

# **Dunmore Borough**

## **Zoning Ordinance**

Adopted December 20, 2023

Effective Date December 20, 2023

A Member of the  
Scranton-Abingtons Planning Association

Prepared by: Environmental Planning & Design, LLC

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## ARTICLE 1

### General Provisions

#### Section 1.1 – Title and Short Title

A. Title and Authority.

An ordinance establishing regulations and restrictions for the location and use of lots, land, buildings, and other structures; the height, number of stories, and size and bulk of buildings and structures; the density of population; off-street parking; and similar accessory regulations in Dunmore Borough, Lackawanna County, Pennsylvania, and for said purposes dividing Dunmore Borough into districts and establishing the boundaries thereof, prescribing certain uniform regulations for each such district, and providing for administrative enforcement and amendment of its provisions in accordance with the Pennsylvania Municipalities Planning Code (MPC), 53 P.S. § 10101 et seq., as amended.

B. Short Title.

This Ordinance shall be known and may be cited as the “Dunmore Borough Zoning Ordinance.”

#### Section 1.2 – Purpose

This Ordinance is enacted for the following purposes:

- A. To promote, protect, and facilitate the following: the public health, safety, morals, and general welfare; coordinated and practical community development; proper density of population; travel and transportation facilities, civil defense, and disaster evacuation; and the provision of adequate light and air, vehicle parking and loading space, water and sewage, schools, public grounds and other public requirements, and fire and police protection.
- B. To prevent occurrence of the following: overcrowding; blight; danger and congestion in travel and transportation; and loss of health, life, or property from fire, flood, panic, or other dangers; and
- C. To serve as a part of the overall plan for the orderly growth and development of Dunmore Borough, and as such, supplement the Scranton-Abingtons Planning Association Comprehensive Plan.

#### Section 1.3 – Community Development Objectives

This Zoning Ordinance is enacted as part of the overall plan for the orderly growth and development of Dunmore Borough. As such, this Ordinance is based upon the expressed or implied community development goals and objectives in the Scranton-Abingtons Planning Association Comprehensive Plan.

**Section 1.4 – Interpretation**

- A. The provisions of this Ordinance shall be deemed to be the minimum requirements to meet the purposes and objectives stated herein, adopted for the promotion of the public health, safety, morals, and general welfare of Dunmore Borough. When the provisions of this Ordinance impose greater restrictions than those of any federal or state statute, rule, regulation, or ordinance, the provisions of this Ordinance shall prevail. Where the provisions of any federal or state statute, rule, regulation, or ordinance impose greater restrictions than those of this Ordinance, the provision of such federal or state statute, rule, regulation, or ordinance shall prevail.
- B. In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to its intended meaning, in favor of the property owner and against any implied extension of the restriction.

**Section 1.5 – Applicability, Severability, and Scope**

- A. No building, structure, or lot shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, altered, or expanded horizontally or vertically, except in conformity with all regulations and provisions contained herein, unless relief is granted by the Dunmore Borough Zoning Hearing Board through a special exception or variance.
- B. The provisions of this Ordinance are hereby declared to be severable. If a court of competent jurisdiction declares any regulations or provisions of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those regulations and provisions which are expressly stated in the decision to be invalid or ineffective, and all other regulations and provisions of this ordinance shall continue to be separately and fully effective. It is the expressed intent of the Dunmore Borough Council that this Ordinance would have been enacted had such invalid or ineffective regulation or provision not been included herein.
- C. This Ordinance shall not apply to an existing or proposed building or extension thereof that is used or to be used by a public utility corporation regulated by the Pennsylvania Public Utility Commission (PUC), if upon petition of the corporation, the PUC shall decide in a public hearing that the present or proposed situation of the building or extension in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the PUC to ensure that both the corporation and the Dunmore Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

**Section 1.6 – Effective Date**

Under the authority conferred by the Pennsylvania Municipalities Planning Code (MPC), as amended, and following a public hearing, the Dunmore Borough Council hereby enacts and ordains into an ordinance this document on the date of December 20, 2023. All zoning ordinances of Dunmore Borough previously in adoption are hereby repealed.



## **ARTICLE 2**

### **Definitions**

#### **Section 2.1 – Interpretations**

For the purposes of this Article, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense.
- B. The singular number includes the plural, and the plural number includes the singular.
- C. Words of masculine gender include the feminine gender, and words of feminine gender include the masculine gender.
- D. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- E. If a word is not defined in this Ordinance but is defined in other ordinances of the Dunmore Borough Code, the definition in the applicable other ordinance shall apply. If a word is defined in both this Ordinance and another Borough ordinance, each definition shall apply to the provision of each applicable ordinance.
- F. The words “such as,” “includes,” “including,” and “e.g.” shall provide examples. These examples shall not, by themselves, limit a provision to the examples specifically mentioned if other examples would otherwise comply with the provision.
- G. The words “shall” or “must” are mandatory.
- H. The words “may” or “should” are permissive.
- I. The word “lot” includes the words “plot,” “parcel,” and “property.”
- J. The word “sale” shall also include rental, if the word “rental” is not specifically mentioned.
- K. The words “used” or “occupied” as applied to land or buildings shall be construed to include the words “intended, designed, maintained, or arranged to be used or occupied.”
- L. The word “erected” shall be construed to include the words “constructed, altered, or moved.”

#### **Section 2.2 – Definitions**

The words, terms, and phrases in this Section are defined in order to facilitate the interpretation of this Ordinance for administrative purposes and in the carrying out of duties by appropriate offices and by the Zoning Hearing Board. When used in this Ordinance, these words, terms, and phrases shall have the following meanings, unless expressly stated otherwise or unless the context clearly indicates otherwise:

**ACCESS DRIVE** – a vehicular throughway serving a non-residential use or multi-family use located within a parking lot which directly adjoins parking spaces. An access drive provides the vehicular connection between parking space area and the driveway which directly connects to the public right-of-way. The access drive does not include the vehicular path that connects the parking area to the public way.

**ACCESSORY USE** – A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ACCESSORY STRUCTURE** – A structure, such as a private garage, storage shed, gazebo, or greenhouse, serving a purpose customarily incidental to the use of the principal building and located on the same lot as the principal building.

**ADDITION** – See "extension."

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

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

**ALLEY** – A street, usually located to the rear or side of properties otherwise abutting a street, used primarily for vehicular service access and which does not typically provide primary frontage for a building.

**ALTERATION** – As applied to land, a change in topography as a result of the moving of soil and rock from one location or position to another, also the changing of surface conditions by causing the surface to be more or less impervious; land disturbance. This term shall not apply to agricultural plowing and tilling activity.

**ALTERATION, STRUCTURAL** – Any change or rearrangement in the supporting members of an existing building such as bearing walls, columns, beams, girders, or interior partitions or any enlargement to or diminution of a building or structure, or the moving of a building from one location to another.

**AMENDMENT** – Any change or revision of the text of this chapter or the Zoning Map.

**ANIMAL HOSPITAL OR VETERINARY CLINIC** – A building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

**APPLICANT** – A subdivider, landowner or developer who has filed an application for development, including the landowner's or developer's heirs, successors and assigns.

**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 a facility shall provide services to sixty (60) or more residents.

**BAKERY** – An establishment primarily engaged in the retail sale of baked products for consumption off-site. The products may be prepared either on or off-site. Such use may include incidental food service. A bakery shall be considered a general retail use.

**BANK OR FINANCIAL INSTITUTION** – An establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds. (See “service establishment.”)

**BAR OR TAVERN** – A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may occur.

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

**BEST MANAGEMENT PRACTICES (BMPs)** – Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “waters of the United States.” BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. Additionally, agricultural practices are intended to be consistent with the Pennsylvania Nutrient Management Chapter.

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

**BOROUGH** – The Borough of Dunmore, Commonwealth of Pennsylvania.

**BOROUGH COUNCIL** – The governing body of the Borough of Dunmore, Pennsylvania.

**BOROUGH ENGINEER** – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for Dunmore Borough.

**BOUNDARY** – A line marking the limit, or border, of a lot or district.

**BREWERY** – A facility which holds a license to manufacture, store and distribute brewed or malt beverages and which may include a brewery pub or tap room, as regulated by Chapter 47, the Pennsylvania Liquor Code, as amended.

**MICRO BREWERY** – A brewery manufacturing fifteen thousand (15,000) barrels (US barrels) or less per year or as otherwise defined by the National Brewers Association.

**LARGE BREWERY** – A brewery manufacturing greater than fifteen thousand (15,000) barrels (US barrels) per year or as otherwise defined by the National Brewers Association.

**BREWERY PUB/TAP ROOM** – A portion of an establishment which holds a brewery license as regulated by the Pennsylvania Liquor Control Board, which is open to the public for the sale of brewed and malt beverages for on-site and/or off-site consumption and which also offers food to patrons, as regulated by Chapter 47, the Pennsylvania Liquor Code, as amended.

**STORAGE FACILITY** – A portion of a warehouse or a separate structure, owned and maintained by a person or entity which holds a license that permits the temporary storage of brewed or malt beverages and which may also include a brewery pub or tap room, as regulated by Chapter 47, the Pennsylvania Liquor Code, as amended.

**DISTRIBUTOR** – As defined by Chapter 47, §102 of the Pennsylvania Liquor Code, as amended.

**IMPORTING DISTRIBUTOR** – As defined by Chapter 47, §102 of the Pennsylvania Liquor Code, as amended.

**LIMITED DISTILLERY** – An establishment licensed by the Pennsylvania Liquor Control Board to operate a distillery that shall not exceed production of one hundred thousand (100,000) gallons of distilled liquor per year, or as otherwise defined by Chapter 47, the Pennsylvania Liquor Code, as amended.

**LIMITED WINERY** – An establishment licensed by the Pennsylvania Liquor Control Board to operate a winery that shall not exceed production of two hundred thousand (200,000) gallons per year, or as otherwise defined by Chapter 47, the Pennsylvania Liquor Code, as amended.

**BREWED BEVERAGE MANUFACTURER** – An establishment which produces brewed and/or malt beverages for on-site or off-site sale and distribution, and which may include a brewery pub or tap room on the premise, or as otherwise defined as “Manufacturer” by Chapter 47, the Pennsylvania Liquor Code, as amended. See *Brewery*.

**BUILDING** – A structure, including any part thereof, having a roof and used for the shelter or enclosure of persons or property.

**BUILDING, CONTRACTING, OR RELATED BUSINESS** - or related business-the operations office related to an entity engaged in construction and/or development.

**BULK FUEL STORAGE FACILITY** – Any facility where fuel, including but not limited to kerosene, home heating oil, gasoline, and propane, is stored in large volume tanks for distribution to wholesale establishments or individual users.

**BUSINESS SERVICE ESTABLISHMENT** – An establishment engaged in rendering services to business establishments on a fee or contract basis or to the general public on a less frequent or personal basis than provided by personal services establishments. Such enterprises may include: the service and repair of office equipment, machines, electronics, furniture, medical supplies, or commercial appliances; the printing, copy, and production of documents, signs, or banners; retail shipping and mailing services; food catering; locksmithing; carpentry; painting; remodeling; interior decorating or upholstering; roofing and insulation; carpet installation; heating and cooling; plumbing; taxidermy; and other similar business activities.

**BYOB CLUB** – Any business facility, such as a dance hall, club, or association, not licensed by the Pennsylvania Liquor Control Board, wherein patrons 21 years of age and older may, after payment of an entry fee, cover charge or membership fee, consume alcoholic beverages which said patrons have carried onto the premises, also commonly referred to as "bring your own bottle clubs," provided that a facility which is rented for a limited period of time, not to exceed 12 hours, by an individual(s) or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises shall not be considered a BYOB club under the terms of this Chapter.

**CALIPER** – As defined by the American Standards of Nursery Stock. Typically, the diameter of a tree at the height of 6 inches from the top of the root ball. In the case of a multi-stem tree, the caliper is determined by the average of the stems.

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

**CAR OR TRUCK WASH** – Any building or premises or portions thereof used for washing automobiles for commercial purposes.

**CARPORT, GARAGE, OR SHED, PRIVATE** - A roofed structure not more than 75 percent enclosed by walls and attached to the main building for the purpose of providing shelter for one or more motor vehicles.

**CARTWAY** – The portion of a street right-of-way designed or intended for vehicular use.

**CENTER LINE** – A line running parallel to and equidistant from both sides of a street.

**CEMETERY** – An area of land or buildings used for the burial of deceased humans, but not animals. The internment or scattering or remains of properly cremated humans is not regulated by this Chapter.

**CERTIFICATE OF USE AND OCCUPANCY** – The certificate issued by the Borough, which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the land and structure in its several parts, together with any special stipulations or conditions of the building permit.

**CIVIC** – The term defining not-for-profit organizations dedicated to the arts, culture, education, recreation, and/or government.

**CLEAR SIGHT TRIANGLE** – An area of unobstructed vision at street intersections defined by the center lines of the streets and by a line of sight between points on their center lines at a given distance from the intersection of the center lines.

**CLUSTER RESIDENTIAL 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 through the creation of a homeowners' association, or the developer's binding agreements as may be required to achieve such assurances.

**COMMERCIAL RECREATION FACILITY, INDOOR** – An establishment owned by a private-sector entity where the principal enterprise or activity involves the provision of primarily indoor recreational, amusement, and leisure activities, such as, but not limited to: fitness training, athletic courts, ice rinks, roller skating rinks, indoor playing fields, indoor swimming pools, bowling alleys, arcade games, indoor mazes, indoor play structures and ball pits, escape rooms, indoor riflery or archery, indoor batting cages, and indoor golf.

**COMMERCIAL RECREATION FACILITY, LARGE-SCALE/INTENSIVE** – An establishment owned by a private-sector entity where the principal enterprise or activity involves the provision of outdoor recreational, amusement, and leisure activities, such as, but not limited to: tennis courts, sand volleyball courts, miniature golf courses, driving ranges, outdoor riflery or archery, outdoor batting cages, playing fields, outdoor swimming pools, beaches, and bumper car tracks, but not to include “golf courses.”

**COMMUNITY CENTER OR LIBRARY** – A noncommercial use that exists solely to provide leisure and educational activities and programs to the general public or certain age groups. The use also may include the noncommercial preparation and/or provision of meals to low-income elderly persons. This shall not include residential uses or a "treatment center."

**CONSERVATION RESIDENTIAL** – Development pattern that focuses on limited disturbances to the overall landscape.

**CONSTRUCTION** – The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

**CONVENIENCE STORE** – A one-story retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a “grocery store”). It may also include the sale of gasoline but shall not include the repair or service of vehicles.

**CRAFTSMAN-ARTISAN WORKSHOP** – A use conducted for the generation of revenue entirely within a dwelling, or in an accessory structure located on the same lot as dwelling. The use must be clearly incidental and accessory to the lot’s residential use. The use must be limited to low intensity uses that produce, repair and/or sell a product, but can be operated in such a way that they do not adversely affect adjacent properties. Said use shall employ no less than two (2) and no more than ten (10) employees.

**CROP STORAGE, AS AN ACCESSORY USE TO FARMING** - As an accessory use to farming-the temporary or seasonal storage of harvested materials.

**CULTURAL CENTER OR MUSEUM** – A building and/or land open to the public which primarily contains exhibits of clearly artistic or cultural interest, such as a museum, art gallery or indoor nature study area. This shall not include uses that are primarily commercial in nature.

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

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

also the definition of "adult day care center."

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

**DAY CARE HOME, FAMILY** - 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.

**DAY CARE HOME, GROUP** - 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 childcare areas are being used as a family residence.

**DENSITY** – The computation of overall residential dwelling units per acre of land. This figure shall be rounded to the nearest tenth and shall not include the area of lands intended for non-residential purposes, including churches or other civic/public uses within the development, nor shall it include dwelling units accessory to residential or non-residential uses. Open space shall, however, be included in the computation.

**DEP** – The Pennsylvania Department of Environmental Protection ("DEP"), the Commonwealth agency responsible for overseeing and administering environmental laws and regulations within Pennsylvania.

**DEVELOPMENT** – Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations. For the purposes of Part 8 only, the definition of development shall also include the storage of equipment or materials.

**DISTRIBUTION CENTER** – An enclosed facility used for the storage of merchandise or commodities for a short period of time, with additional operations such as cross-docking, order fulfillment, returned goods processing, packaging, and labeling.

**DISTRICT** – All land and watercourses located within designated boundaries on the Official Zoning Map; a zoning district.

**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."

**DRIVE-THRU FACILITY** - Any part of a building or structure that, by design of physical facilities or by services or pods provided, encourages or permits customers to transact business, receive a service or obtain a product in a motor vehicle on the premises.

**DRIVEWAY** – a vehicular connection from a lot to the public right-of-way. A driveway terminates at the right-of-way line and/or the access drive.

**DRUG STORE/PHARMACY** – An establishment engaged in the retail sale of prescription drugs, nonprescription medicine, cosmetics and related supplies.

**DWELLING, ACCESSORY (GRANNY FLAT/GARAGE APARTMENT)** – A residential dwelling unit, but not a mobile home, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. Secondary dwelling units shall be developed in accordance with the standards set forth in local code and only in those zoning districts where the use is listed as a special review.

**DWELLING, APARTMENT** – A building or buildings designed for occupancy by three or more families living independently of each other in separate dwelling units.

**DWELLING, CONVERSION APARTMENT** – To be considered a conversion, any proposed alteration must be confined to the interior of an already existing structural shell. Any proposal to extend the sides or increase the height of an existing structure shall not be considered a conversion and shall be required to meet the appropriate provisions established in that District for that particular use.

**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 (35) feet.

**DWELLING, SINGLE-FAMILY DETACHED** – A dwelling unit detached from any other dwelling unit accommodating a single family and having a front, rear and two (2) side yards.

