its floor area and/or lot area as it exists at the time of the adoption of this Ordinance. Such use shall not be expanded, however, into a more restrictive district than where it is located; and, such use shall not be permitted to expand except in accordance with all of the building regulations herein. Such enlargement must conform to all other regulations of the District where it is situated. This provision may be used only once for each zone lot.

7.260 Prior Approval

Nothing herein contained shall require any change in the plans, construction, or designated use of a building complying with existing laws, a permit for which had been duly granted and the construction of which shall have been started before the date of adoption of this Ordinance or any applicable amendment thereto, and the ground story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit, and which entire building shall have been completed, according to such plans as have been filed, within one (1) year of the date of adoption of this Ordinance or any applicable amendment thereto.

7.300 TERMINATION OF NONCONFORMING USES

The discontinuance of a nonconforming use for a period of five (5) years and/or the change of use to a more restricted or conforming use for any period of time shall be considered an abandonment and such nonconforming use shall not thereafter be revived. Intent to resume active operations shall not affect the foregoing.

7.400 REGISTRATION OF NONCONFORMING USES

The Zoning Officer may identify and register nonconforming uses and nonconforming structures as provided in Section 613 of the Pennsylvania Municipalities Planning Code, Act 247 as amended.

ARTICLE 8

ZONING HEARING BOARD

8.100 ORGANIZATION AND PROCEDURE

8.110 Establishment

Pursuant to the provisions of the Pennsylvania Municipality Planning Code, Article IX, a Zoning Hearing Board is hereby established.

8.120 Appointment

8.121 Members of the Board shall be residents of the municipality, appointed by resolution of the Governing Body. The Zoning Hearing Board shall consist of five (5) members, one of whom shall be designated to serve until the first day of January following the adoption of the Zoning Ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter, one until the first day of the fourth January thereafter, and one until the first day of the fifth January thereafter. Their successors shall be appointed on the expiration of their respective terms to serve five (5) years. Members of the Board shall hold no other public office in the municipality.

8.122 Appointment to Fill Vacancies

The Board shall promptly notify the Governing Body of any vacancies which occur. Appointment to fill vacancies shall be for the unexpired term of the member or members whose term or terms become vacant and such appointments to fill vacancies shall be made in the same manner as the original appointment.

8.123 Removal

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Governing Body who appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

8.124 Organization of Board

- a. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board 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 8.140. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business which records shall be the property of the Borough and shall submit a report of its activities to the Governing Body as requested by the Governing Body.

- b. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate as many alternate members of the board to sit on the board as may be needed to provide a quorum. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially appointed until the board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

8.125 Appointment of Alternate Members

The governing body may appoint up to three (3) alternate members of the Zoning Hearing Board in accordance with the provisions of Section 903(b) of Act 247 as amended.

8.130 Expenditures for Services

Within the limits of funds appropriated by the Governing Body, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Governing Body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Governing Body.

8.140 Hearings

The Board shall conduct hearings and make decisions in accordance with the following requirements:

- 8.141 a. Notice shall be given to the public, the applicant, the local planning agency, the Zoning Officer, such other persons as the Governing Body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board. The Governing Body may establish reasonable fees, based on cost, to be paid by the applicant and by persons requesting any notice not required by this ordinance. In addition to the written notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

- b. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- 8.142 The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- 8.143 The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose. The Chairman or acting Chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- 8.144 The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- 8.145 The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- 8.146 The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after commencement of hearings, with any party or his representative unless all parties are given an opportunity to be present.

8.147 The Board or the Hearing Officer, as the case may be, shall render a written decision, or when no decision is called for, make written findings on the application within forty-five days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this ordinance, rules, or regulations shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection 8.141 of this section. If the Board fails to provide such notice, the appellant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

8.148 A copy of the final decision, or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

8.150 Jurisdiction

The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

8.151 Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to sections 609.1 and 916.1(a)(2) of Act 247 as amended.

8.152 Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.

- 8.153 Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- 8.154 Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
- 8.155 Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 8.200 hereof.
- 8.156 Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1 of Act 247 as amended.
- 8.157 Appeals from the zoning officer's determination under section 916.2 of Act 247 as amended.
- 8.158 Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under the municipality's Subdivision and Land Development Ordinance.

8.200 ZONING HEARING BOARD FUNCTIONS

8.210 a. Variances

The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:

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

- (3) That such unnecessary hardship has not been created by the appellant.
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- b. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this zoning ordinance and Act.247 as amended.
 - c. Upon approval of a variance, the Board shall direct the Zoning Officer to issue a permit to the applicant, which permit shall authorize the applicant to proceed with development in accordance with the terms of the approved variance.
 - d. Variance approvals shall be valid a period of one (1) year from the date of approval. If the proposed development is not completed within one (1) year of approval, the applicant shall submit a new application for a variance and shall require approval thereof.

8.220 Special Exceptions

8.221 Board Action. Special Exceptions, as enumerated in Article 3, shall be permitted only upon authorization by the Zoning Hearing Board. The Board may refer such applications to the Planning Commission for their review and recommendations. The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria set forth herein. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in this ordinance, as it may deem necessary to implement the purposes of this zoning ordinance and Act 247 as amended.

8.222 Review Criteria. Approval of special exceptions shall be authorized only if they are found to comply with the following requirements and other applicable requirements as set forth in this Ordinance.

- a. That the use is a permitted Special Exception as set forth in Article 3 hereof.
- b. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.
- c. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

- d. That the use shall be compatible with adjoining development and the character of the zone district where it is proposed to be located.
- e. That adequate landscaping and screening is provided as required in Section 4.700 and as otherwise provided herein.
- f. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- g. That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large-scale development.
- h. That such use shall not result in unsafe traffic conditions, traffic congestion or other dangerous traffic conditions.
- i. That such use shall be located on a site where the soils are suitable to safely support any structure to be erected; and, where soils are not deemed suitable, a plan shall be submitted, describing proposed methods to compensate for such unsafe soils conditions.

8.223 Special Exceptions: Affect of Filing an Application. When an application for a special exception has been filed with the Zoning Hearing Board, and the subject matter of such application would ultimately constitute either a "land development" as defined in Section 107 or a "subdivision" as defined in Section 107 of the PA Municipalities Planning Code, Act 247, as amended, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by the Zoning Hearing Board, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer or as may be approved by the Zoning Hearing Board following the date of such approval in accordance with the provisions of the governing ordinance or plans as they stood at the time the application was duly filed before the Zoning Hearing Board. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508 (1) through (4) of the PA Municipalities Planning Code, Act 247, as amended, and specifically to the time limitations of Section 508 (4) which shall commence as of the date of filing such land development or subdivision plan.

8.300 PARTIES APPELLANT BEFORE THE BOARD

Parties appellant before the Board shall be as set forth in section 913.3 of Act 247 as amended.