**DWELLING, TOWNHOUSE** – 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.

**DWELLING, TWO-FAMILY** – A dwelling accommodating two (2) families either with units which are attached side by side through the use of a party wall and having one (1) side yard adjacent to each dwelling unit; or upstairs/downstairs units. A two-family dwelling in a multi-family project shall be considered a townhouse for the purposes of regulation by this Ordinance. (See definition of Multi-Family Project and §603.)

**EMERGENCY SERVICES** – A building for the housing of fire, emergency medical or police equipment and for related activities. This may include housing for emergency personnel while on-call.

**ERECTION** – Construction or assembly.

**ESSENTIAL SERVICES** – A building for the housing of fire, emergency medical or police equipment and for related activities. A Membership Club may be included if it is a permitted use in that District. This may include housing for emergency personnel while on-call.



**EXPANSION** – An increase in the size of an existing structure or use, including the physical size of a property, building, parking lot, and other improvements.

**EXTENSION** – An addition to the floor area of an existing structure, an increase in the size of a structure, or an increase in that portion of a lot occupied by an existing use; an enlargement.

**FAA** – Federal Aviation Administration of the United States Department of Transportation.

**FAMILY** – (1) A person; (2) two or more persons, all of whom are related by blood, marriage, parentage or adoption (including foster children), living together as a single housekeeping unit. In addition to the family, two or fewer unrelated persons may reside with the housekeeping unit in the dwelling unit. For dwelling units in multifamily buildings containing three or more dwelling units, the number of persons permitted to occupy a unit shall be determined by the Borough Office in accordance with the provisions of the Dunmore Borough Housing Code.

**FENCE** – A fabricated barrier used to enclose an area of land.

**FLEA MARKET** - A building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered to be flea markets.

**FLICKER** – A repeating cycle of changing light intensity.

**FLOODPLAIN** – A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**FORESTRY** – Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services including the operation of a sawmill but excluding other wood manufacturing businesses.

**FOWL** – a domestic bird of any kind, not including chickens.

**GALLERIES** - The principal or accessory use of a premises for the sale, display, and exhibition of fine visual art and craft products and which may include ancillary production or instruction in the production of arts and crafts.

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

**GOLF COURSE OR COUNTRY CLUB** – A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges, include clubhouses and shag ranges, but does not include miniature golf course or golf driving ranges. Courses shall be considered “recreational facilities, private” for the purpose of this Chapter.

**GOLF DRIVING RANGE** – A limited area on which golf players drive golf balls from a central driving tee, such area to include the driving tee and other incidental activities pertaining to this activity.

**GRADING** – The act of excavating and/or filling land for the purpose of changing natural slope.

**GREENHOUSE/NURSERY** - An accessory structure, typically constructed of metal or wood framework and covered with glass for plastic, used for private use.

**GROCERY STORE** – Retail location for the purveying and/or selling of predominantly food stuffs and other related living essentials.

**GROSS** – A total amount.

**GROUP HOME** – A dwelling in which no more than eight (8) unrelated persons, each of whom is handicapped (disabled) within the meaning of the Fair Housing Act (Title 42, Chapter 45, Subchapter II, Section 3601, et. seq. of the United States Code), live together as a single, non-transient household unit (i.e., a “family,” as defined herein), with such non-resident staff as may be needed to assist the residents with their daily life activities. A group home shall follow all applicable provisions for “Division C-3 occupancy” in Title 34, Part I, Chapter 56 of the Pennsylvania Code, as amended. If serving a psychiatrically disabled population, the group home must be licensed by the Pennsylvania Department of Human Services and shall follow all applicable provisions for Community Residential Rehabilitation Services (CRRS) in Title 55, Part VII, Subpart E, Chapter 5310 of the Pennsylvania Code, as amended.

**HARDWARE STORE** - retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold.

**HEALTH/FITNESS CLUB** – An establishment where the principal enterprise conducted involves the provision of indoor wellness activities such as fitness training, saunas, athletic courts, and indoor swimming pools.

**HEIGHT** – The maximum height of a building and/or structure measured from the average finished grade at perimeter of the base of the building and/or structure to the highest point of such building and/or structure. For the purpose of determining the height limits in all zones set forth and shown on the official supplementary Airport Overlay Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

**HOME-BASED BUSINESS, NO IMPACT** – A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, whereas there shall be a maximum of two said accessory uses within any one dwelling, and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal function to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- B. The business shall employ no employees other than family members residing in the dwelling.

- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business use, including, not limited to, parking, signs or lights.
- E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business activity may not involve any illegal activity.

**HOME BASED BUSINESS, OTHER** – An activity, intended to be financially gainful, conducted within a dwelling unit, the conduct of which is clearly incidental and secondary to the use of the dwelling unit, and, whereas there shall be a maximum of two said accessory uses within any one dwelling unit. Unlike a No-Impact Home Based Business, Home Occupations provide opportunity for on-site customers and therefore, also permit restricted signage opportunity.

**HONEYBEE** – Honeybees are limited to European races of *apis mellifera*.

**HOTEL** – A building used primarily for providing more than ten (10) transient lodging accommodation on a daily rate basis to the general public in which the lodging rooms provide no cooking facilities.

**HOUSE GUEST** – A temporary occupant of a short-term rental living quarter within a dwelling unit.

**HOUSEHOLD PET** – Domesticated species of dog, cat, or other non-exotic animal generally weighing less than 150 pounds that resides within a dwelling unit and is not raised for production of products for sale.

**IMPERVIOUS SURFACE (IMPERVIOUS AREA)** – A surface that prevents the infiltration of water into the ground. Impervious surfaces (or areas) shall include, but not be limited to roofs; additional indoor living spaces, patios, garages, storage sheds and similar structures; and any new streets or sidewalks. Decks, parking areas, and driveway areas are not counted as impervious areas if they do not prevent infiltration.

**INDUSTRIAL PARK** – A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

**JUNK** - Scrap or waste material of whatsoever kind or nature collected or accumulated for resale, disposal, or storage.

**JUNKYARD** – Land or a structure used for the collection, storage, dismantling, processing, buying, selling, handling, wrecking and/or salvaging, other than within a completely enclosed building, of material of one (1) or more of the following types:

- A. "Junk" (see definition).
- B. More than one (1) junk vehicle or the parts thereof (this shall not apply to such vehicles allowed to be stored within the specific requirements of an auto repair garage or auto service station); or
- C. Two (2) or more mobile/manufactured homes that are not in habitable condition.
- D. Junk stored within a completely enclosed building for business purposes shall be considered a warehouse and shall be regulated as a warehouse.

**KENNEL** – Any accessory building or building or land designed or arranged for the care of dogs, cats or household pets belonging to the owner of the principal use, kept for purposes of show, hunting or as pets, and not involving the commercial sale or barter of animals.

**LAND DEVELOPMENT** –

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving
  - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
  - 2. The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.
- C. Development in accordance with § 503(1.1) of the Pennsylvania's Municipalities Planning Code and the Municipality's Subdivision and Land Development Code.

**LANDSCAPE BUFFER** – A use of new or existing plants, earthen mounds, fences and/or walls located between two uses, or between one use and a public right-of-way, that is intended to lessen negative impacts, such as undesirable views, noise or light.

**LANDFILL** – A facility for the deposition of waste in accordance with the rules and regulations of the Commonwealth of Pennsylvania

**LANDSCAPE/NURSERY, RETAIL** – The retail handling of any article, substance, or commodity related to the planning, maintenance, or harvesting of garden plants, shrubs, chemicals, or other nursery goods and related products in small quantities to the consumer.

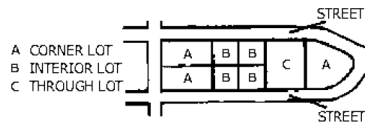
**LAUNDROMAT/DRY CLEANERS** - A self-service facility containing clothes washing machines and dryers which are usually coin-operated and are open for use to the general public.

**LOT** – A designated parcel, tract or area of land established by a plan or otherwise as permitted by law and to be used, developed, or built upon as a unit.

**CORNER LOT** – A lot at the junction of and abutting on two or more intersecting streets or at the point of abrupt change of a single street where the interior angle is less than 135° and the radius of the street is less than 100 feet.

**INTERIOR LOT** – A lot with only one frontage on a street.

**THROUGH LOT** – A lot with front and rear street frontage.



**LOT COVERAGE** – The portion of the lot that may be impervious. This includes, but may not be limited to, both building footprint and parking area.

**LOT LINE** – A line generally established by meters and bounds, which, when combined with other lot lines, delineates a lot.

**FRONT LOT LINE** – The line separating the lot from the street right-of-way.

**SIDE LOT LINE** – Any lines which are not front or rear lot lines.

**REAR LOT LINE** – The line parallel to or within 45° of being parallel to a street line which defines the rear of the lot.

**LOT SIZE** – The area contained within the boundary lines of a lot.

**LOT WIDTH** – The horizontal distance between side lot lines.

**LUMBERYARD** – An area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, but not including manufacture or fabrication of lumber, lumber products or firewood

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

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

**MEDICAL MARIJUANA, DISPENSARY** – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Department of Health (DOH) of the Commonwealth to dispense medical marijuana.

**MEDICAL MARIJUANA, GROWER** – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the DOH to grow and process medical marijuana.

**MEMBERSHIP CLUB, FRATERNITY, OR SORORITY** – A type of 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.

**MINERAL EXTRACTION AND QUARRYING** – The removal from the surface or beneath the surface of the land of bulk mineral resources using significant machinery. Mineral extraction includes but is not limited to the extraction of sand, gravel, topsoil, limestone, clay, coal, shale, or iron ore. The routine movement of and replacement of topsoil during construction shall not be itself considered mineral extraction. The reclamation of waste piles from mining activities conducted prior to the adoption of this ordinance shall be permitted by right in all districts and shall not be considered mineral extraction.

**MIXED USE STRUCTURE (retail and apartments)** – A structure which contains two or more distinctly separate uses such as commercial use and a residential use.

**MOBILE STORAGE UNITS** - An area used for the storage, distribution, and sale of pods.

**MOTEL** – A building used primarily for providing more than ten (10) transient lodging accommodations on a daily rate basis to the general public in which the lodging rooms provide no cooking facilities.

**MPC** – The Pennsylvania Municipalities Planning Code, Act 247 of 1968, 53 P.S. §10101 et seq., as reenacted and amended.

**NATURE PRESERVE** – A noncommercial preservation of land for providing wildlife habitats, forests or scenic natural features that involves no buildings other than a nature education and/or study center and customary maintenance buildings.

**NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after March 15, 1982, including any subsequent improvements thereto.

**NIGHTCLUB** – A tavern or restaurant that: a) has a primary or substantial portion of the total trade in the sale of alcoholic beverages, b) frequently charges admission or cover charges for entertainment or music for dancing, c) has a capacity of more than 150 persons for such entertainment or dancing and d) is not a "sexually oriented business."

**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 reason of such adoption or amendment.

**NONCONFORMING STRUCTURE** – A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this zoning ordinance 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 reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

**NONCONFORMING USE** – A use, whether of land or of structure, which does not comply with the applicable use provisions in this zoning ordinance 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.

**NONCONFORMITY** – Any nonconforming lot, structure or use of land or structures.

**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."

**OBSTRUCTION** – Any dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, floodplain or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**OFFICE, BUSINESS OR PROFESSIONAL** – A use that involves administrative, clerical, financial, governmental, or professional operations and operations of a similar character. This use shall include neither retail nor industrial uses, but may include business offices, medical or dental offices, clinics or laboratories, photographic studios and/or television or radio broadcasting studios.

**OFFICE, MEDICAL OR DENTAL** – A facility operated by one or more physicians, dentists, chiropractors, or other licensed practitioners of the healing practices for the examination and treatment of persons solely on an outpatient basis. Medical and dental offices do not include veterinary services or animal hospitals.

**OFF-STREET PARKING/LOADING ACCESSORY NON-RESIDENTIAL USES** - 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.

**OFF-STREET PARKING/LOADING ACCESSORY TO RESIDENTIAL USES** - 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 residents.

**OIL AND GAS EXTRACTION** – The removal of oil and gas resources from the ground by means of drilling, as defined herein, in accordance with a valid permit issued by the Pennsylvania Department of Environmental Protection (PA DEP) under the provisions of the PA Oil and Gas Act (58 P.S. §601.101-§602.605), as now or hereafter amended.

**OPEN SPACE** – a parcel or parcels of land incorporated within a subdivision that is used for passive and unorganized play areas. This land may include floodplain, wetlands, steep slopes, stormwater basins and drainage areas. The land set aside as open space may not be used towards calculating the parkland requirements of the development.

**OUTDOOR STORAGE OF GOODS** – An area or facility storing or offering for sale building supplies, metal supplies, lumber, stone, coal, heavy equipment, feed and grain, sand and gravel, and similar goods. This term shall not include the wrecking, salvaging, dismantling, scrapping, or storage of junk vehicles.

**PARK, PRIVATE** – A tract of land presently owned or controlled and used by private or semi-public persons, entities, groups, etc. for active and/or passive recreational purposes.

**PARK, PUBLIC** – A natural or landscaped area, buildings, or structures, provided by a unit of government, to meet the active or passive recreational needs of the people.

**PENNDOT** – The Pennsylvania Department of Transportation (“PennDOT”), the Commonwealth agency responsible for overseeing and administering transportation laws and regulations within Pennsylvania.

**PENNSYLVANIA MUNICIPALITIES PLANNING CODE** – Act of July 31, 1968, P.L. 805, No. 247, as reenacted and amended, 53 P.S. § 10101 et seq.

**PERSONAL CARE HOME** – A residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or the developmentally disabled and that is licensed as a Personal Care Center by the Commonwealth of Pennsylvania.

**PERSONAL SERVICE ESTABLISHMENT** – An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or services to businesses. Personal services include barber and beauty shops, State-licensed massage therapists, photography studios, shoe repair shops, household appliance repair shops, and other similar establishments, but shall not include any "adult uses."

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

**PLANNING COMMISSION** – The Dunmore Borough Planning Commission, Borough of Dunmore, Pennsylvania.

**PLANNED RESIDENTIAL DEVELOPMENT** – An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of this Chapter.

**PORCH** – A covered entrance to a building or structure which may or may not be enclosed and which projects out from the main wall of such building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**PRIVATE** – Not publicly owned, operated or controlled.

**PUBLIC** – Intended for the general population to partake or participate.

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



**RADIO/TELEVISION STUDIO** – A studio engaged in transmitting oral and visual programs to the public, but not including the transmitter and/or antennas for such broadcasting.

**RECREATION FACILITY, PRIVATE** – A commercially operated park or facility with various devices for entertainment including but not limited to rides, games, electronic games and similar devices, food stands and other associated facilities.

**RECREATION FACILITY, PUBLIC** – Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Borough, County, school district, state, or federal government.

**RECYCLING, LARGE SCALE** – Whereas the intended customer-base is multi-municipal residents and business, a building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

**RECYCLING, SMALL SCALE** – Whereas the intended customer-base is Dunmore Borough residents and business, a building in which recyclable material only is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

**RELEASE** – The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of one or more Regulated Substances upon or into any land or water within the Source Water Protection Overlay District. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, swale, drainage way.

**REPAIR** – To restore by replacing parts or putting together what is torn or broken. Repair can be defined as an accessory or principal use.

**RESEARCH AND DEVELOPMENT FACILITY** – A use engaged in research and development, testing, assembly, repair, and manufacturing in the following industries: biotechnology, pharmaceuticals, medical instruments or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Office, warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use.

**RESTAURANT** – An establishment where food and drink are prepared, served and consumed primarily within the principal building.

**RESTAURANT, CAFÉ** - An establishment where limited options of food and drink are prepared, served and consumed.

**RESTAURANT, CARRYOUT** – An establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises and that does not meet the definition of a “standard restaurant.”

**RESTAURANT, DRIVE THROUGH/DRIVE-IN** – An establishment that sells ready-to-consume food or drink where at least a portion of patrons are served while the patrons remain in their motor vehicles.

**RETAIL ESTABLISHMENT** – A use in which merchandise is sold or rented to the general public, but not including the following: sales of motor vehicles or boats, adult movie theater, adult bookstore, manufacturing, tavern, car wash, auto service station, auto repair garage, convenience store or any restaurant.

**RIDING ACADEMY AND STABLES** – An establishment where horses are kept for riding or driving, or are stabled for compensation, or incidental to the operation of any club, association, ranch, or similar establishment.

**RIGHT-OF-WAY** – A corridor of land set aside for use, in whole or in part, by a street or other public purpose.

**SATELLITE DISH/ANTENNA** - A ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure. A satellite antenna shall be considered an accessory structure for the purposes of this Ordinance.

**SAWMILL** – A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

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

**SCHOOL, PRIVATE/PUBLIC** – Any institution or business offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania Department of Education or a lawfully constituted ecclesiastical or non-parochial governing body, person, partnership, or corporation meeting the requirements of the Commonwealth of Pennsylvania.

**SEDIMENT** – Soil materials transported by wind or water as a result of erosion.

**SHADOW FLICKER** – The on and off flickering effect of a shadow is caused when the sun passes behind the rotor of a wind turbine.

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

**SHOPPING CENTER OR MALL** – A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

**SHORT-TERM RENTAL** - The use of a Dwelling in which the owner rents any area of the Dwelling to one, or more, individuals for compensation or fee, including offer of exchange in kind, of any type (whether or not involving overnight accommodations or separate sleeping quarters) for less than seven (7) consecutive days. This definition applies to all types of residential dwellings including, but not limited to, One-Family, Two-Family and Multiple-Family Dwellings.

**SHRUB** – An ornamental plant with woody stems that is at least 2 gallons in depth at planting. See the Borough 's official plant list for a listing of permitted shrubs.

**SMALL SCALE GROCERY** - A grocery store with a total floor area of 12,000 square feet or less.

**SMALL SCALE RETAIL** - A retail establishment with a total floor area of 5,000 square feet or less.

**SOLAR ENERGY** – Radiant energy (direct, diffuse and/or reflective) received from the sun.

**SOLAR ENERGY FARM** – An area of land on which the principal use is the capture of solar energy and its conversion to electrical energy or thermal power for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground- or roof-mounted solar modules or other solar related equipment and may include accessory structures and buildings including light reflectors, concentrators and heat exchangers, substations, electrical infrastructure, transmission lines, and other appurtenant.

**SOLAR ENERGY DEVICE** - A system, structure, or device accessory to a principal use which is used to collect, store, and distribute energy derived from the sun for the purpose of heating or cooling the interior spaces of buildings or for heating domestic hot water. Small solar energy systems may include, but are not limited to, solar collectors, solar reflectors, heat storage tanks, south facing double glazed window walls, attached south-facing greenhouses utilizing double glazing, and architectural overhangs for blocking sunlight on south facing windows.

**SOLAR RELATED EQUIPMENT** – Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used or intended to be used for collection of solar energy.

**SQUARE** – A spatially defined element of usable open space designed such that it directly abuts streets on two or more sides. Squares may be located throughout the required open space of a community in a manner which enhances the form, appearance, and function of this element of the community. Landscaping and lighting must be provided to augment the function of this feature within the open space network.

**SPA** – A place or building where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Also, a place or building that provides massage, exercise, and related activities with or without such equipment or apparatus.

**STORAGE** – A space or place for storing materials and supplies for use by the principal use located on the same site. Includes the storage of goods which were produced on site. Storage is accessory to the principal use on the site.

**STREAM** – A watercourse. Most streams are shown on the U.S.D.A. Soil Conservation Service "Soils Survey of Dunmore" mapping or as watercourses shown on a U.S.G.S., 7.5-minute quadrangle map as solid blue lines or as state open waters identified in a letter of interpretation issued by the Pennsylvania DEP. Streams are also shown as blue lines on the most recent Streams Within Dunmore, U.S.G.S. National Hydrologic Dataset (NHD) mapping as noted in attached Appendix E.

**STREET** – Includes a street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other way used or intended to be used by vehicular traffic or pedestrians, whether public or private. Streets are further classified according to the functions they perform:

EXPRESSWAY- Designed for large volumes and high-speed traffic with access limited to grade-separated intersections.

ARTERIAL STREET - Designed for large volumes and high-speed traffic with access to abutting properties restricted.

COLLECTOR STREET - Designed to carry a moderate volume of traffic to intercept local. (residential) streets, to provide routes to minor arterial streets and to community facilities. and to provide access to the abutting properties.

LOCAL STREET - Designed to provide access to the abutting properties and a route to collector routes.

**STRUCTURE** – An object, including a mobile object, includes without limitation buildings, towers, cranes, smokestacks, earth formation and overhead transmissions lines.

**STUDIO OR SCHOOL FOR SPECIAL TRAINING** – An establishment where arts such as dance, martial arts, music, and visual arts are taught, studied or produced, or where movies, radio, television or music recording is produced.

**SUBDIVISION** – The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUBSTANTIAL CHANGE** – (1) Any increase in the height of a wireless support structure by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet for structures located outside of the rights-of-way, or 10 feet for structures located within the rights-of-way, whichever is greater, except that the mounting of the proposed wireless communications facility may exceed the size limits set forth herein if necessary to avoid interference with existing antennas; or (2) any further increase in the height of a wireless support structure which has already been extended by more than 10% of its originally approved height or by the height of one additional antenna array.

**TASTING ROOMS** - A room or rooms open to the general public, primarily used for the retail marketing of beverage-related products controlled by the PA Liquor Control Board. Merchandise offered for sale within the tasting room may also include souvenirs and clothing bearing the logo of the business, as well as related items and other products that reflect or enhance the character or theme of the product(s). Rooms where wine tasting occurs, where beverage tasting is part of the normal business practice in the wholesale marketing of beverage products and that are not open to the public are not considered tasting rooms.

**TATTOO PARLOR** - Any establishment, place of business, or location wherein the procedure of inserting permanent markings or coloration upon or under human skin is practiced through including artistic tattoo parlors and any establishment conducting cosmetic tattooing where tattooing is engaged in or where the business of tattooing is conducted or any part thereof.

**TEMPORARY USE** – A use lasting for a limited time of seven days or less, unless specified as longer under a particular use. Does not include the construction or alteration of any structure.

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

**TRUCK STOP** – Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities solely for the use of truck crews.

**TRUCK/FREIGHT TERMINAL** – A terminating point where goods are transferred from a truck to a storage area or to other trucks or picked up by other forms of transportation.

**UTILITY** – A corporation, enterprise, government entity or persons generating, transmitting, distributing, transporting and/or collecting in any manner, electricity, heat, steam, natural gas, propane, water, wastewater, or communications (cable, telephone, and fiber optic) to the public, or any portion thereof.

**VARIANCE** – A permissive waiver of terms and conditions of this chapter issued by the Zoning Hearing Board.

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

**VEHICLE REPAIR GARAGE** – An establishment engaged in the service and/or repair of any motor vehicle as its principal use, including but not limited to auto body shops, repair garages, truck repair garages and agriculture equipment repair.

**VIOLATION** – The act of not meeting specific conditions or requirements of this Chapter.

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

**WASTE-TO-ENERGY FACILITY** – A type of “Solid Waste Disposal Facility” that utilizes waste (such as trash, sludge, coal culm waste or any other non-“hazardous” commercial, residential, or industrial materials) as a fuel to produce usable energy (such as steam or electricity).

**WHOLESALE ESTABLISHMENT** – Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies,

**WIND ENERGY CONVERSION SYSTEM (WEC)** – Any device which converts wind energy to a form of usable energy.

**WIND FARM** – An aggregation of parts including the base, tower, generator, rotor, blades, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy.

**WIND GENERATOR** – Equipment that converts energy from the wind into electricity. Includes the rotor, blades, and associated mechanical and electrical conversion components necessary to generate, store, and/or transfer energy.

**WIRELESS COMMUNICATIONS TOWER** – Any structure designed for transmitting or receiving wireless communications of video, voice, data and similar transmissions, including but not limited to omnidirectional or whip antennas, directional or panel antennas and satellite or microwave dish antennas that may be mounted on an existing building, an existing public utility storage or transmission structure or an existing communications tower, excluding transmission and receiving devices licensed by the Federal Communications Commission (FCC) exclusively for private use by citizens.

**WIRELESS SUPPORT STRUCTURE** – A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a non-tower based wireless communications facility if approved by the Borough.

**YARD** – An unoccupied space, open to the sky, extending from the lot line to a structure. The size of a required yard shall be measured as the shortest distance between the structure and lot line.

**FRONT YARD** –An open space area extending along the full width of a lot parallel to the front property line or adjacent street right-of-way line, whichever is the closer to the property, which area is unoccupied and obstructed from the ground up, except for such intrusions as are expressly permitted by this Chapter.

**SIDE YARD** – An open space area extending along the side of a lot parallel to the side lot line, which area shall extend from the front yard area to the rear yard area, except that in the absence of a rear or front yard area the side yard area shall extend the full length of the lot.

**REAR YARD** – An open space area extending across the full width of a lot parallel to the rear

property line or adjacent street right-of-way line, whichever is closer to the property, which area is unoccupied and unobstructed from the ground up, except for such intrusions as are expressly permitted by this Chapter.

**BUFFER YARD** – An open space inclusive of vegetation and designed to provide an area of separation between different districts or uses.

**YARD SETBACK AREA** – An area bounded by a lot line and a line drawn parallel to the lot line at a distance specified in the ordinance for front, side, or rear yard setbacks.

**ZONING DISTRICT** – A finite area of the Borough, as designated by its boundaries on the Zoning Map, throughout which specific and uniform regulations govern the use of land and/or the location, size and use of buildings and structures. The regulations of a zoning district may be supplemented or altered by regulations imposed in an overlay zoning district.

**ZONING HEARING BOARD** – The Zoning Hearing Board of Dunmore.

**ZONING MAP** – The map setting forth the boundaries of the districts of this chapter and adopted by the Borough Council.

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## ARTICLE 3

### District Regulations and Zoning Map

#### Section 3.1 – Designation and Intent of Districts

##### A. Zoning Districts and Purpose Statements.

For the purpose of this Ordinance, Dunmore Borough is hereby divided into districts which shall be designated on the Zoning Map and as follows:

1. Agricultural/Conservation/Recreational Districts.
  - (a) **CONSV – Conservation District:** To conserve areas of unique natural beauty or low-impact recreation, or in which accessibility is difficult or constrained by topography, and to protect open spaces, environmentally sensitive areas, and natural features such as steep slopes, forests, and water courses.
2. Residential Districts.
  - (a) **R-3 – Suburban Single Family Residential District:** To arrange for low-density neighborhoods of single-family detached dwellings, largely serviced by public sewer and water.
  - (b) **R-6 – Town Mixed Residential District:** To provide for neighborhoods that are medium-to-high density and accommodate a mix of single- and multifamily dwellings, as well as ancillary land use activities.
  - (c) **R-7 – Town-City Single Family Residential District:** To allow for neighborhoods of a medium-to-high density consisting largely of single-family attached and detached dwellings on small lots developed on a grid system of curbed streets, typically with access to alleyways.
  - (d) **R-8 – City Neighborhood Mixed Residential District:** To arrange for urban residential neighborhoods that are medium-to-high density and contain a mix of single- and multifamily dwellings with on-street parking and minimal side yard setbacks, as well as ancillary institutional uses.
3. Mixed Use Districts.
  - (a) **N – City Neighborhood Mixed Use District:** To permit a mix of pedestrian-oriented residential, commercial, and ancillary institutional land uses in an urban neighborhood setting, ranging from converted dwellings to mixed-use buildings with retail uses on the ground floor and apartments on upper floors.
  - (b) **D – City Downtown Mixed-Use District:** To allow for multistory commercial, mixed-use, and institutional buildings on a pedestrian scale in the urban downtown setting of the central business district.

4. Civic/Institutional Districts.
  - (a) **TCI – Town City Institutional:** To provide for large-scale institutional uses in an urban setting.
  - (b) **CIV – Civic District:** To provide for institutional uses primarily providing public services and benefits and generally designed for and widely accessible to members of the public at large.
5. Commercial Districts.
  - (a) **HC – Highway Commercial District:** To accommodate areas of historic, cultural, and civic significance located in and around the central business district.
  - (b) **CI – Commercial–Industrial District:** To create a zone where small-scale, low-impact light industrial uses and general commercial development coexist along arterial and collector roads.
6. Industrial Districts:
  - (a) **HI – Heavy Industrial District:** To provide locations for production, fabrication, large-scale warehousing and distribution, and similar industrial uses and activities, as well as the extraction and processing of mineral deposits from the earth, with appropriate safeguards to protection of health, safety, and welfare for the region’s citizens.

B. Overlay Districts and Purpose Statements.

See Article 4 of this Ordinance for the designation and intent of the overlay districts.

**Section 3.2 – Zoning Map**

- A. The boundaries of the districts in which Dunmore Borough is divided shall be shown upon a map entitled the “Dunmore Borough Zoning Map,” which is available on file for public viewing at the Dunmore Municipal Building. This map and all notations, references, and other data shown thereon is hereby incorporated by reference into this Ordinance as if these items were fully described herein.
- B. Whenever there has been an amendment to the boundary of a zoning district or overlay or a reclassification of a zoning district or overlay, the Zoning Map shall be accordingly revised and shall be duly certified by the Borough.

**Section 3.3 – Interpretation of District Boundaries**

District boundary lines as a general rule follow lot lines, municipal boundary lines, and the centerlines of streets, highways, and alleys. Where uncertainty exists as to the boundaries of districts on the Zoning Map, the Zoning Officer shall interpret the locations of the boundaries based on the following rules:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be constructed a following such lot lines.
- C. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
- D. Boundaries indicated as approximately following railroad lines shall be construed as following the center line of a single-track railroad line or an imaginary line drawn midway between the main tracks of a multiple-track railroad line.
- E. Boundaries indicated as approximately following shorelines shall be construed as following such shorelines. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline.
- F. Boundaries indicated as approximately following the centerlines of streams or other bodies of water shall be construed to follow such centerlines. In the event of change in the stream or other body of water, the boundary shall be construed as moving with the center line of such.
- G. Boundaries indicated as approximately parallel to or extensions of features identified in subsections A through F above shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- H. Where physical features existing on the ground are alleged to be at variance with those shown on the Zoning Map or in other circumstances not covered by subsections A through G above, it shall be the function of the Zoning Officer to interpret the Zoning Map.
- I. Where one (1) or more district boundary lines divides a lot held in single ownership, the regulations of the district comprising the greater proportion of the lot shall apply.

### **Section 3.4 – District Quick Views**

The subsections included herein provide the following information about each zoning district designated in Section 3.1:

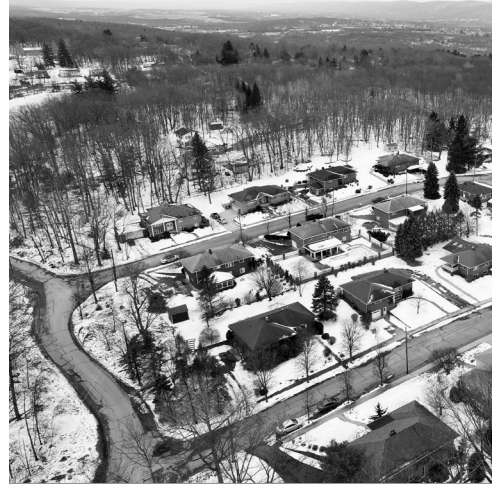
- A. Table of Principal Use Regulations (organized by land use group).
- B. Table of Accessory Use Regulations.
- C. Dimensional Regulations for Lots and Buildings.
- D. Preferred Lot Configurations; and
- E. Other Requirements.

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Dunmore



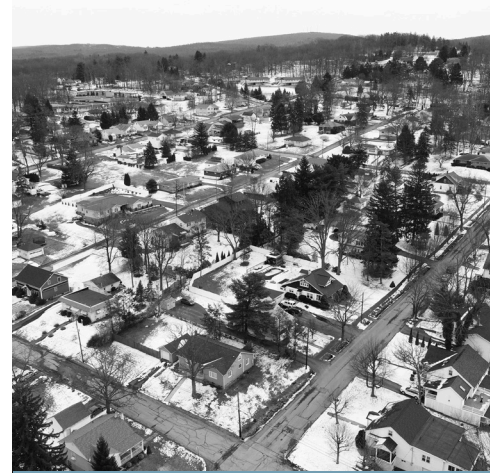
2 Conservation



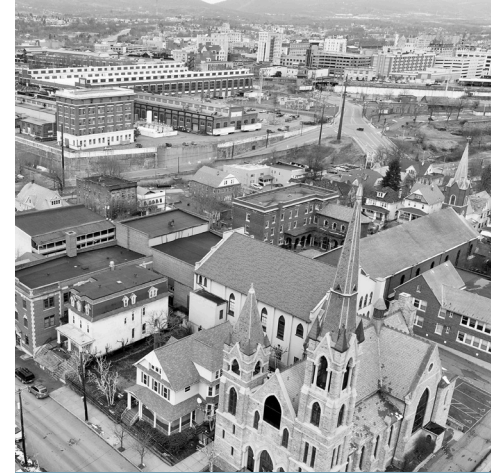
6 Suburban Single Family Residential



9 Town Mixed Residential



10 Town-City Single Family Residential



11 City Neighborhood Mixed Residential



14 City Neighborhood Mixed Use



15 City Downtown Mixed Use



17 Town-City Institutional



18 Civic



19 Highway Commercial



21 Commercial-Industrial



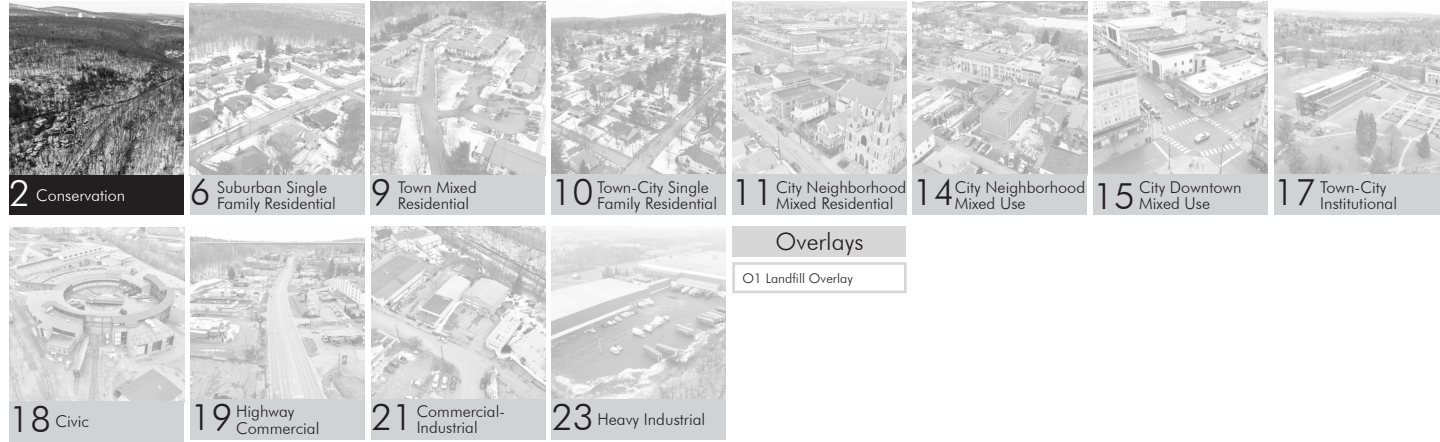
23 Heavy Industrial

Overlays

O1 Landfill Overlay

# 2 Conservation

City



## PERMITTED USES

PRINCIPAL USES	
Campground or recreational vehicle park	SE
Cemetery	SE
Cluster residential development	SE
Community center or library	SE
Conservation residential	SE
Dwelling: single-family detached	P
Dwelling: townhouse	C
Essential services	SE
Forestry	P
Golf course or country club	SE
Golf driving range	SE
Group home	P
Nature preserve	P
Oil and gas extraction	P
Park, private	P
Park, public	P
Planned residential development	SE
Riding academy and stables	P