8.400 TIME LIMITATIONS

8.410 Filing Proceedings with the Board

No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to section 709 of Act 247 as amended or from an adverse decision by a zoning officer on a challenge to the validity of this ordinance pursuant to section 916.2 of Act 247 as amended shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

8.420 Appeals From Adverse Determinations

All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

8.500 ZONING CHALLENGES

8.510 Procedure for Landowner Curative Amendments

The procedure to be followed for landowner curative amendments shall be as set forth in Section 609.1 of Act 247 as amended.

8.520 Procedure for Curative Amendment by the Borough

If the Borough determines that this ordinance or portions thereof are substantially invalid, it shall take action in accordance with the procedures set forth in Section 609.2 of Act 247 as amended.

8.530 Mediation

The Borough may offer a mediation option as an aid in resolving conflicts which may arise under this Ordinance. In exercising such an option, the Municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Article IX of Act 247 as amended.

8.600 STAY OF PROCEEDINGS

8.610 Upon filing of any proceeding referred to in Section 913.3 of Act 247 as amended and during its pendency before the Board, all land development pursuant to any

challenged ordinance, order or approval of the zoning officer or of any agency or body, and all official action thereunder, shall be stayed unless the zoning officer or any other appropriate agency or body certifies to the board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the zoning officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceeding before the Board.

8.620 After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

8.630 The questions whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

8.640 If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

8.700 GENERAL GRANT OF POWER

The Zoning Hearing Board shall perform all the duties and have all the powers prescribed by the Pennsylvania Municipalities Planning Code and as herein more particularly provided.

8.800 ZONING APPEALS TO COURTS

Zoning Appeals to Courts. The procedure for appeals for any decision made under Act 247 as amended shall be pursuant to Article X-A of said Act.

ARTICLE 9

ADMINISTRATION AND ENFORCEMENT

9.100 ZONING OFFICER

9.110 Creation of Office

The Office of Zoning Officer is hereby established.

9.120 Appointment

The Zoning Officer shall be appointed by and compensated by the Governing Body.

9.130 Holding Other Public Office

The Zoning Officer shall not hold any elective office in the Municipality.

9.140 Powers and Duties

The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance. He is authorized to institute civil enforcement proceedings as a means of enforcing the regulations of this Ordinance for which he has designated responsibilities. He shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this Ordinance and all nonconforming uses, record and file all applications for permits with accompanying plans and documents, and make such reports to the Planning Commission and the Zoning Hearing Board as may be required.

Zoning permits for a variance from the requirements of this Ordinance and for such special exceptions as may be enumerated in Article 3, hereof shall be issued only upon written order of the Zoning Hearing Board.

9.150 Appeals

All appeals from decisions of the Zoning Officer shall be taken in the manner set forth in this Ordinance and as otherwise prescribed by the Pennsylvania Municipalities Planning Code.

9.160 Qualifications of the Zoning Officer

The zoning officer shall be able to demonstrate to the satisfaction of the local governing body a working knowledge of municipal zoning.

9.170 Registration of Nonconforming Uses and Structures

The zoning officer may identify and register nonconforming uses and structures and shall identify the reasons for their identification as nonconformances.

9.180 Issuance of Preliminary Opinion

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 of Act 247 as amended by the following procedure:

9.181 The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

9.182 If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the Municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 of Act 247 as amended and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

9.200 ZONING PERMITS

9.210 Purpose

To determine compliance with the provisions of this Ordinance. No person shall erect, alter or convert any structure or building, or part thereof, nor alter the use of any land, subsequent to the adoption of this Ordinance, until a Zoning Permit has been issued by the Zoning Officer.

9.220 Application for Permits

All such applications shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot or lots to be built upon, its

assessment map and parcel number as recorded, the date of official record of any lot or lots on which construction is proposed, the exact size and location of any building, sign, parking or loading area or other physical feature existing or proposed on the lot, the existing and intended use of each building or part of a building, the number of families, dwelling units, employees, offices or other appropriate units of occupancy which the building is designed to accommodate, and such other information as may be necessary to determine compliance with this Ordinance. One copy of such plans shall be returned to the owner when such plans shall be approved; one copy each of all applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

9.230 Issuance of Permits

It shall be the duty of the Zoning Officer to issue a Zoning Permit, provided he is satisfied that the structure, building, sign, parking area of premises, and the proposed use thereof, conform with all requirements of this Ordinance and that all other reviews and actions, if any, called for in this Ordinance have been complied with and all necessary approvals secured thereof.

All Zoning Permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises effected, and protected from the weather, whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations regulated by this Ordinance of any kind unless a Zoning Permit covering such operation has been displayed as required by this Ordinance, nor shall they perform such building operations after notification of the revocation of said Zoning Permit

All zoning permits for commercial and manufacturing uses shall stipulate that such permit does not authorize any development activities unless there is evidence of the approval of the proposed construction plans by the PA Department of Labor and Industry.

9.240 Denial of Permits

When the Zoning Officer is not satisfied that the applicant's proposed development will meet the requirements of this Ordinance, he shall refuse to issue a Zoning Permit and the applicant may appeal to the Zoning Hearing Board for a reversal of the Zoning Officer's decision.

9.250 Revocation of Permits

- a. If it shall appear at any time, to the Zoning Officer that the application or accompanying plans are in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the applications filed with him under existing laws or ordinances, he may forthwith revoke the Zoning Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Zoning Officer. After the Zoning Permit has been revoked, the Zoning Officer may, in his discretion,

before issuing a new Zoning Permit, require the applicant to file an indemnity bond in favor of the Municipality with sufficient surety conditioned for compliance with this Ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

- b. Any development authorized by a zoning permit shall be completed within a period of one (1) year of the date of such permit. If such development is not completed within one (1) year, the zoning permit shall be automatically revoked, and any future development of the subject project shall require a new application and the issuance of a new permit.

9.300 OCCUPANCY PERMITS

9.310 For New Uses

After completion of the whole building or structure, and upon the sworn application by the owner or his duly authorized agent, setting forth such facts as the Zoning Officer may require, and after actual inspection of the premises by the Zoning Officer or his duly authorized assistant, he shall upon finding the facts to be as represented, issue in duplicate an Occupancy Permit, certifying that the premises comply with the provisions of the Ordinance and may be used for the purposes set forth in the permit, which purposes shall conform with the requirements of this Ordinance. No change of use shall be made in any building, structure, or premises, or premises now or hereafter erected or altered that is not consistent with the requirements of this Ordinance. Any person desiring to change the use of his premises shall apply to the Zoning Officer for an Occupancy Permit, setting forth under oath such facts as may be required.

A copy of the Occupancy Permit shall be kept at all times upon the premises effected, and shall be displayed upon request made by an authorized official. A record shall be kept of all Occupancy Permits issued and the original applications therefore shall be kept on file in the same manner as applications for Zoning Permits. No owner, tenant, or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Ordinance without first procuring an Occupancy Permit; provided that an Occupancy Permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

9.320 For Existing Uses

Upon written request from the owner, tenant or occupant, the Zoning Officer, after inspection, shall issue an Occupancy Permit for an existing use legally existing at the time this Ordinance is made effective, certifying the extent and kind of use and whether any such existing use conforms with the provisions of this Ordinance.

No change or extensions of use, and no alterations shall be made in a nonconforming use or premises without an occupancy permit having first been issued by the Zoning Officer stating that such change, extension or alteration is in conformity with the provisions of this Ordinance.

9.400 PLANNING COMMISSION

9.410 Review Application and Appeals

The Zoning Hearing Board may refer to the Planning Commission all applications for Special Exceptions, and any other applications or appeals which in their opinion require review by the Planning Commission.

9.420 Criteria for Review

The Planning Commission shall review such applications in accordance with applicable criteria set forth in Section 8.222 and any special requirements for the intended use.

9.430 Report to the Zoning Hearing Board

The Planning Commission may recommend approval, disapproval, or approval subject to conditions or modifications, and shall report its findings to the Zoning Hearing Board within thirty (30) days of receipt thereof; such report shall state all recommended conditions and modifications and the reasons for such approval or disapproval.

9.440 Report to Governing Body

Following the enactment of this Ordinance the Planning Commission shall, from time to time prepare and file with the Governing Body, but in no case at less than two (2) year intervals a report on the operation of this Ordinance including recommendations on the enactment of amendments, supplements or changes thereto. The Planning Commission shall also review and report on all proposed conditional uses referred to it by the Governing Body.

9.500 VIOLATIONS

9.510 Complaints of Violations

Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate and report thereon.

9.520 Enforcement Procedures

9.521 Enforcement Notice

- a. If it appears to the Municipality that a violation of this zoning ordinance has occurred, the Municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- b. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- c. An enforcement notice shall be mailed to the alleged violator by certified mail and shall state at least the following:
 - (1) The name of the owner of record and any other person against whom the Municipality intends to take action.
 - (2) The location of the property in violation.
 - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (5) That the recipient of the notice has the right to appeal to the zoning hearing board within the prescribed period of time and in accordance with procedures set forth in Section 9.523 hereof.
 - (6) The failure to comply with the notice within thirty (30) days of the date of said notice, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

9.522 Causes of Action . In case any building, structure, landscaping, or land is or is proposed to be, erected, constructed reconstructed, altered, converted, maintained or used in violation of this ordinance, the Zoning Officer, 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 30 days prior to the time

the action is begun by serving a copy of the complaint on the governing body of the Municipality. No such action may be maintained until such notice has been given.

9.523 Appeals. Any recipient of a notice of enforcement shall have the right to appeal to the zoning hearing board to remove such notice. Such appeals, however, must be filed with the zoning hearing board not more than five (5) days following the receipt of such an enforcement notice.

9.530 Enforcement Remedies

- a. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this zoning ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the Municipality.
- b. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- c. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

9.600 FEES

The following fees shall be paid to the Zoning Officer upon the filing of an application:

9.610 Fees for Zoning Permits not requiring Board Action

- | | |
|--|----------|
| a. Alteration of an existing structure | \$ 50.00 |
| b. New construction | \$100.00 |

- 9.620 Fees for Zoning Permits for business and outdoor advertising signs shall be calculated on the basis of the total surface area utilized for display, and shall be as follows:
- 9.621 \$25.00 for any sign with a gross surface display area of less than 50 square feet.
 - 9.622 \$50.00 for any sign with a gross surface display area of 50 square feet or more but less than 100 square feet.
 - 9.623 \$50.00 plus \$1.00 per square foot for each additional square foot over 100 square feet for any sign with a gross surface display area of 100 square feet or more.
- 9.630 Occupancy Permits \$ 50.00
- 9.640 Applications requiring Board action, including appeals for variances, requests for amendments, applications for special exceptions, applications for rehearings on appeals, and applications requiring action by the Borough Council, including amendments and conditional uses. \$350.00 plus one-half of the appearance cost of a court stenographer.

ARTICLE 10

AMENDMENTS

10.100 PROCEDURE

The procedures set forth in Section 607 of Act 247 as amended shall be followed in the preparation of zoning ordinance amendments.

10.110 Enactment

Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality 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.

10.120 Referral to Borough Planning Commission

In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least thirty (30) days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

10.130 Rehearings

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.

10.140 Referral to County Planning Commission

At least thirty (30) days prior to the public hearing on the amendment by the local governing body, the Municipality shall submit the proposed amendment to the Lackawanna County Regional Planning Commission for its recommendations. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the LCRPC.

10.200 PROCEDURE FOR CURATIVE AMENDMENTS

The procedure for landowner curative amendments shall be as set forth in Section 609.1 of Act 247 as amended.

10.300 PROCEDURE FOR MUNICIPAL CURATIVE AMENDMENTS

The procedure for municipal curative amendments shall be as set forth in Section 609.2 of Act 247 as amended.

10.400 PUBLICATION, ADVERTISEMENT AND AVAILABILITY OF ORDINANCES

10.410 Publication. Publication shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendments may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- (1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
- (2) An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

10.411 Rehearings

In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall at least ten days prior to enactment readvertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

10.412 Recording

Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

ARTICLE 11

DEFINITIONS

11.100 Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word 'building' shall include the word 'structure'; the word 'used' shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used; the word 'shall' is mandatory and not optional; the word 'abut' shall include the words 'directly across from'.

11.101 Accessory Use or Structure

A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

11.102 Adult Day Care Center

A use providing supervised care and assistance primarily to persons who are over age 60 and not in good physical health or suffering from Alzheimers disease or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

11.103 Agent of Owner

Any person who can show written proof that he has authority to act for the property owner.

11.104 Alley

A public thoroughfare which affords only a secondary means of access to abutting property.

11.105 Alteration (Of Building or Structure)

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

11.106 Assisted Living Facility

A building, establishment, complex or distinct part thereof which: a) accepts primarily aged persons (62 years of age or older) for domiciliary care; and b) provides on site to its residents, room, board, non-medical living assistance services appropriate to the residents' respective needs and contract medical services as prescribed by each resident's treating physician. Such facility shall provide services to sixty (60) or more residents.

11.107 Automobile or Trailer Sales Area

An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

11.108 Automobile Service Station or Filling Station

A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicles trade at retail, and where the following services may be rendered.

a. Minor Repair

1. Sale and servicing of spark plugs and batteries.
2. Tire repair and servicing, no recapping.
3. Replacement of mufflers and tailpipes, water hose, fan belts, brake and transmission fluids, light bulbs, floor mats, seat covers (where this shall not be the principal use), windshield wipers, grease retainers and wheel bearings.
4. Radiator cleaning and flushing.
5. Washing and polishing, not including mechanical and/or automatic car wash establishments.
6. Installation of fuel pumps and fuel lines.
7. Minor servicing and replacement of carburetors.
8. Adjustment and installation of brakes.
9. Tuning engines, except for grinding valves, cleaning carbon or removing the head of engines and/or crankcases.
10. Greasing and Lubrication.
11. Emergency Wiring Repairs.
12. Any similar minor service or repair not listed below under "major repair".

b. Major Repair

In addition to those repairs and services listed above as "minor repair", any general repair, rebuilding or reconditioning not listed above; collision service including body, frame or fender straightening or repair; painting or paint shops; mechanical car wash establishments; but not including any operations which require the heating or burning of rubber.