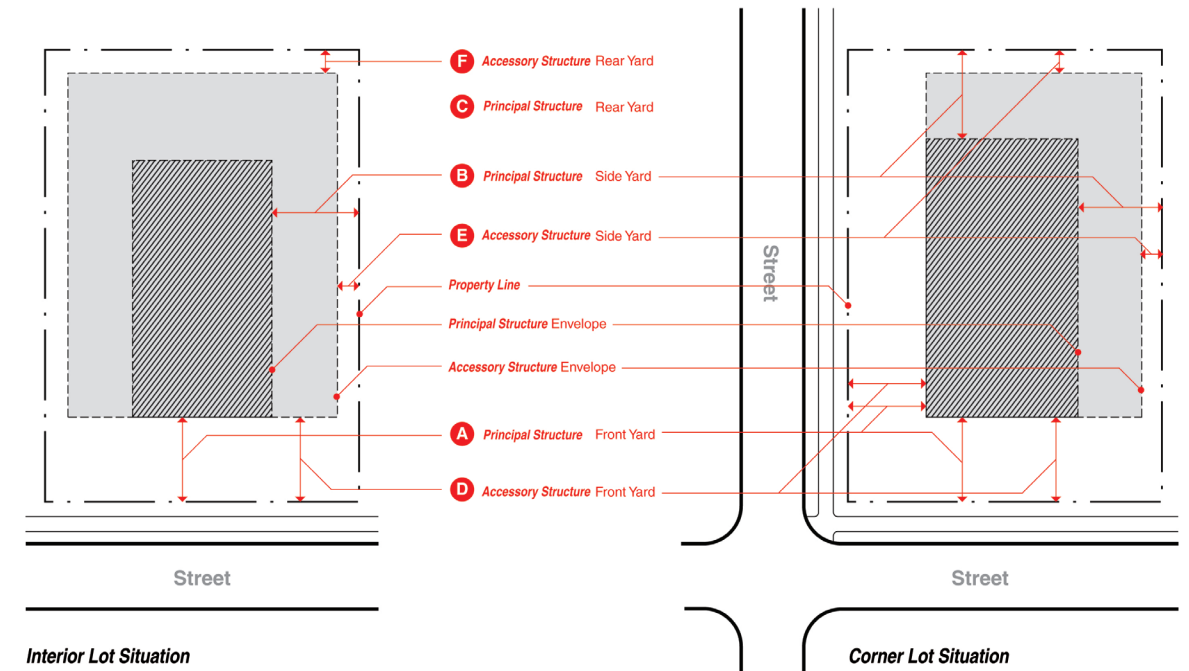
ACCESSORY USES	
Carport, garage, or shed, private	P
Home Based Business, No Impact	P
Sawmill	P

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

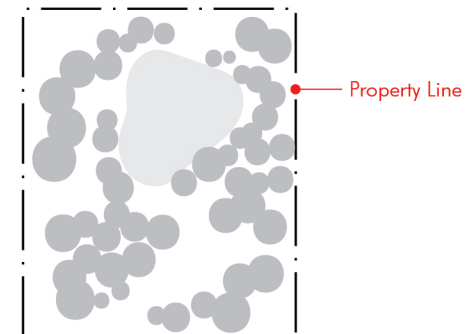
## LOT DIMENSIONS STANDARDS

LOT SIZE	40,000 sf
LOT WIDTH	
at Building Setback Line	80 ft
HEIGHT	
Principal Structure	50 ft
Accessory Structure	20 ft
COVERAGE	
Impervious Surface	50%
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.

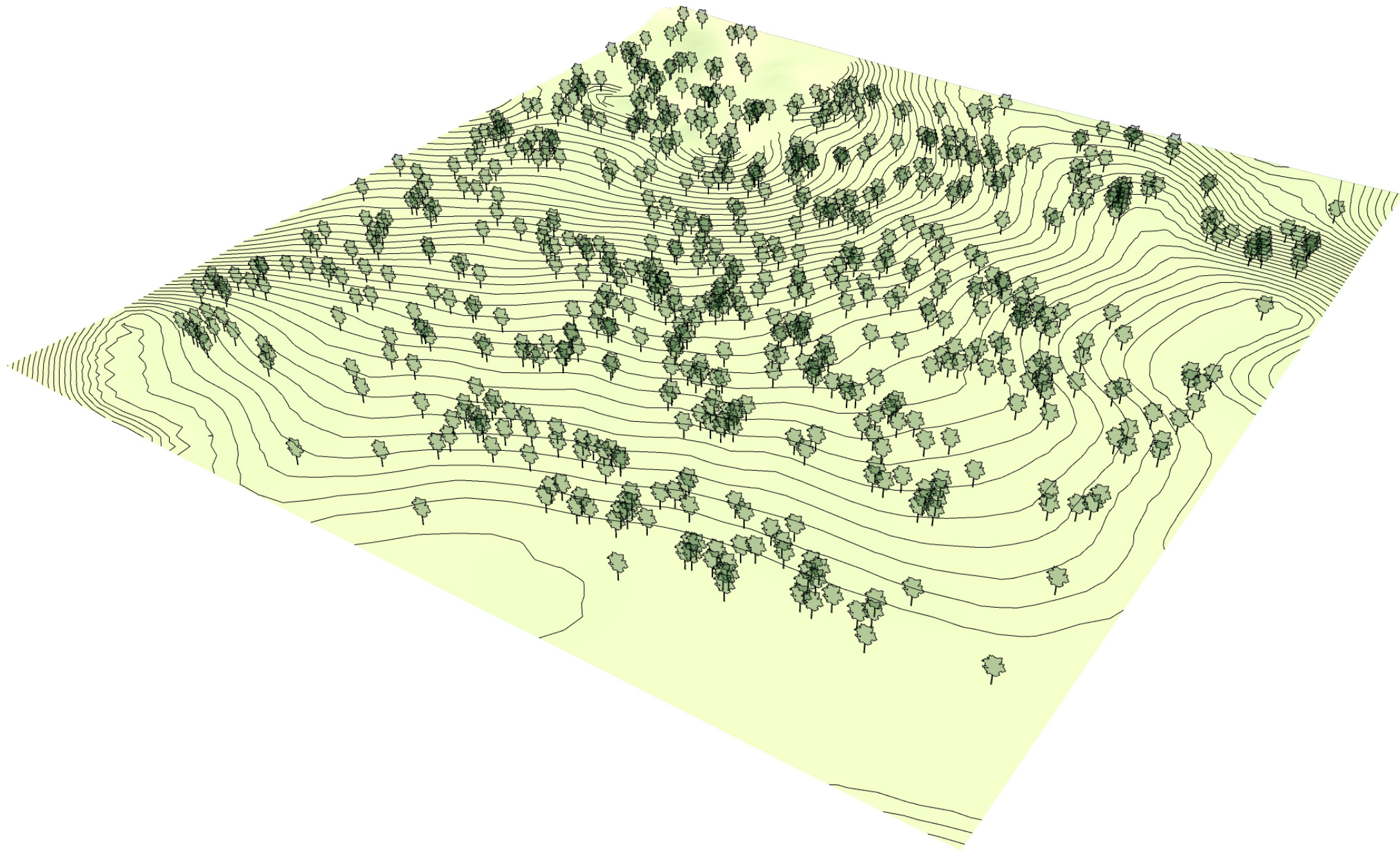
YARD SETBACK		
PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	25 ft
	A Front Yard, on Arterial Street	25 ft
	B Side Yard	30 ft
ACCESSORY STRUCTURE	C Rear Yard	20 ft
	D Front Yard	25 ft
	E Side Yard	10 ft
	F Rear Yard	10 ft



## PREFERRED LOT CONFIGURATIONS

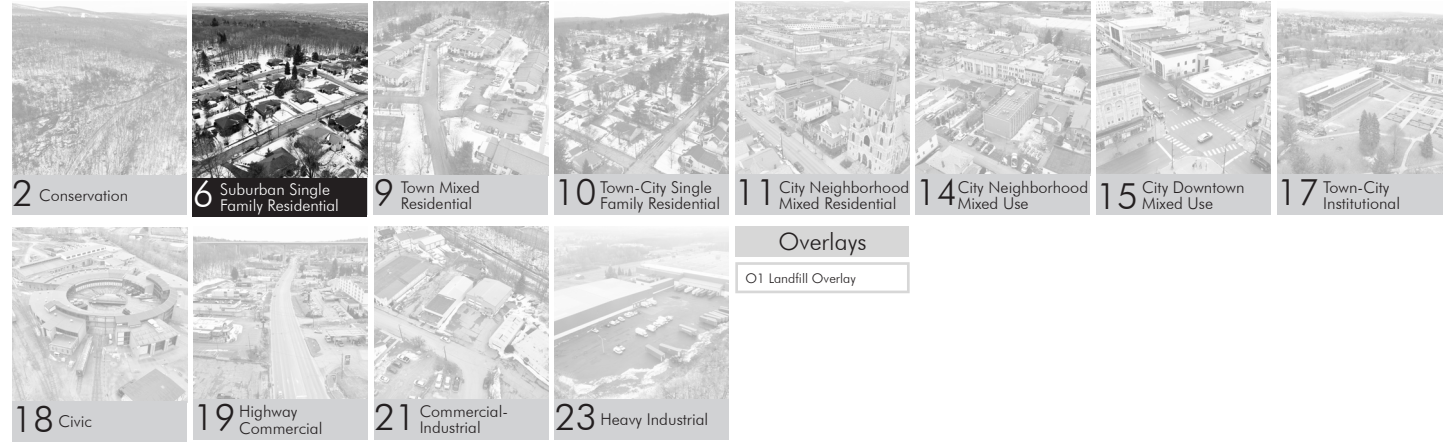


**PUBLIC REALM CHARACTER**



# 6 Suburban Single Family Residential

City



## PERMITTED USES

PRINCIPAL USES	
Craftsman-artisan workshop	SE
Dwelling: apartment building	C
Dwelling: garden apartments	C
Dwelling: single-family detached	P
Dwelling: townhouse	C
Dwelling: two-family	P
Emergency services	P
Essential services	SE
Forestry	P
Golf course or country club	SE
Golf driving range	SE
Group home	P
Oil and gas extraction	P
Park, private	P
Park, public	P
Planned residential development	SE

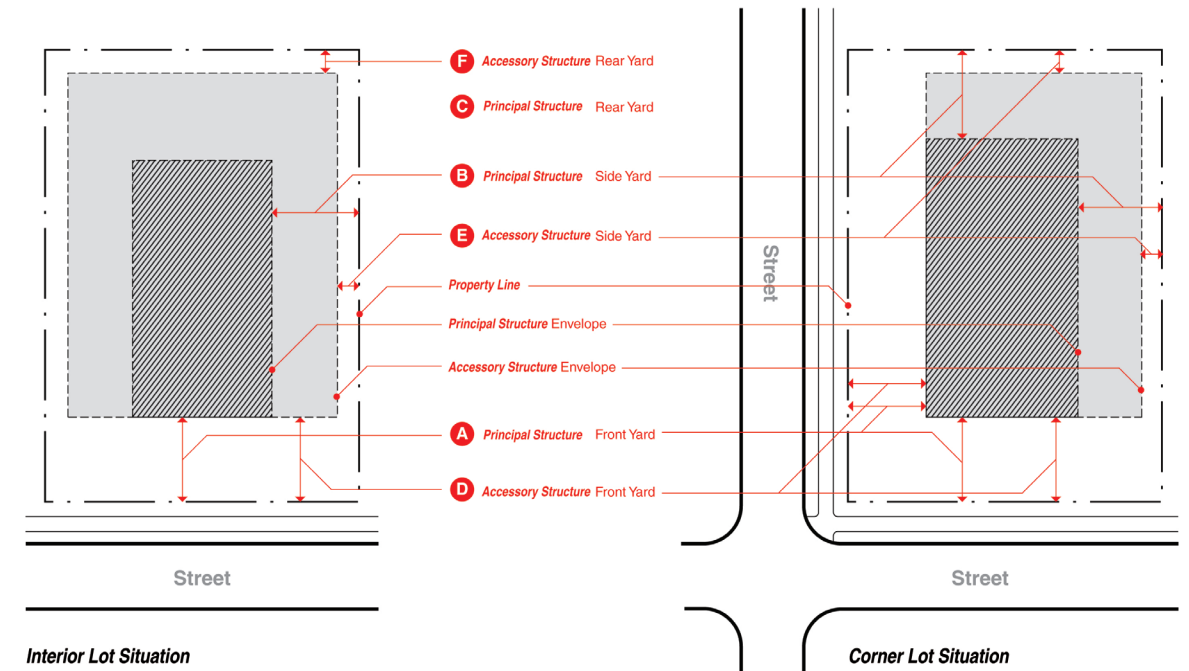
ACCESSORY USES	
Carport, garage, or shed, private	P
Home Based Business, No Impact	P
Home Based Business, Other	P
Off-street parking/loading accessory to residential uses	P
Solar energy device	P

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

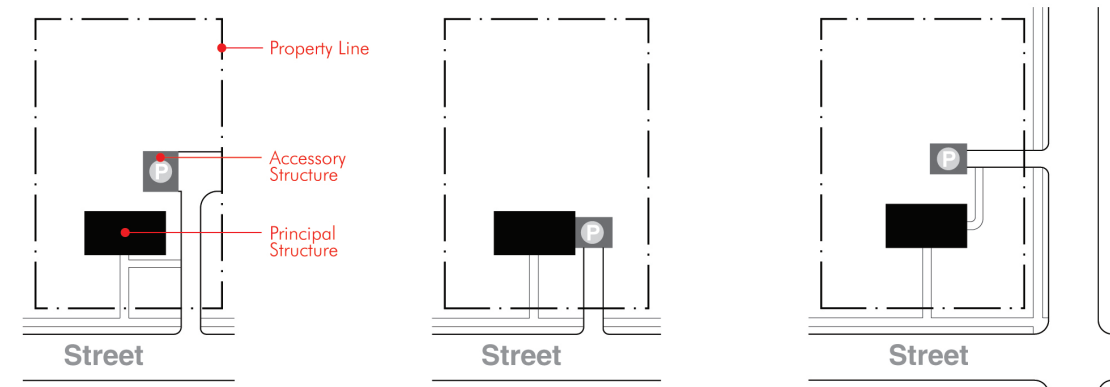
## LOT DIMENSIONS STANDARDS

LOT SIZE (Single Family Detached)	12,000 sf
LOT SIZE (Townhouse)	20,000 sf
LOT WIDTH	
at Building Setback Line	100 ft
HEIGHT	
Principal Structure	35 ft
Accessory Structure	20 ft
COVERAGE	
Impervious Surface	30%
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.

YARD SETBACK		
PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	25 ft
	A Front Yard, on Arterial Street	25 ft
	B Side Yard	15 ft
ACCESSORY STRUCTURE	C Rear Yard	25 ft
	D Front Yard	25 ft
	E Side Yard	10 ft
	F Rear Yard	10 ft