11.109 Automobile Wrecking

The dismantling or disassembling of used motor vehicles or trailers; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

11.110 B.Y.O.B. Clubs.

(Otherwise known as Bring Your Own Bottle Clubs) means any business facility such as a dance hall, club, association or entity not licensed by the Pennsylvania Liquor Control Board, wherein patrons twenty-one (21) years of age and older may, after payment of a fee, cover charge or membership fee, consume alcoholic beverages which said patrons have carried onto the premises. This definition does not include a facility which is rented for a limited period of time, not to exceed twelve (12) hours, by an individual or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises.

11.111 Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

11.112 Board

The Zoning Hearing Board of the Borough of Dunmore.

11.113 Boarding House

a. A residential use in which any or all of the following applies:

- (1) individual room(s) that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons who are not "related" to the owner of record of the property, or
- (2) a dwelling unit that includes a greater than the permitted maximum number of unrelated persons (see the definition of "family"), or
- (3) if individual units of living space not meeting the definition of a dwelling unit are separately rented to person(s) who are not "related" to the owner of record of the property.

- b. A boarding house shall not include the following uses: treatment center, abused person shelter, hotel, dormitory, motel, assisted living center, bed and breakfast use, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents.
- c. This use shall only involve renting living accommodations for minimum periods of 5 consecutive days.

11.114 Borough Council

The Borough Council of the Borough of Dunmore.

11.115 Building

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements.

11.116 Building Group

Any building, such as a store group, which is divided into separate parts by one or more unpierced walls extending from the ground up.

11.117 Building Height

The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks, and similar projections.

11.118 Building, Principal

A building in which is conducted the principal use of the building site on which it is situated. In any residential district any dwelling shall be deemed to be a principal building on the zone lot on which the same is located.

11.119 Bulk Fuel Storage

The storage of fuel beyond what is reasonably needed for customary on-site use. This includes the storage of fuel to be sold for off-site use.

11.120 Caliper

Diameter of a tree's trunk measured 6 inches above the ground up to and including 4-inch caliper size, and 12 inches above the ground for larger sizes.

11.121 Clothes Cleaning, Industrial

An establishment that does laundering and/or dry cleaning of clothing and/or uniforms as a service for commercial and manufacturing establishments as compared with an establishment designated as "clothes cleaning, neighborhood."

11.122 Clothes Cleaning, Neighborhood

An establishment that does laundry and/or dry cleaning of clothing and uniforms for individuals, and which generally serves one (1) or more residential neighborhoods.

11.123 Cluster Development

A residential cluster shall include an area to be developed as a single entity according to a plan containing residential housing units in which the individual lots have a common or public open space as an appurtenance. Such common or public open space shall be assured of continued operation and maintenance either through the dedication of such area to the Municipality and the Municipality's acceptance thereof, or through the creation of a homeowners association, or the developer's acceptance of such responsibility including such legally binding agreements as may be required to achieve such assurances.

11.124 Commercial Vehicle

A commercial vehicle shall be any vehicle other than a private passenger vehicle, including trucks, trailers, and construction equipment.

11.125 Commission

The Borough Planning Commission of the Borough of Dunmore.

11.126 Court

A court is any open, unoccupied area which is bounded by three or more attached building walls.

11.127 Customary Household Pets

Customary household pets shall include animals, fish and birds which are generally considered to be domestic animals, such as hamsters, dogs, cats, and birds including ducks which shall not be for human consumption. Farm fowl such as chickens and turkeys and other farm animals not specifically designated shall not be considered as customary household pets.

11.128 Day Care Facilities

- a. Child Day Care Center. A premises in which child day care is provided simultaneously for seven (7) days or more to children who are not relatives of the provider of the child day care home, where such facility is subject to PA Department of PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.
- b. 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 or more 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.
- c. Group Day Care Home. A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

11.129 Development Section

Within any large-scale development, the developer may select a portion of the entire approved large-scale development area to be developed in stages or phases; any such area shall be considered as a "development section".

11.130 District

A district or a zone shall be any portion of the territory of the Municipality within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

11.131 Dormitory

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

11.132 Drug Rehabilitation Facilities

Facilities for the rehabilitation of persons addicted to illegal controlled substances, including the overnight stay of patients for periods of two (2) or more days.

11.133 Drug Treatment Centers

Facilities for the treatment of persons who are addicted to the use of illegal controlled substances, such as a methadone clinic, where such treatment is designed to cure persons of such addictions.

11.134 Dwelling

Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, except a mobile home and as otherwise provided herein.

a. Dwelling, Single-Family

A detached building, designated for or occupied exclusively by one family and containing not more than one dwelling unit.

b. Dwelling, Two-Family

A detached or semi-detached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

c. Dwelling, Town House

A town house shall include a group of not more than eight (8) single-family attached dwellings separated from each other by common walls, where each unit contains a separate and private entrance to the outside.

d. Dwelling, Garden Apartments

A group of rental units, generally under single ownership (but a condominium is not precluded) where there shall not be more than eight (8) dwelling units contained within each structure; such structures containing garden apartment units are generally less than four (4) stories in height although in the Municipality they shall not exceed a height of 2.5 stories or thirty-five feet.

e. Dwelling Group

A group of two (2) or more residential buildings on a single zone lot.

f. Dwelling, Multi-Family

A structure containing three (3) or more dwelling units including but not limited to garden apartments, condominiums and town houses.

11.135 Dwelling Structure

Any structure which shall contain one (1) or more dwelling units, not including a hotel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house or boarding house.

11.136 Dwelling Unit

A single habitable living unit occupied by only one "family." See definition of "family." Each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping and cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. No dwelling unit shall include a separate living area that is completely separated by interior walls so as to prevent interior access from the remainder of the living area. No dwelling unit may include more than 1 kitchen, except:

- a. Cooking facilities may be located in two abutting rooms that open into each other,
- b. If a kitchen was installed prior to the adoption of this Ordinance under a valid Borough permit, or
- c. For Care of Relative.

11.137 Earth-Extraction

An earth-extraction is a business activity which includes the excavation and removal of natural resources from the earth. Earth-extraction industries include rock-crushing and similar uses.

11.138 Essential Services

The erection, construction alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic light signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, including buildings, but not including sanitary landfills or other means of solid waste disposal.

11.139 Family

Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.