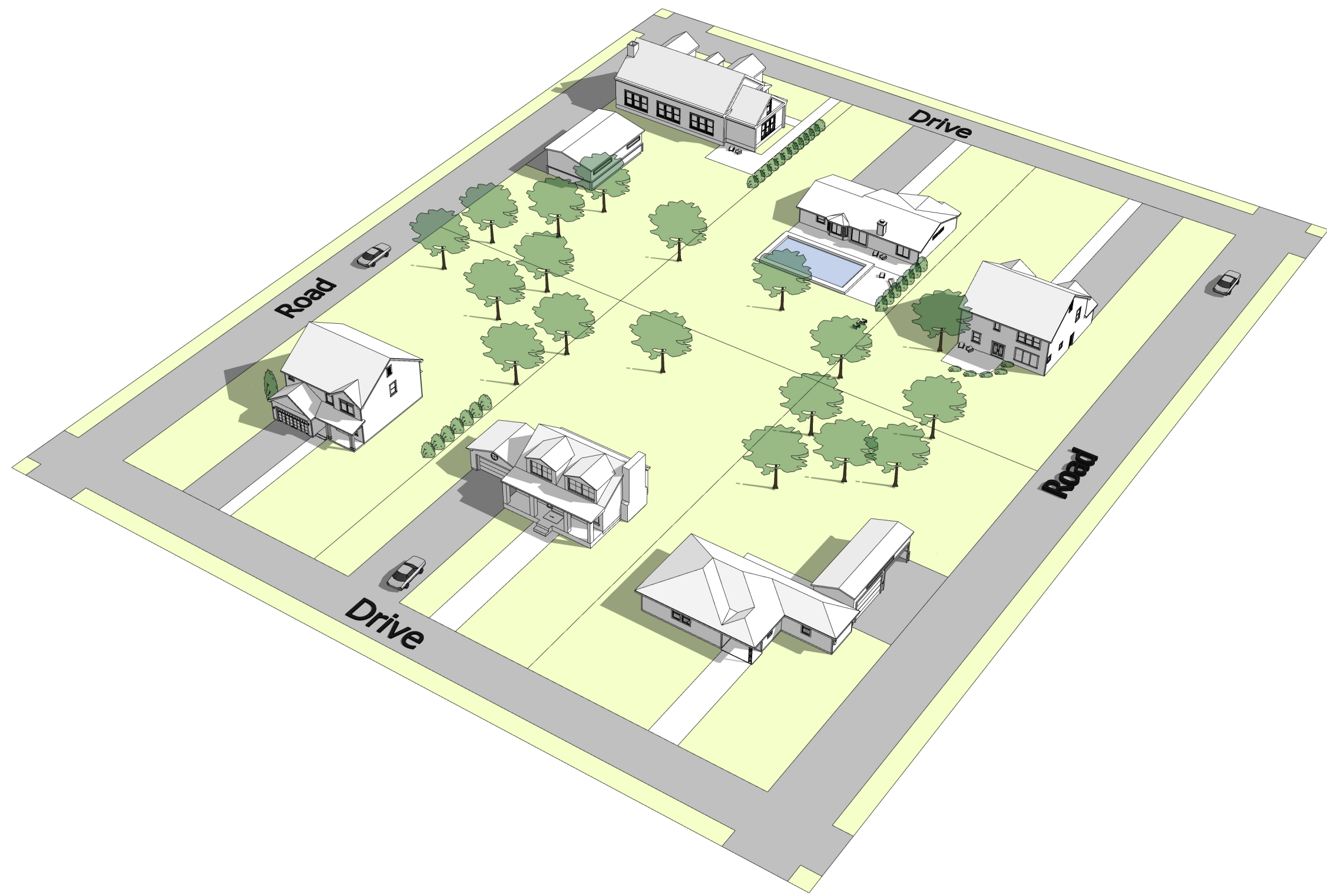


## PREFERRED LOT CONFIGURATIONS



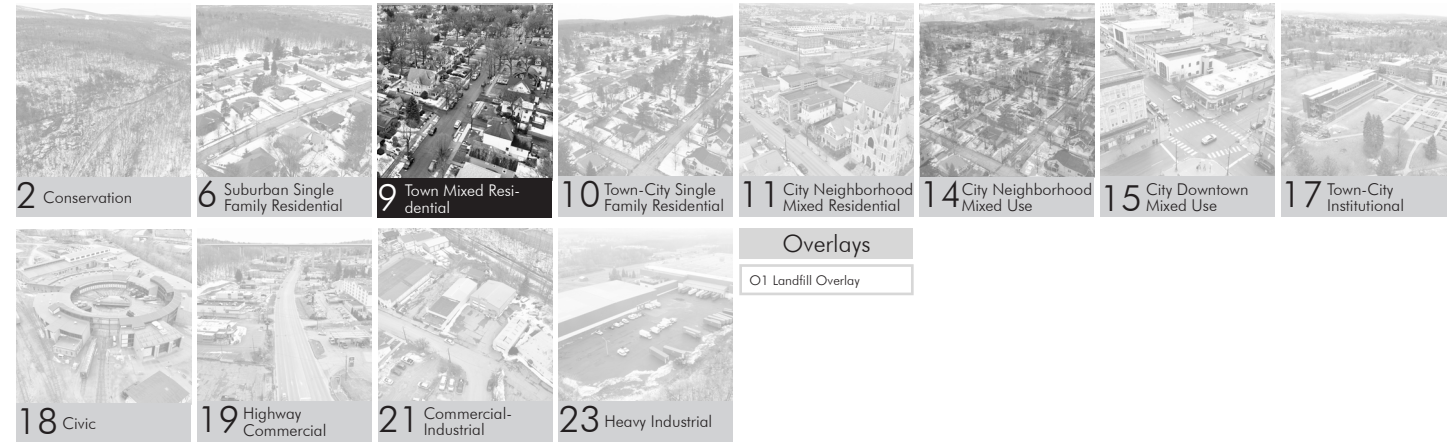


**PUBLIC REALM CHARACTER**



# 9 Town Mixed Residential

City

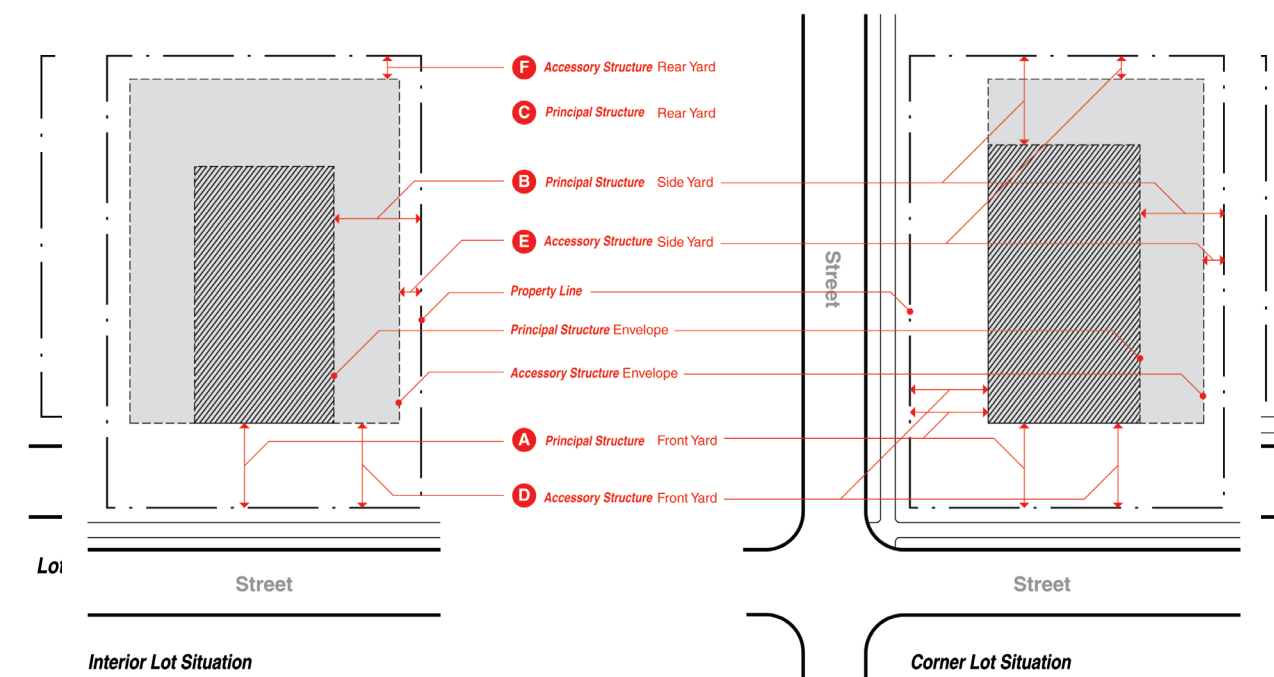


## PERMITTED USES

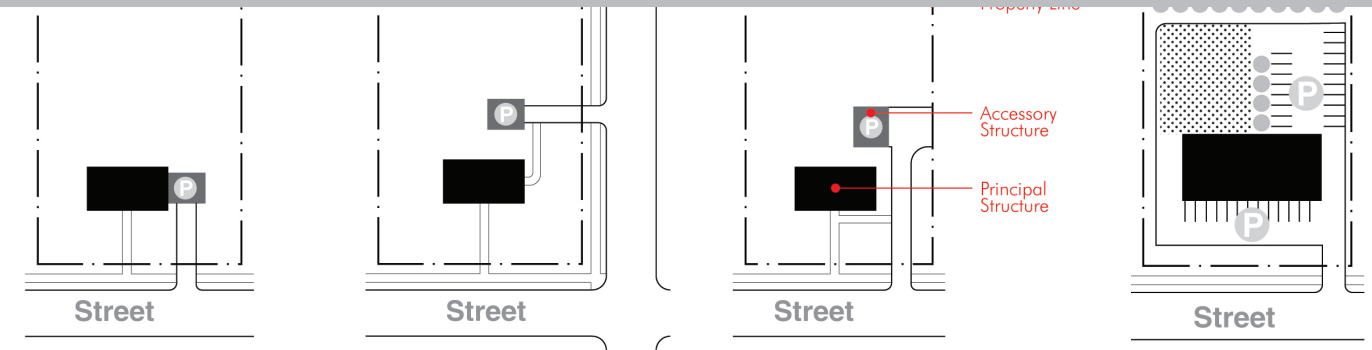
PRINCIPAL USES		ACCESSORY USES	
Day care center, adult	SE	Carport, garage, or shed, private	P
Day care center, child	SE	Home Based Business, No Impact	P
Dwelling: conversion apartment	C	Home Based Business, Other	P
Dwelling: single-family detached	P	Community center or library	P
Dwelling: townhouse	C	Day care center, child	P
Dwelling: two-family	P	Day care home, family	P
Essential services	SE	Emergency services	P
Forestry	P	Off-street parking/loading accessory to residential uses	P
Group home	P	Solar energy device	P
Oil and gas extraction	P		
Park, private	P		
Park, public	P		

## LOT DIMENSIONS STANDARDS

LOT SIZE (Single Family Detached)	8,000 sf	YARD SETBACK	<b>PRINCIPAL STRUCTURE</b> A Front Yard, on Local/Collector Street 25 ft A Front Yard, on Arterial Street 25 ft B Side Yard 30 ft C Rear Yard 20 ft <b>ACCESSORY STRUCTURE</b> D Front Yard 25 ft E Side Yard 10 ft F Rear Yard 10 ft
LOT SIZE (Other)	10,000 sf		
LOT WIDTH	80 ft		
at Building Setback Line			
HEIGHT			
Principal Structure	35 ft		
Accessory Structure	20 ft		
COVERAGE			
Impervious Surface	50%		
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		



## PREFERRED LOT CONFIGURATIONS



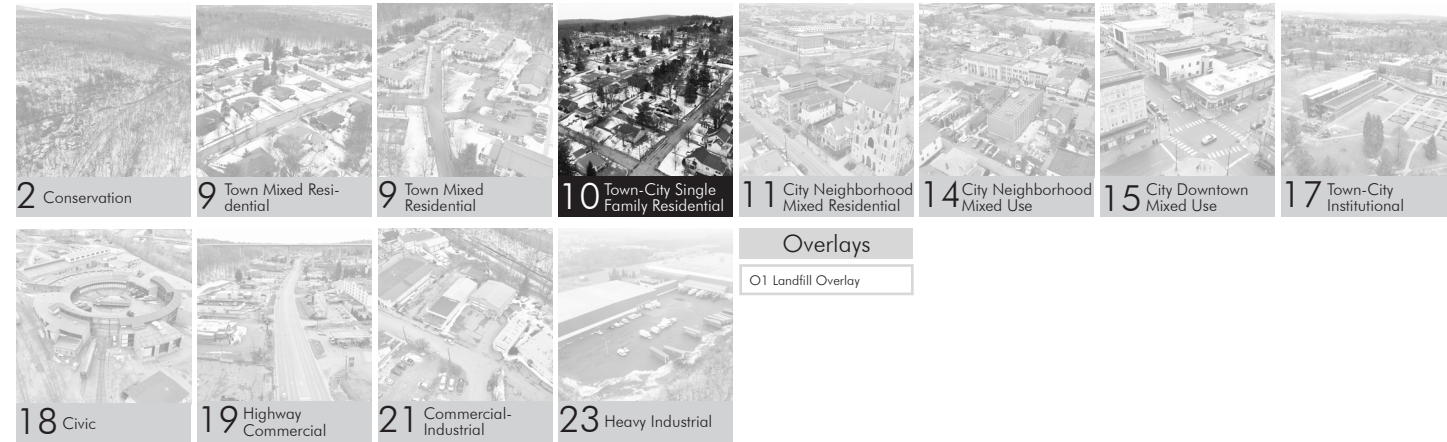
P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

**PUBLIC REALM CHARACTER**



# 10 Town-City Single Family Residential

City



## PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Dwelling: single-family detached	P	Carport, garage, or shed, private	P
Dwelling: townhouse	C	Dwelling: Accessory (granny flat/garage apartment)	P
Dwelling: two-family	P	Home Based Business, No Impact	P
Essential services	SE	Home Based Business, Other	P
Forestry	P	Off-street parking/loading accessory to residential uses	P
Group home	P	Solar energy device	P
Oil and gas extraction	P		
Park, private	P		
Park, public	P		
School, private	SE		

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

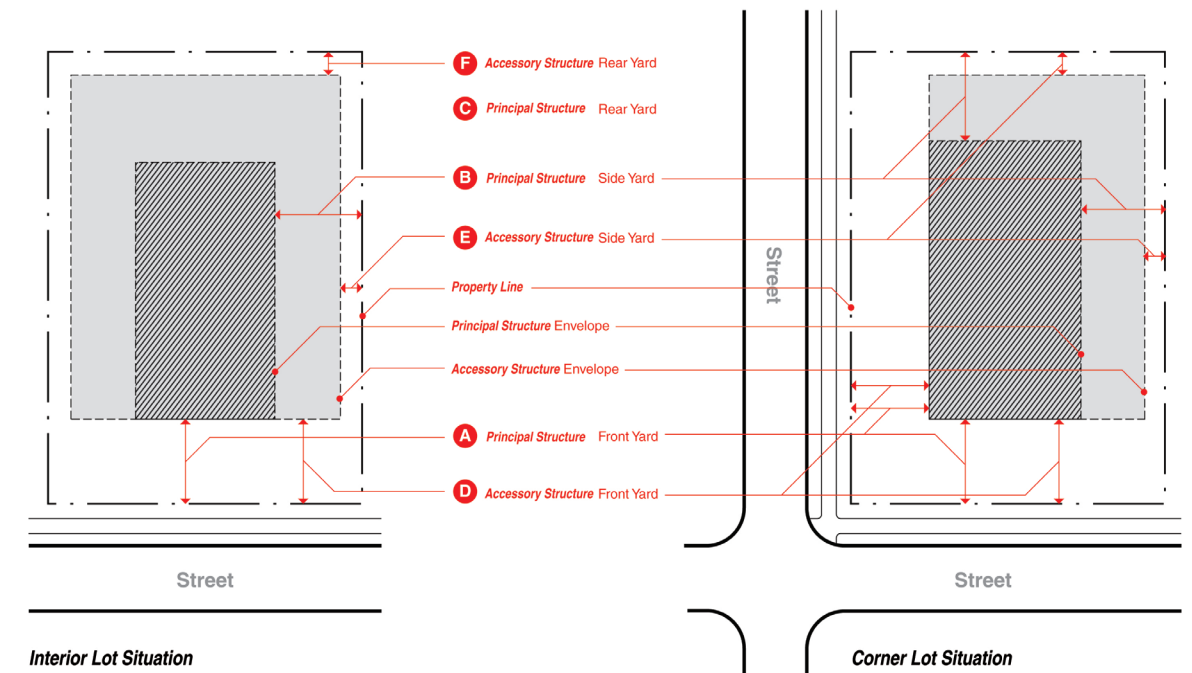
LOT SIZE (Single Family Detached)	8,000 sf
LOT SIZE (Two-Family)	10,000 sf
LOT SIZE (Townhouse)	20,000 sf

LOT WIDTH	
at Building Setback Line	80 ft

HEIGHT	
Principal Structure	35 ft
Accessory Structure	20 ft

COVERAGE	
Impervious Surface	35%
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.

YARD SETBACK		
PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	25 ft
	A Front Yard, on Arterial Street	25 ft
	B Side Yard	25 ft
	C Rear Yard	25 ft
ACCESSORY STRUCTURE	D Front Yard	25 ft
	E Side Yard	10 ft
	F	



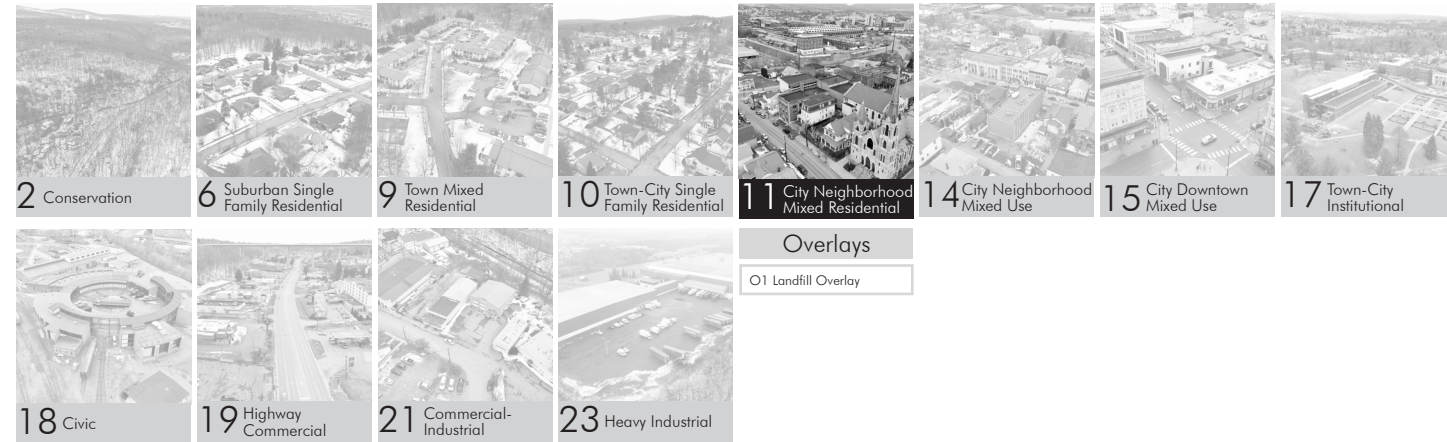
## PREFERRED LOT CONFIGURATIONS

**PUBLIC REALM CHARACTER**



# 11 City Neighborhood Mixed Residential

City



## PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Bed-and-breakfast	P	Carport, garage, or shed, private	P
Dwelling: apartment building	C	Dwelling: Accessory (granny flat/garage apartment)	P
Dwelling: conversion apartment	C	Home Based Business, No Impact	P
Dwelling: single-family detached	P	Home Based Business, Other	P
Dwelling: townhouse	C	Off-street parking/loading accessory to residential uses	P
Dwelling: two-family	P	Solar energy device	P
Emergency services	P		
Essential services	SE		
Forestry	P		
Group home	P		
Oil and Gas Extraction	P		
Park, Public	P		
School, Private	SE		