Notwithstanding the definition in the preceding paragraph, a family shall also be deemed to include not more than 7 unrelated persons occupying a dwelling units and living as a single, nonprofit housekeeping unit, if said occupants are handicapped persons as defined herein. 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 paragraph 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.

11.140 Farm Animals

Farm animals shall be those animals normally associated with agricultural enterprises, such as cattle, horses, and poultry; they are normally raised for human consumption, production of dairy products, pelts and other commercial purposes.

11.141 Fire Escape

A set of stairs, constructed of durable, non-flammable metal, which is constructed on the exterior of a multi-story residential or commercial building in order to provide a secondary means of egress in the event of a fire or other emergency.

11.142 Flea Market

An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

11.143 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 type 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 sales or 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 incident to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting or alteration rooms.

11.144 Fraternity or Sorority House

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

11.145 Garage, Private Parking

A detached accessory building or a portion of a principal building used only for the storage of automobiles by the families resident upon the premises.

11.146 Garage, Public Parking

A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles not including a structure or part thereof used only for storage or display of automobiles for other than transients.

11.147 Governing Body

The Borough Council of the Borough of Dunmore.

11.148 Group Home for the Handicapped

A dwelling unit shared by not less than four (4) nor more than seven (7) handicapped persons, including resident staff, who live together as a single housekeeping unit and in long-term, family-like environment in which staff persons residing on the premises provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. The term "group home for the handicapped" shall not include alcoholism or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

11.149 Halfway House

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

11.150 Handicapped Person

As used herein, regarding "group home for the handicapped", the term "handicapped" shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addition to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.

11.151 Health Care Facilities

Health Care Facilities consist of several different types of facilities such as hospitals, medical centers, nursing homes, hospice institutions, and other similar uses where people can receive medical treatment and related support services due to their inability to meet their own physical care needs. Rooming and boarding houses, and drug rehabilitation facilities and drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from overdosing on illegal controlled substances are not considered to be health care facilities.

11.152 Home Occupation

A home occupation is a commercial or other nonresidential use of a dwelling which is customarily conducted entirely within a dwelling unit or accessory building, which is conducted by the inhabitants residing therein; provided that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes. The inability of the proposed use to meet the space limitations or other requirements herein established shall conclusively establish that such proposed use was not intended to be a home occupation, as defined herein.

11.153 Hotel

A building designed for occupancy as the temporary residence of individuals who are lodged with or without meals and in which no provision is made for cooking in individual rooms or suites.

11.154 Impervious Coverage

The coverage of land by buildings and other impervious materials such as asphalt, which prevent the percolation of water into the ground.

11.155 Junk Yard

An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded materials, including, but not limited to, waste paper, rags, metal, building materials, house furnishing, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two or more wrecked or disabled vehicles, or the major part thereof, without current inspection stickers shall be deemed to be a "junk yard"; provided, however, that such use shall not be deemed to be a "junk yard" if they are stored in an enclosed building.

11.156 Landings, Uncovered

Landings and related stairways that may be erected on the exterior of a building, where such facilities are not required in order to meet fire code standards or other safety standards. Such landings or stairways are not required to be constructed of metal; and they shall not be placed in the front of a building.

11.157 Large-Scale Development

- a. Residential. A large scale residential development shall be planned for a site of not less than twenty (20) acres.
- b. Commercial. A large scale commercial development shall be planned for a site of not less than five (5) acres.

- c. Manufacturing. A large scale manufacturing development shall be planned for a site of not less than five (5) acres.

11.158 Limited Access Highway

A highway designed in such a manner so as to provide no direct access to properties abutting its right-of-way and including all highways designated as limited access highways as adopted by the Planning Commission.

11.159 Lot or Zone Lot

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Ordinance, and having frontage on a public street.

a. Lot, Corner

A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner".

b. Lot, Depth

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

c. Lot Lines

The property lines bounding the lot.

1. Lot Line, Front. The ultimate right-of-way line of the street or road.
2. Lot Line, Rear. The lot line opposite and most distant from the front lot line.
3. Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
4. Lot Line, Street or Alley. A lot line separating the lot from a street or alley.

d. Lot Width

The mean width of the lot measured at right angles to its depth. Such a line along which the minimum lot frontage shall be measured at a point which shall coincide with the building set back or front yard line.

e. Lot Area

The computed area contained within the lot lines and the ultimate right-of-way line. The area within the right-of-way shall not be computed as part of the lot area.

11.160 Malodor

An odor which causes annoyance or discomfort to the public and which the Borough determines to be objectionable to the public.

11.161 Medical Centers

Medical Centers, including Mini Medical Centers are establishments, other than hospitals, which provide medical evaluation and treatment services to individuals; such treatment may include day-surgery, out-patient surgery, magnetic resonance imaging centers and similar uses, but, they may not include drug rehabilitation facilities or drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from overdosing on illegal controlled substances. Satellite hospital facilities which do not include facilities for the overnight stay of patients are also included in this use category.

11.162 Medical/Dental Office or Clinic

A use involving the treatment and examination of patients by State-licensed physicians, chiropractors or dentists, provided that no patients shall be kept overnight on the premises unless a hospital is also permitted. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

11.163 Medical Testing Laboratory

A facility that provides testing services in accordance with physician requirements for the evaluation and measurement of various patient medical conditions.

11.164 Methadone Treatment Facility

A site, the primary purpose of which is to conduct projects approved by the PA Department of Health which projects use the drug methadone in the treatment, maintenance or detoxification of persons.

11.165 Mixed Use Structure

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

11.166 Mobile (Manufactured) Home

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

11.167 Mobile (Manufactured) Home Park

A parcel of land under single ownership which has been planned and improved for the placement of two (2) or more manufactured homes for non-transient use.

11.168 Motels, Motor Courts and Motor Hotels

A series of attached or semi-attached dwelling structures, where each unit has convenient access to parking space for the use of the units' occupants. The units, with the exception of the manager's office or caretaker's unit, are designed to provide sleeping accommodations for automobile transients or overnight guests.

11.169 Municipality

The Borough of Dunmore.

11.170 Net Developable Area

The area of a tract that is suitable for development, exclusive of rights-of-way, and environmentally constrained areas such as floodplains, wetlands, and steep slopes in excess of 20%.

11.171 Net Developed Area

Total acreage excluding any area within a public right-of-way.

11.172 Net Land Area

The net land area of any development parcel shall include only the area contained within the property line and the ultimate right-of-way line. The area within the right-of-way (public right-of-way or other thoroughfare) shall not be computed as part of the "net land area".

11.173 Nonconforming Lot

A lot the area or dimension of which was lawful prior to the adoption or amendment of this 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.

11.174 Nonconforming Structure

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions set forth herein or any 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 reasons of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

11.175 Nonconforming Use

A use, whether of land or of structure, which does not comply with the applicable use provisions set forth herein or any amendment heretofore or hereafter enacted, where such use was lawfully in existence 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.

11.175a Nonconforming Use. Abandonment

A legally existing nonconforming use shall be considered to be abandoned when the use has been terminated, either voluntarily, by a court or other legal order, or by fire or other catastrophe, unless the operator of such a use provides adequate evidence to demonstrate that there was only a temporary closing and there was a clear intent to subsequently reopen the use. Such evidence may consist of the retention of business-related fixtures, such as a walk-in cooler in a florist shop, or a bar in a tavern or restaurant, etc. Change of use constitutes abandonment.

11.176 Nursing Home

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

11.177 Open Space

- a. Open Space. Common. A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the residential development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space includes both developed (active) and undeveloped (passive) open space.
- b. Open Space. Developed (Active). Land that is set aside for use as active recreational areas, such as playfields, playgrounds, skating rinks, swimming pools, tennis courts, and areas for water management (storm, waste, potable supply).

- c. Open Space, Undeveloped (Passive). Land used for passive recreation, agriculture, resource protection, amenity, or buffers and protected from future development by the provisions of this Ordinance to ensure that it remains as open space.

11.178 Parking Area, Private

An open area for the same uses as a private garage, and regulated as a private garage.

11.179 Parking Area, Public

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

11.180 Planning Commission

The Planning Commission of the Borough of Dunmore.

11.181 Portable Swimming Pool

A pool which is not connected to a pool filter and which is capable of being relocated and stored during non-swimming seasons.

11.182 Professional Office

The office of a member of a recognized profession. When conducted in a residential district, a professional office shall be incidental to the residential occupancy, shall be conducted by a member of the residential family entirely within a residential building, and shall include only the offices of doctors, or physicians, dentists, optometrists, ministers, architects, landscape architects, professional engineers, lawyers, artists, authors and such other similar professional occupations which may be so designated by the Zoning Hearing Board upon finding by the Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to a greater extent than for the professional activities listed herein. The issuance of a State or Local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

11.183 Public and Semi-Public Uses

Uses which provide government services as well as private organizations which provide service to the public on a not-for-profit basis.

11.184 Recreation

a. Recreation Commercial

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

b. Recreation Private Non-Commercial

Clubs or recreation facilities, operated by a non-profit organization and open only to bonafide members of such organization.

c. Recreation Public

Recreation facilities operated as a non-profit enterprise by the Municipality, and other governmental entity or any non-profit organization and open to the general public.

11.185 Sanitary Land Fill

A sanitary land fill is considered to be any facility devoted to the storage and/or disposal of solid wastes pursuant to the regulations of the Pennsylvania Department of Environmental Protection governing sanitary landfills. Sanitary landfills may include Staging Areas as defined in Section 11.198. Sanitary landfills shall be subject to all regulations contained herein governing earth-moving activities.

11.186 Setback Line

A line established by the subdivision regulations and/or zoning ordinance generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in said codes.

11.187 Shopping Center

A group of retail stores planned and designed to function as a unit, and having off-street parking as an integral component of the unit.

11.188 Sign

A "sign" is a name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land, vehicle, equipment or other portable gear, and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a "sign" shall not include any display of official court, or public office notices, nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or a religious group. A "sign" shall not include a sign located completely within an enclosed building except for illuminated or animated signs within show windows. Each display surface of a sign shall be considered to be a "sign".

11.189 Sign. Business

A "business sign" is a sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

11.190 Sign. Flashing

A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance any revolving, illuminated sign or traveling message panel shall be considered a "flashing sign".

11.191 Sign. Gross Surface Area

The "gross surface area" of a sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements, lying outside the limits of such sign and not forming an integral part of the display. The gross surface area of free standing signs shall include the area of one (1) side of such sign even if display information is included on both sides of the sign.

11.192 Sign. Outdoor Advertising

An outdoor sign or billboard which directs attention to a business, profession, commodity or entertainment conducted, sold, or offered elsewhere than upon the same lot. Under the provisions of this ordinance, outdoor advertising can be erected on the premises in any of the nonresidential districts.

11.193 Sign. Outdoor Advertising - Double Sign

A double outdoor advertising sign shall be a sign constructed with separate framing elements which are structurally connected at their sides. No half of such a double sign shall, however, exceed two-thirds of the maximum permitted gross surface area of an individual sign; and the combined gross surface area shall not exceed the maximum permitted for a single sign.

11.194 Solid Waste

Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous materials, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other byproduct or effluent from an industrial mining, agricultural or water supply treatment facility, wastewater treatment facility or air pollution control facility.

11.195 Solid Waste, Municipal

Any garbage refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

11.196 Special Exceptions

A "special exception" is a use which because of its unique characteristics requires individual consideration in each case by the Zoning Hearing Board as specified in Articles 8 and 9, before it may be permitted in the district enumerated in Article 3. In accordance with the provisions of this ordinance, the Zoning Hearing Board may require certain conditions and safeguards before such a use is permitted.

11.197 Specimen Tree

Any existing tree with a caliper that is 75 percent or more of the record tree of the same species in the Commonwealth of Pennsylvania.

11.198 Staging Area and Transfer Station

a. Staging Area

A staging area is an area designated for motor vehicles or other means of transportation or any other types of refuse container containing solid waste materials which are to be deposited at a sanitary landfill site. Loaded vehicles awaiting their opportunity to deposit such wastes shall wait for their turn in a designated staging area on the sanitary landfill site. All staging areas shall be subject to all regulations contained herein governing sanitary landfills.

b. Transfer Station

A transfer station is a facility for the temporary storage of solid waste en route to a solid waste disposal facility. A transfer station is intended to serve as a facility to improve the efficiency of transporting solid waste materials to a disposal.

11.199 Story

That portion of a building, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling above it.

a. Story Half

A partial story under gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story shall not be used for residential purposes, other than for a janitor or caretaker or his family.

b. Story First

The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

11.200 Street

A public or private thoroughfare not less than thirty (30) feet in width if in existence prior to the passage of this ordinance nor less than fifty (50) feet in width if established subsequent to the passage of this ordinance which affords the principal means of access to abutting property, including avenue, place, way, drive, land boulevard, highway, road and any other thoroughfares except an alley.

a. Side Street

Any street, the length of which shall be not more than 50 percent of the length of the largest street line of the Municipality's blocks of which it is part.

b. Residential Street

A street between two intersecting streets upon which an R-District abuts, or where 50 percent or more of the abutting street frontage is in predominantly residential use.

c. Other Street Classifications

- (1) Approach Highways are those which intersect with and have interchange connection with limited access arterial highways.
- (2) Arterials are those serving large volumes of comparatively high-speed and long-distance traffic, and include facilities classified as main and secondary highways by the Pennsylvania Department of Transportation, and include streets classified as Arterial Thoroughfares or Primary Streets in the Traffic Plan set forth in the Municipality's Comprehensive Plan.
- (3) Collector Streets are those which, in addition to giving access to abutting properties, intercept facilities and provide routes, to community facilities and to major traffic streets, and include streets classified as Secondary Streets in the Traffic Plan set forth in the Municipality's Comprehensive Plan.