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

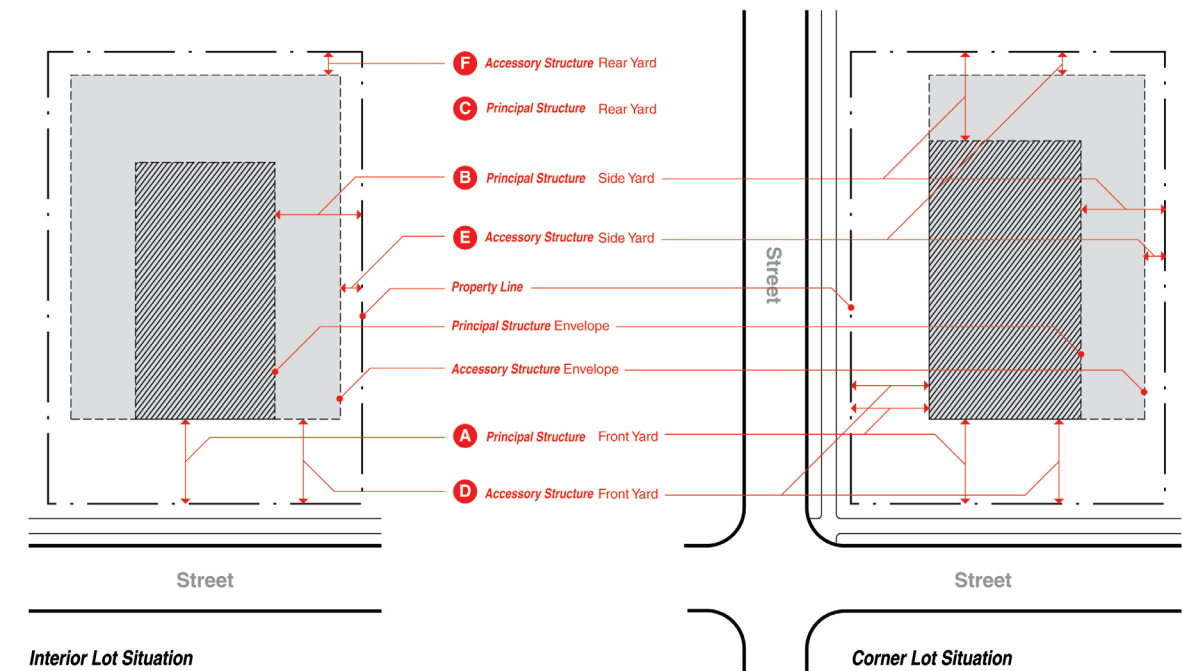
## LOT DIMENSIONS STANDARDS

LOT SIZE (Single Family Detached)	8,000 sf
LOT SIZE (Other)	10,000 sf
LOT WIDTH	
at Building Setback Line	80 ft

HEIGHT	
Principal Structure	50 ft
Accessory Structure	20 ft

COVERAGE	
Impervious Surface	50%
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.

YARD SETBACK		
PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	25 ft
	A Front Yard, on Arterial Street	25 ft
	B Side Yard	30 ft
ACCESSORY STRUCTURE	C Rear Yard	20 ft
	D Front Yard	25 ft
	E Side Yard	10 ft
	F Rear Yard	10 ft



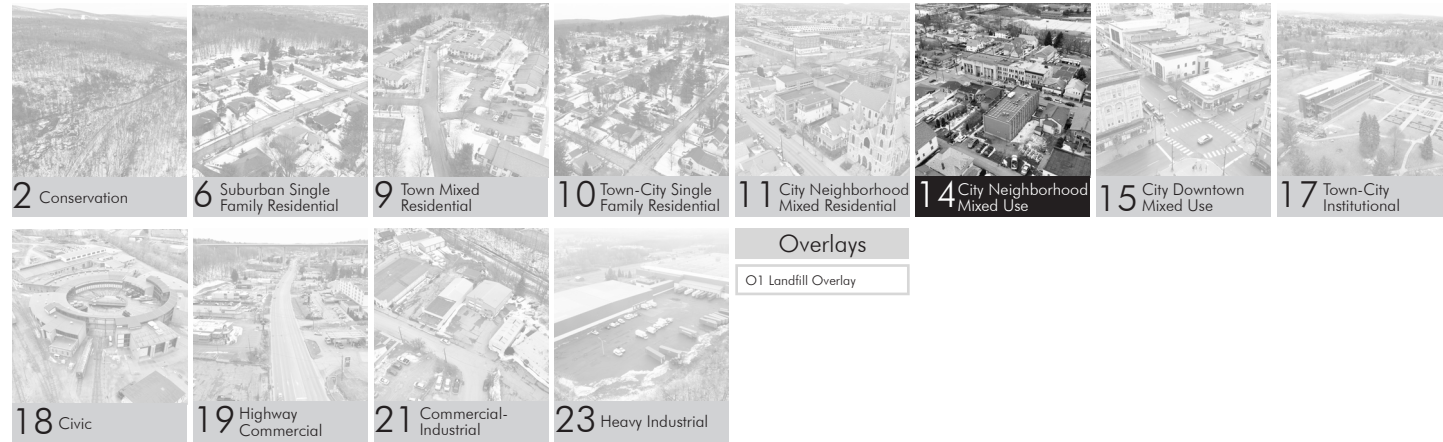
## PREFERRED LOT CONFIGURATIONS

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# 14 City Neighborhood Mixed Use

City



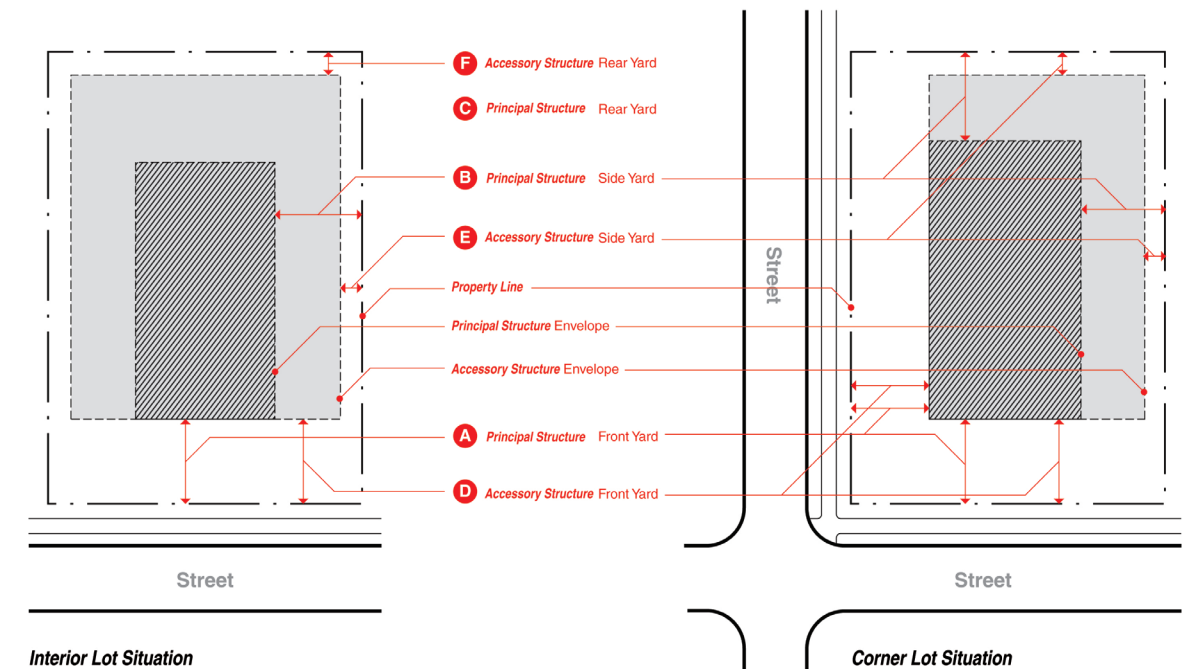
## PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Assisted living facility	SE	Carport, garage, or shed, private	P
Bakery	SE	Dwelling: Accessory (granny flat/garage apartment)	P
Bar or tavern	SE	Home Based Business, No Impact	P
Brew pub	SE	Home Based Business, Other	P
Commercial recreation facility, indoor	SE	Community center or library	P
Day care center, adult	P	Day care center, child	P
Day care center, child	P	Day care home, family	P
Dwelling: apartment building	C	Emergency services	P
Dwelling: townhouse	C	Off-street parking/loading accessory non-residential uses	P
Dwelling: two-family	P	Off-street parking/loading accessory to residential uses	P
Essential services	SE	Solar energy device	P
Forestry	P		
Galleries	SE		
Mixed use structure (retail and apartments)	P		
Nursing home	SE		
Office, business or professional	SE		
Oil and gas extraction	P		
Personal care home	SE		
Personal service establishment	SE		
Restaurant	P		
Restaurant, carryout	P		
Small scale grocery	SE		
Small scale retail	SE		
Spa	SE		
Studio or school for special training	SE		
Tasting rooms	SE		
Theater	SE		

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

LOT SIZE	10,000 sf	YARD SETBACK	
LOT WIDTH		<b>PRINCIPAL STRUCTURE</b> A Front Yard, on Local/Collector Street A Front Yard, on Arterial Street B Side Yard C Rear Yard <b>ACCESSORY STRUCTURE</b> D Front Yard E Side Yard F Rear Yard	
at Building Setback Line	50 ft		
HEIGHT			
Principal Structure	35 ft		
Accessory Structure	20 ft		
COVERAGE			
Impervious Surface	70%		
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		



## PREFERRED LOT CONFIGURATIONS

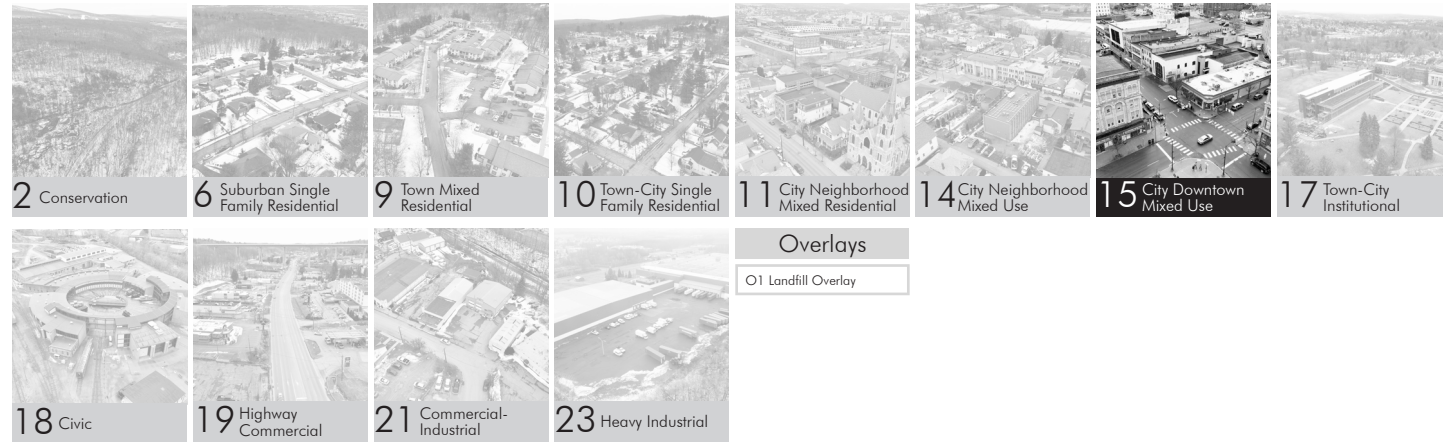


**PUBLIC REALM CHARACTER**



# 15 City Downtown Mixed Use

City



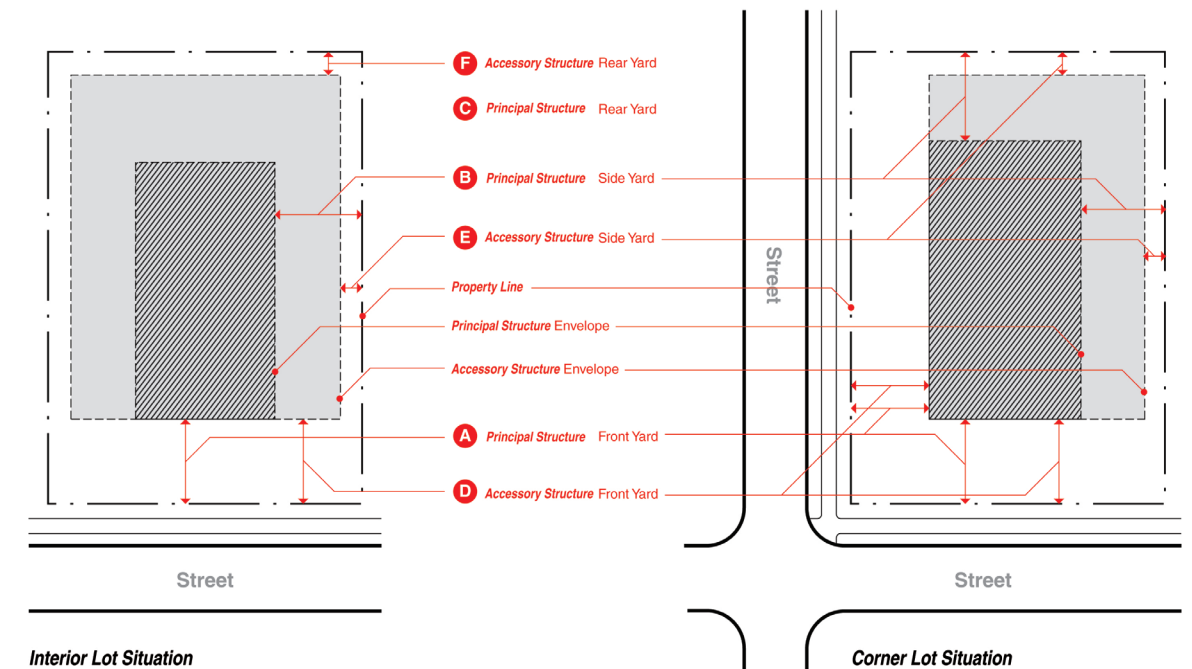
## PERMITTED USES

PRINCIPAL USES		ACCESSORY USES	
Bakery	P	Restaurant, café	P
Bank or financial institution	P	Restaurant, carryout	P
Bar or tavern	P	Retail establishment	P
Bed-and-breakfast	P	Short term rental	P
Brew pub	P	Small scale grocery	P
Business service establishment	P	Small scale retail	P
BYOB club	P	Spa	P
Commercial recreation facility, indoor	P	Studio or school for special training	SE
Community center or library	P	Tasting rooms	P
Cultural center or museum	P		
Day care center, child	P		
Dwelling: apartment building	C	Home Based Business, No Impact	P
Essential services	SE	Home Based Business, Other	P
Forestry	P	Community center or library	P
Galleries	P	Day care home, group	P
Grocery store	P	Dormitory	P
Health/fitness club	P	Drive-Thru Facility	P
Hotel	SE	Emergency services	P
Membership club, fraternity, or sorority	P	Flea market	P
Mixed use structure (retail and apartments)	P	Off-street parking/loading accessory non-residential uses	P
Nightclub	SE	Off-street parking/loading accessory to residential uses	P
Office, business or professional	SE	Solar energy device	P
Office, medical or dental	SE		
Oil and gas extraction	P		
Personal service establishment	P		
Radio/television studio	SE		
Restaurant	P		

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

LOT SIZE	0 sf	YARD SETBACK	
LOT WIDTH		<b>PRINCIPAL STRUCTURE</b> A Front Yard, on Local/Collector Street 0 ft A Front Yard, on Arterial Street 0 ft B Side Yard 0 ft C Rear Yard 0 ft <b>ACCESSORY STRUCTURE</b> D Front Yard 0 ft E Side Yard 0 ft F Rear Yard 0 ft	
at Building Setback Line	1 ft		
HEIGHT			
Principal Structure	35 ft		
Accessory Structure	20 ft		
COVERAGE			
Impervious Surface	80%		
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		



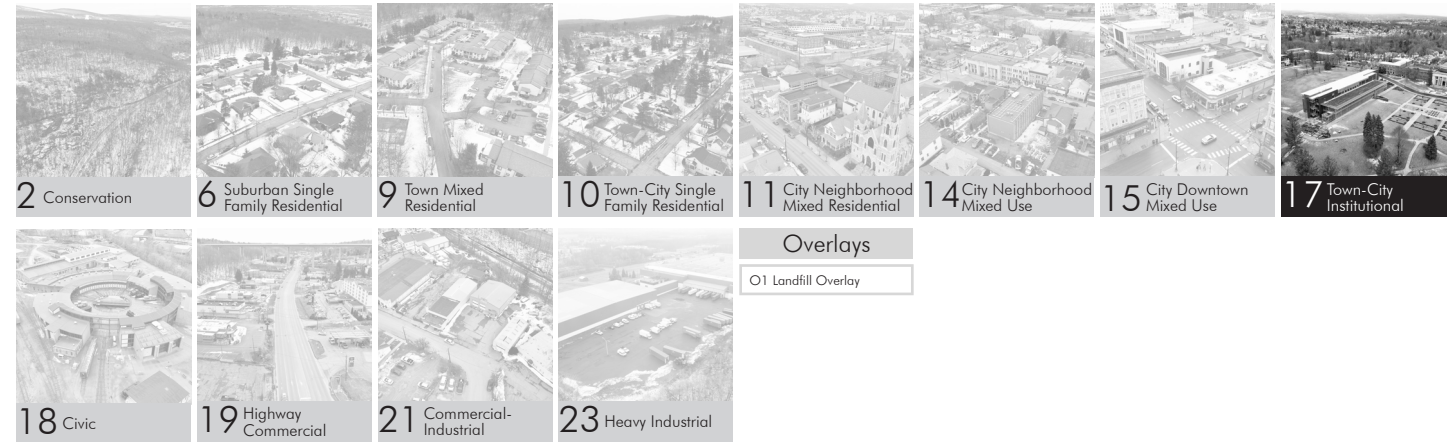
## PREFERRED LOT CONFIGURATIONS

**PUBLIC REALM CHARACTER**



# 17 Town-City Institutional

City



## PERMITTED USES

### PRINCIPAL USES

Animal hospital or veterinary clinic	SE
Bank or financial institution	P
Business service establishment	P
Cemetery	SE
Commercial recreation facility, indoor	P
Community center or library	P
Cultural center or museum	P
Day care center, adult	P
Day care center, child	P
Dwelling: apartment building	C
Dwelling: conversion apartment	C
Dwelling: garden apartments	C
Emergency services	P
Essential services	SE
Forestry	P
Golf course or country club	SE
Membership club, fraternity, or sorority	P
Nursing home	SE
Office, medical or dental	P
Oil and Gas Extraction	P
Park, Private	P
Park, Public	P
Personal care home	SE
Place or worship/assembly	P
School, Private	P