- (4) Half or Partial Street: A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street.
- (5) Local Access Streets, Including Minor Streets, are those used primarily to provide access to abutting property.
- (6) Marginal Access Streets are minor streets, parallel and adjacent to major traffic streets, providing access to abutting properties and control of intersections with the major traffic streets.
- (7) Major Streets are all streets other than local access streets or marginal access streets.

11.201 Structure

Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, swimming pools, carports, walls, fences and billboards. Accessory outdoor recreation equipment on Residential Zone Lots shall not be classified as a structure.

11.202 Structural Change

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

11.203 Telecommunications Antenna, Commercial. A device attached to a building, structure, or Telecommunications Tower principally intended for receipt or transmission of signals for such uses as commercial or public VHF or UHF television, FM radio, two-way radio, commercial carriers, cellular telephone, fixed point microwave, lower power television or AM radio, including accessory equipment related to telecommunications. Not included are antennas for private, non-commercial and amateur purposes, including but not limited to ham radios and citizens band radios.

11.204 Telecommunications Facilities, Commercial. Facilities used for transmitting or retransmitting electronic signals, including, but not limited to, the transmission of commercial radio or television signals or cellular telephone communications. TV satellite disc antenna are not included under this category of use.

11.205 Telecommunications Facilities, Residential. Antennas for private, noncommercial and amateur purposes, including T.V. satellite dish antennae as regulated in Section 5.964.

11.206 Telecommunications Facility Building, Commercial. The building in which electromagnetic receiving and relay equipment for a Telecommunications tower is housed.

11.207 Telecommunications Tower, Commercial. A free standing structure, including any guy wires, principally intended to support facilities for receipt or transmission of signals for uses such as commercial or public VHF or UHF television, FM radio, two-way radio, commercial carriers, cellular telephone, fixed point microwave, low power television, or AM radio, including accessory equipment related to telecommunications. Not included are towers and supportive structures for private, non-commercial and amateur purposes including but not limited to ham radios and citizens band radios.

11.208 Temporary Uses

Temporary uses shall include those activities which will be undertaken for a period of time specified in the application for a permit for such a use. Said period of time shall be one (1) year or less. If additional time is required a new application shall be submitted. No application for temporary uses shall be for a period of more than one (1) year.

11.209 Tract

Land held in single ownership which consists of lands to be subdivided or suitable for a land development. The tract shall consist of not less than the minimum area required for subdivision or development as set forth herein.

11.210 Transient Housing Facilities

Transient housing facilities shall include halfway houses, emergency shelters or missions, and other types of housing facilities which are to be occupied on a temporary basis, such as a fixed period of time. Such housing shall be distinguished from housing occupied by a family in that family occupancy equates to an indefinite occupancy period.

11.211 Travel Trailer

A vehicle, less than 30 feet in length and used for temporary living or sleeping purposes, and standing on wheels.

11.212 Treatment Center

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

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

11.213 Ultimate Right-of-way

The full width of the road designated by the Governing Body to be the minimum required width of any public right-of-way.

11.214 Yard

An open space, as may be required by this Ordinance, of uniform width or depth on the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

a. Yard. Front

An open space extending the full width of the lot between the front of the building and the ultimate right-of-way line unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

b. Yard. Rear

An open space extending the full width of the lot, between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

c. Yard. Side

An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

11.215 Variance

The Zoning Hearing Board may authorize departure to a minor degree from the terms of this Ordinance in direct regard to hardship peculiar to an individual lot in accordance with the procedures set forth in the Ordinance.

11.216 Zoning Hearing Board

The Zoning Hearing Board of the Borough of Dunmore.

11.217 Zoning Officer

The administrative officer, appointed by the Governing Body who shall administer and enforce the provisions of this Ordinance.

11.218 Zoning Map

The Zoning Map or Maps of the Borough of Dunmore, Pennsylvania dated _____, 2000, together with all amendments subsequently adopted.

ARTICLE 12

INTERPRETATION AND VALIDITY

12.100 INTERPRETATION

In the interpretation and the application of the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the health, safety morals, and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this Ordinance imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building, or requires larger open spaces, the provisions of this Ordinance shall control.

12.200 EXEMPTIONS

This Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

12.300 VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance or the location of any district boundary shown on the Zoning Map that forms a part hereof is for any reason held by a Court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance or Zoning Map. The Governing Body of the Borough of Dunmore hereby declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.

12.400 EFFECTIVE DATE

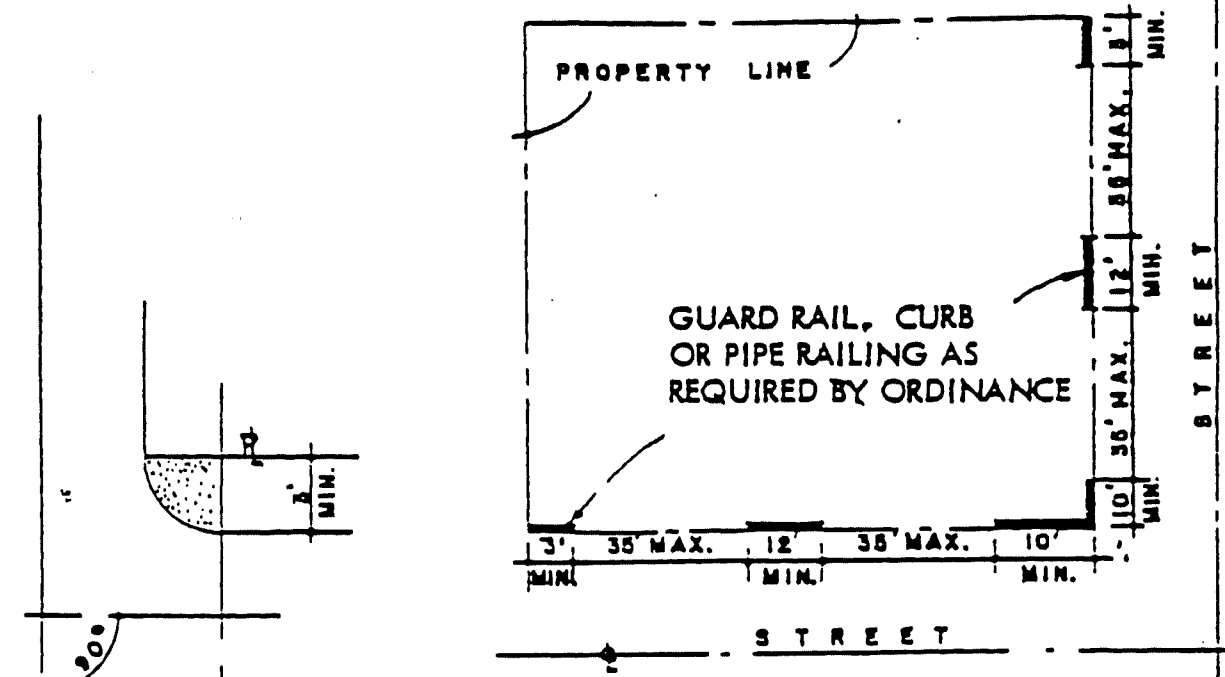
This Ordinance shall take effect at the earliest period allowed by law.