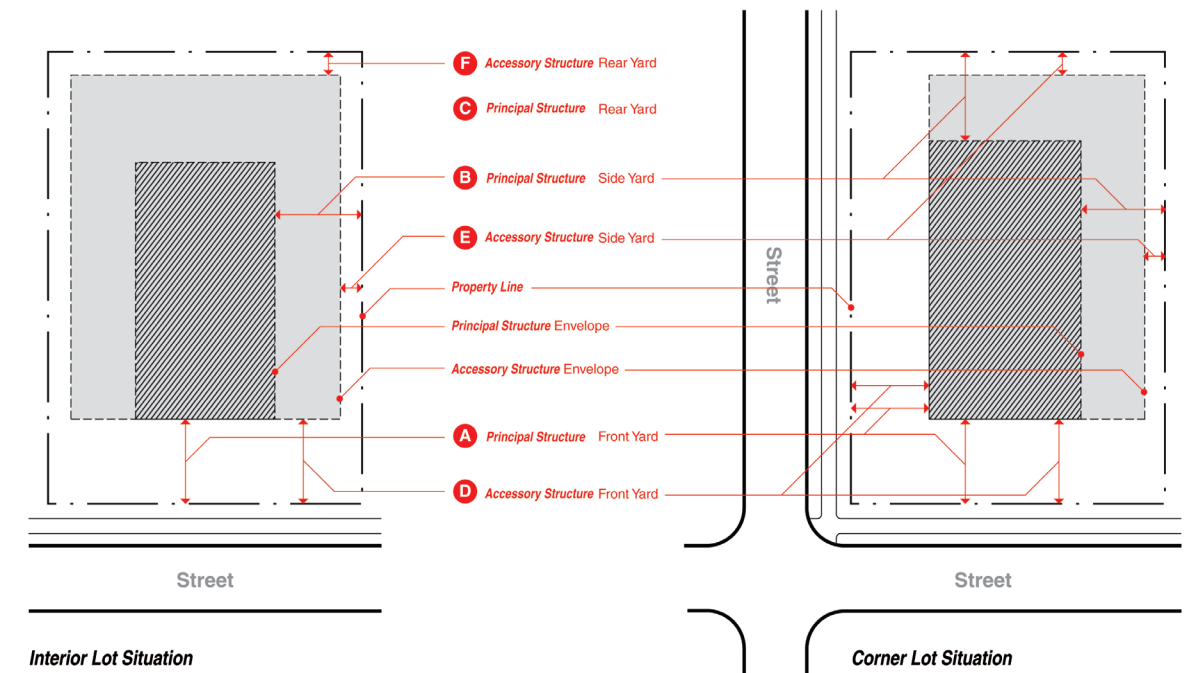
### ACCESSORY USES

Community center or library	P
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P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

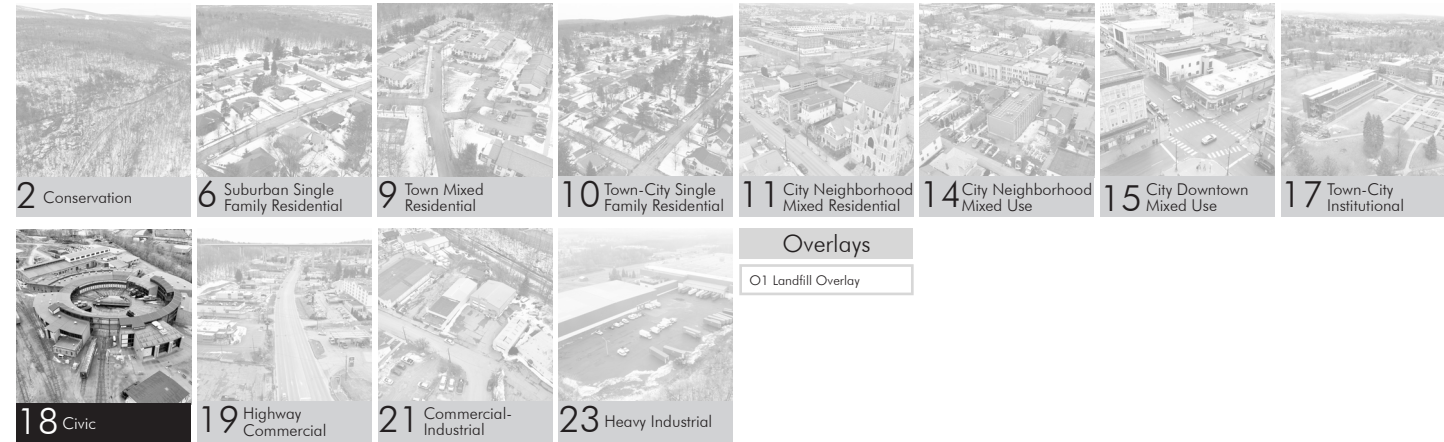
LOT SIZE	40,000 sf	YARD SETBACK	
LOT WIDTH	100 ft	<b>PRINCIPAL STRUCTURE</b> A Front Yard, on Local/Collector Street 40 ft A Front Yard, on Arterial Street 40 ft B Side Yard 20 ft C Rear Yard 50 ft	<b>ACCESSORY STRUCTURE</b> D Front Yard 25 ft E Side Yard 10 ft F Rear Yard 10 ft
at Building Setback Line			
HEIGHT			
Principal Structure	65 ft		
Accessory Structure	20 ft		
COVERAGE			
Impervious Surface	30%		
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		



## PREFERRED LOT CONFIGURATIONS

# PUBLIC REALM CHARACTER





## PERMITTED USES

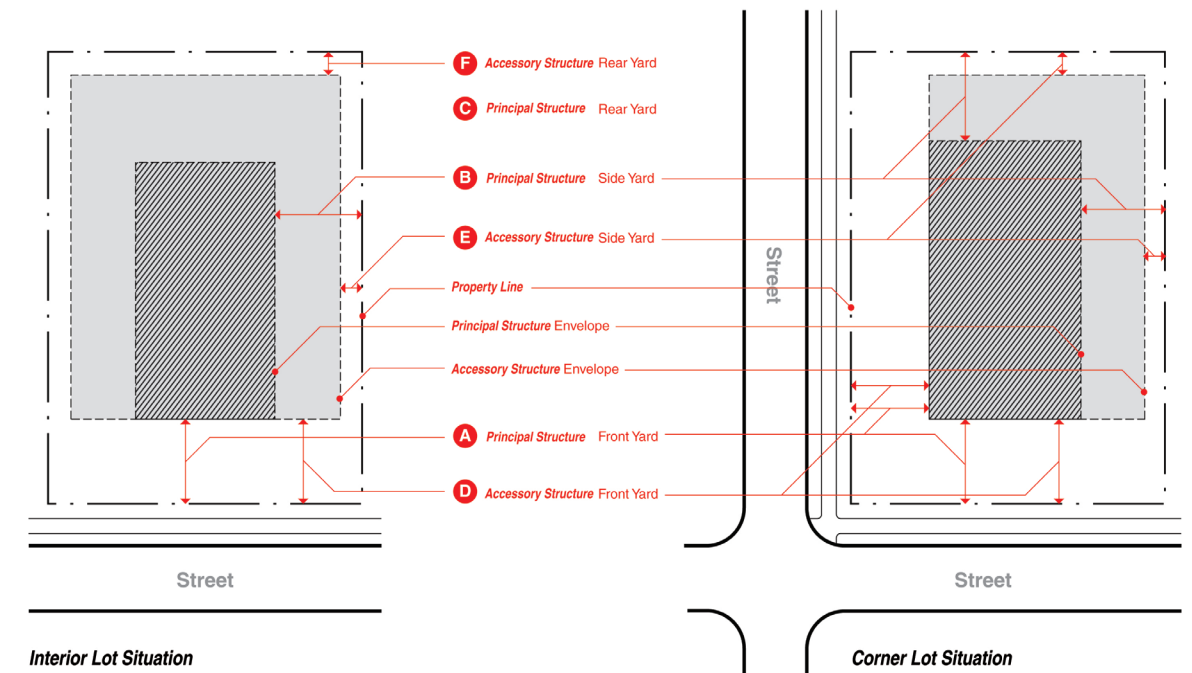
PRINCIPAL USES	
Assisted living facility	P
Cemetery	SE
Community center or library	P
Cultural center or museum	P
Day care center, adult	P
Day care center, child	P
Essential services	SE
Forestry	P
Mixed use structure (retail and apartments)	C
Municipal/government facility or use	P
Oil and gas extraction	P
Park, Public	P
Place or worship/assembly	SE
School, commercial	P

ACCESSORY USES	
Community center or library	P

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

LOT SIZE	40,000 sf	YARD SETBACK		
LOT WIDTH	at Building Setback Line	100 ft		
HEIGHT				
Principal Structure	65 ft	PRINCIPAL STRUCTURE	A Front Yard, on Local/Collector Street	40 ft
Accessory Structure	20 ft		A Front Yard, on Arterial Street	40 ft
COVERAGE			B Side Yard	20 ft
Impervious Surface	30%	ACCESSORY STRUCTURE	C Rear Yard	50 ft
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		D Front Yard	25 ft
			E Side Yard	10 ft
			F Rear Yard	10 ft



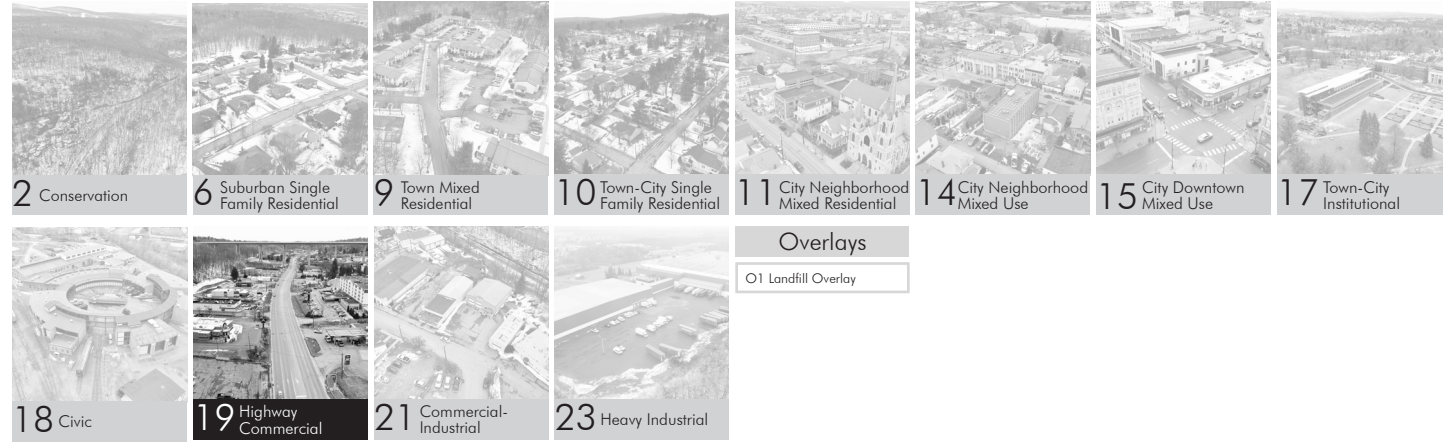
## PREFERRED LOT CONFIGURATIONS

**PUBLIC REALM CHARACTER**



# 19 Highway Commercial

City



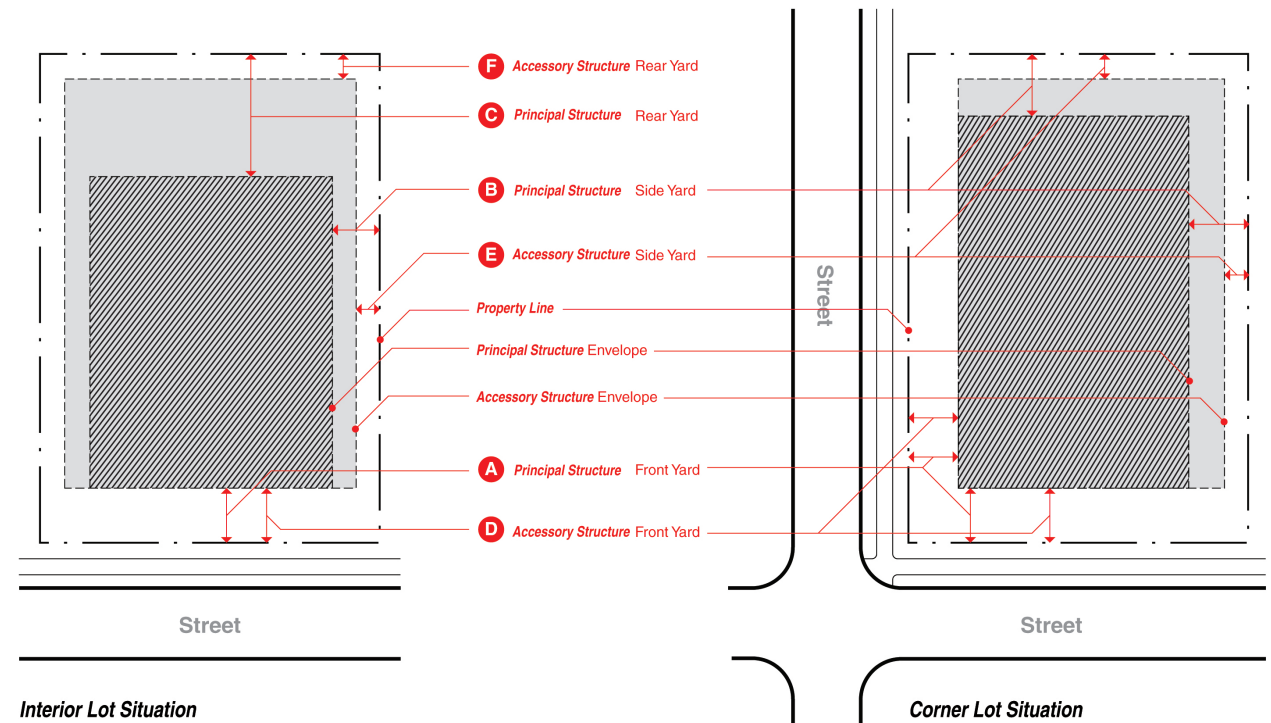
## PERMITTED USES

PRINCIPAL USES			ACCESSORY USES	
Animal hospital or veterinary clinic	SE	Medical Marijuana Dispensary	P	
Bakery	P	Mixed use structure (retail and apartments)	P	Carport, garage, or shed, private
Bank or financial institution	P	Motel	P	Dwelling: Accessory (granny flat/garage apartment)
Bar or tavern	P	Nightclub	SE	Home Based Business, No Impact
Betting use	P	Office, business or professional	P	Home Based Business, Other
Brew pub	P	Office, medical or dental	P	Car or truck wash
Business service establishment	P	Oil and gas extraction	P	Day care center, child
BYOB club	P	Personal service establishment	P	Day care home, family
Car or truck wash	SE	Place or worship/assembly	SE	Drive-Thru Facility
Commercial recreation facility, indoor	P	Radio/television studio	P	Greenhouse/Nursery
Commercial recreation facility, large-scale/intensive	SE	Restaurant	P	Outdoor storage of goods
Convenience store	P	Restaurant, café	P	Sawmill
Craftsman-artisan workshop	P	Restaurant, carryout	P	Wireless communications antenna
Drug store/pharmacy	P	Restaurant, drive through/drive-in	SE	
Essential services	SE	Retail establishment	P	
Forestry	P	School, commercial	P	
Gasoline service station	P	School, private	SE	
Grocery store	P	Shooting/archery range, indoor	P	
Hardware store	P	Shopping center or mall	SE	
Health/fitness club	P	Small scale grocery	P	
Hotel	P	Small scale retail	P	
Kennel	SE	Spa	P	
Landscape/nursery, retail	P	Studio or school for special training	P	
Laundromat/dry cleaners	SE	Tasting rooms	P	
Lumberyard	P	Tattoo parlor	P	
		Theater	SE	
		Vehicle or equipment sales	P	