Duly presented and adopted at a regular meeting of the Borough Council of the Borough of Dunmore, Pennsylvania held on this 23rd day of AUGUST, 2000.

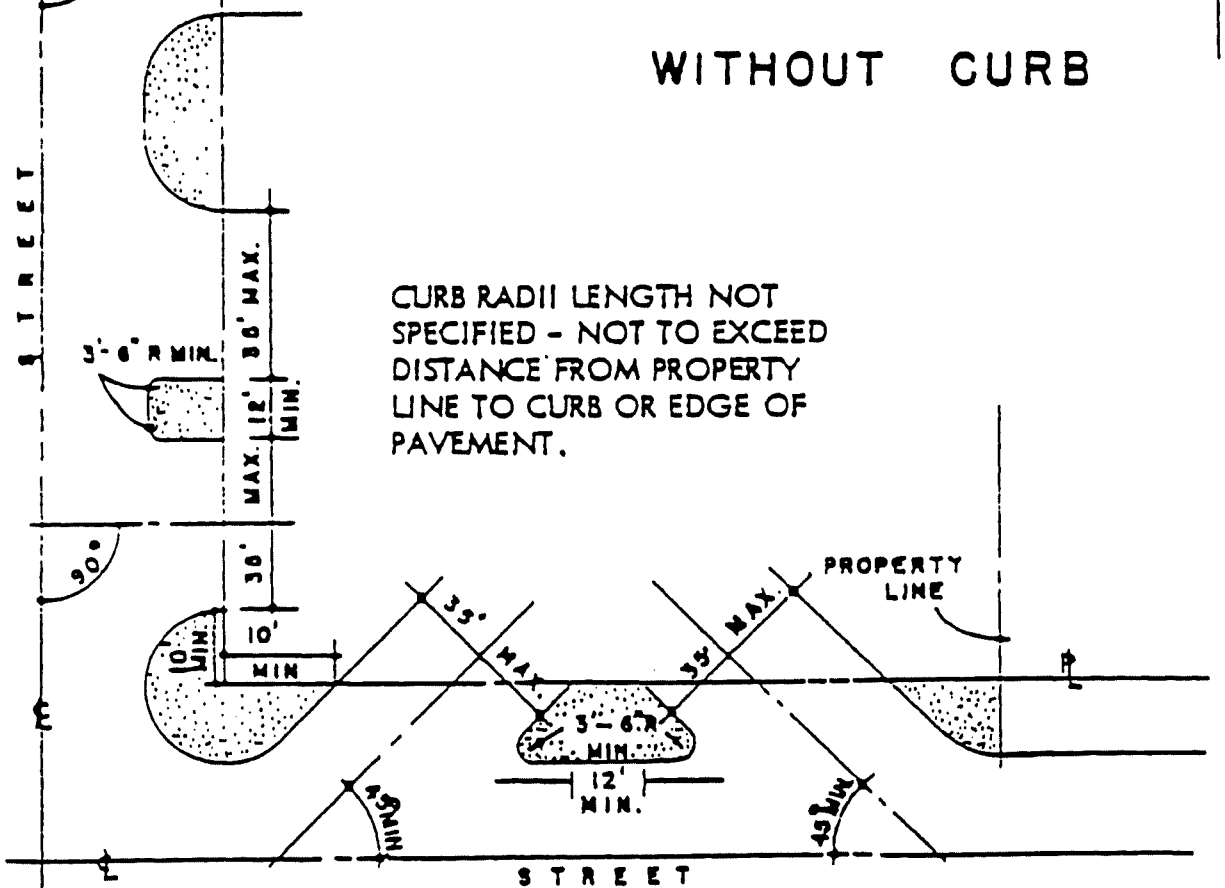
ATTEST:

Mary A. Rice
Secretary
MARY A. RICE

Edmund P. Levandoski
President, Borough Council
EDMUND P. LEVANDOSKI



WITHOUT CURB



WITH CURB

MOTOR VEHICLE ACCESS REQUIREMENTS

Chapter 150

Cell Towers

Telecommunications towers designated as a conditional use, thus requiring a full hearing before Borough Council on each application. The amendment will require a reclassification under Section 3-2 Table No. 1, from the current classification of "Principal Permitted Use" to "Conditional Use".

Section 5.961 amended, which reads "Towers shall not be closer than 500 feet to another tower, to read "Towers shall not be closer than 2,500 feet".

All other requirements of Section 5.960 et seq. to remain in force and apply to the conditional use.

Chapter 151

Commercial Vehicles

New Definition

Commercial Vehicle- a commercial vehicle is defined as any motorized vehicle in excess of 26 feet in length or 10,000 pounds gross vehicle weight. Tractor-trailers, pick-up trucks with a capacity of more than two tons, commercial machinery and equipment and buses are all considered commercial vehicles.

5.760 Commercial or Recreational Vehicle Parking in Residential Areas

5.761 On-street parking of commercial vehicles shall be prohibited in all residential zones except for commercial vehicles making local deliveries to residences or pickups from residences on the street.

5.761.1 this section shall not apply to emergency vehicles, public utility vehicles or contractors vehicles while engaged in the repair or maintenance or construction of streets, utilities and/or residences.

5.762 Off-street parking of commercial vehicles shall be prohibited in all residential zones except as follows:

5.762.1 Existing off-street parking areas of existing non-conforming uses in the residential zone.

Title VI. Zoning Amendments

In August of 2000, the Borough of Dunmore passed a new Zoning Ordinance. Since passage this Ordinance has been amended a few times, and as is the nature of Zoning Ordinances, will be amended in the future. This Zoning Ordinance of 2000 is in book form and is available for reference in the Borough Building. The book contains zoning maps, zoning districts and the several zoning regulations. As a result of the magnitude of the Zoning Ordinance, it is logical to grant the Ordinance a separate book.

Due to this previously assembled and indexed Zoning book, though, Title VI slightly differs from the preceding Titles. The regulations enumerated in the Zoning Ordinance are not reiterated here. However, any amendments to the Zoning Ordinance of 2000 are included here, and future amendments will appear here as well.

Chapter 150	Cell Towers
Chapter 151	Commercial Vehicles
Chapter 152	reserved.
Chapter 153	reserved.
Chapter 154	reserved.
Chapter 155	reserved.
Chapter 156	reserved.
Chapter 157	reserved.
Chapter 158	reserved.
Chapter 159	reserved.
Chapter 160	reserved.
Chapter 161	reserved.