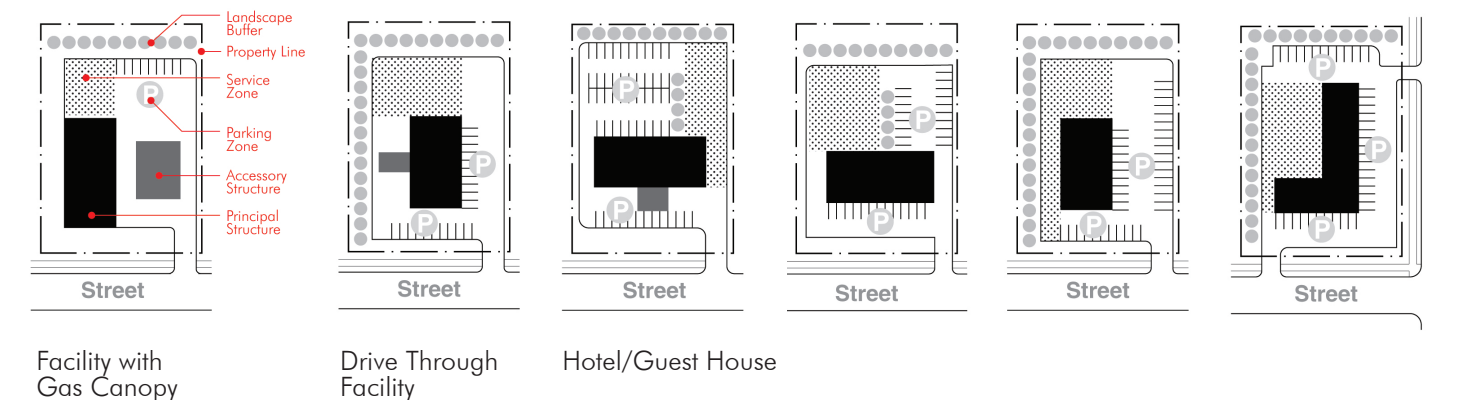
P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

LOT SIZE	40,000 sf	YARD SETBACK	
LOT WIDTH	100 ft	<b>PRINCIPAL STRUCTURE</b> A Front Yard, on Local/Collector Street A Front Yard, on Arterial Street B Side Yard C Rear Yard	20 ft
at Building Setback Line	100 ft		20 ft
HEIGHT			20 ft
Principal Structure	20 ft	<b>ACCESSORY STRUCTURE</b> D Front Yard E Side Yard F Rear Yard	50 ft
Accessory Structure	20 ft		25 ft
COVERAGE			10 ft
Impervious Surface	80%		10 ft
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		

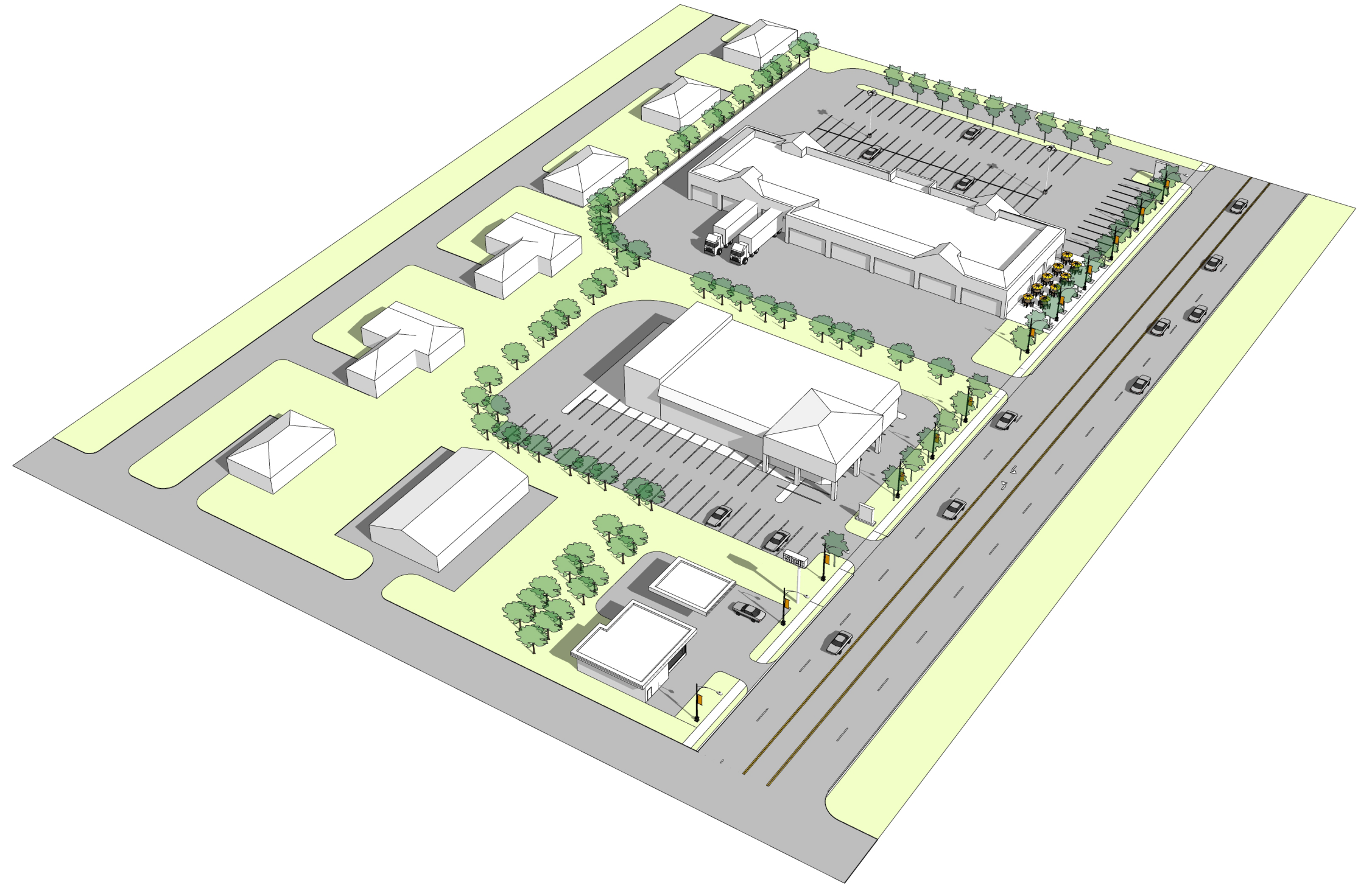


## PREFERRED LOT CONFIGURATIONS



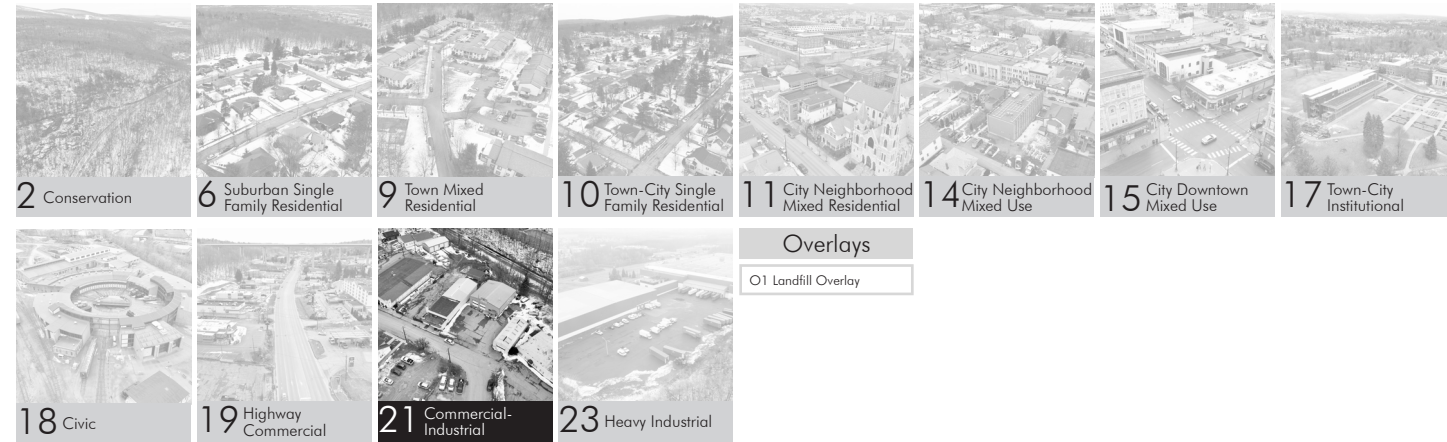


**PUBLIC REALM CHARACTER**



# 21 Commercial-Industrial

City



## PERMITTED USES

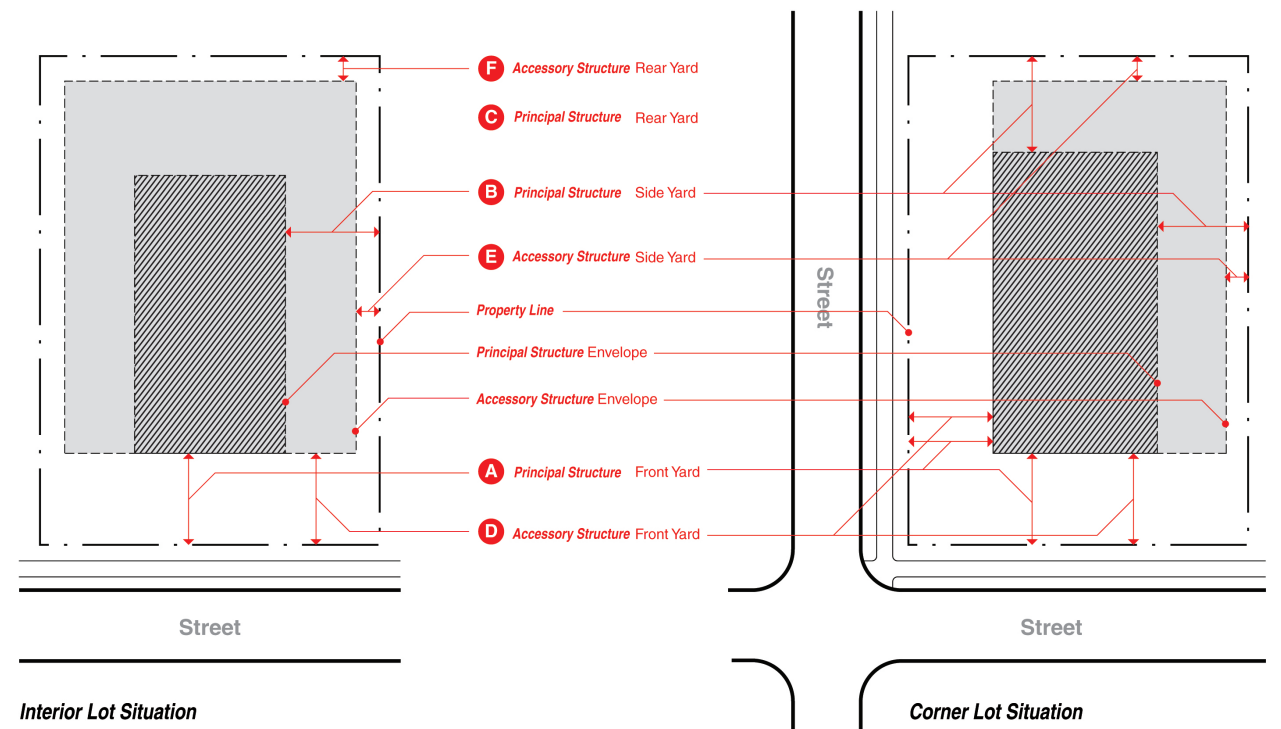
PRINCIPAL USES		ACCESSORY USES	
Animal hospital or veterinary clinic	SE	Mixed use structure (retail and apartments)	P
Bank or financial institution	P	Motel	P
Bar or tavern	P	Nightclub	SE
Betting use	P	Office, business or professional	P
Building, contracting, or related business	P	Office, medical or dental	P
Business service establishment	P	Oil and gas extraction	P
BYOB club	SE	Outdoor storage of goods	C
Car or truck wash	P	Personal service establishment	P
Commercial recreation facility, indoor	P	Radio/television studio	P
Commercial recreation facility, large-scale/intensive	SE	Recycling, large scale	C
Convenience store	P	Recycling, small scale	C
Craftsman-artisan workshop	P	Research and development facility	SE
Essential services	SE	Restaurant	P
Forestry	P	Restaurant, café	P
Gasoline service station	P	Restaurant, carryout	P
Grocery store	P	Restaurant, drive through/drive-in	P
Hardware store	P	Retail establishment	P
Health/fitness club	P	School, commercial	P
Hotel	P	Shooting/archery range, indoor	P
Industrial park	SE	Shopping center or mall	P
Kennel	SE	Small scale grocery	P
Landscape/nursery, retail	P	Small scale retail	P
Laundromat/dry cleaners	SE	Spa	P
Lumberyard	P	Studio or school for special training	P
Manufacturing, light	P	Tasting rooms	P
Medical Marijuana Dispensary	P	Tattoo parlor	P
		Theater	P
		Truck stop	C
		Truck/freight terminal	P

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

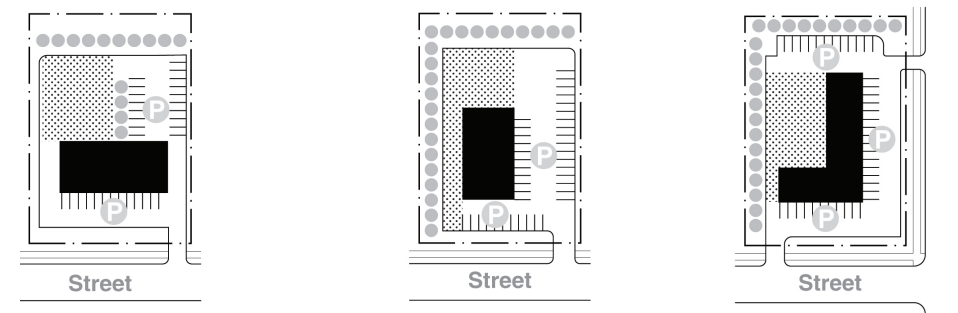
## LOT DIMENSIONS STANDARDS

LOT SIZE	40,000 sf	YARD SETBACK	
LOT WIDTH			
at Building Setback Line	100 ft		
HEIGHT			
Principal Structure	50 ft		
Accessory Structure	20 ft		
COVERAGE			
Impervious Surface	80%		
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		

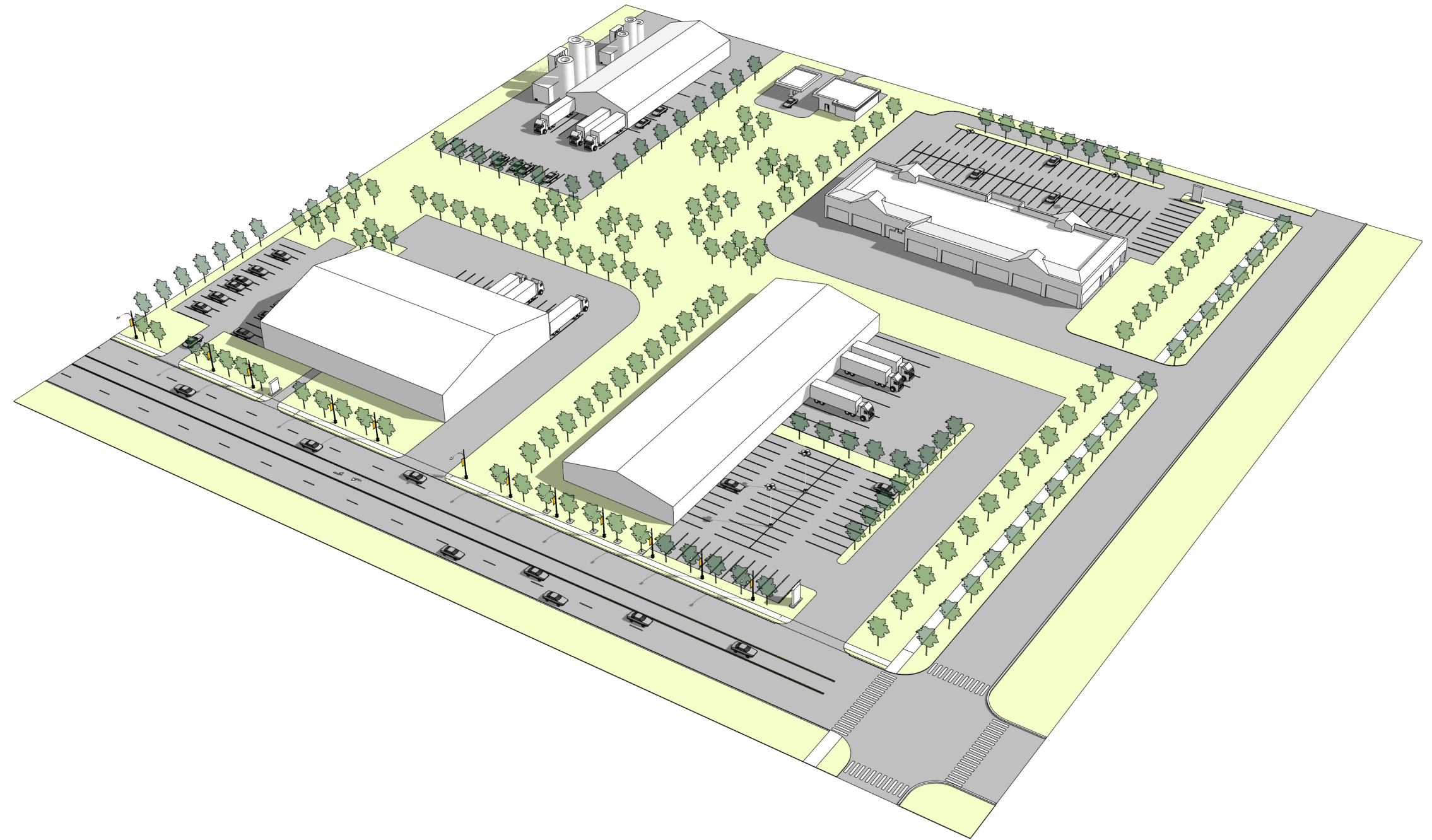
	PRINCIPAL STRUCTURE	ACCESSORY STRUCTURE
A	Front Yard, on Local/Collector Street	20 ft
A	Front Yard, on Arterial Street	20 ft
B	Side Yard	20 ft
C	Rear Yard	50 ft
D	Front Yard	25 ft
E	Side Yard	10 ft
F	Rear Yard	10 ft



## PREFERRED LOT CONFIGURATIONS

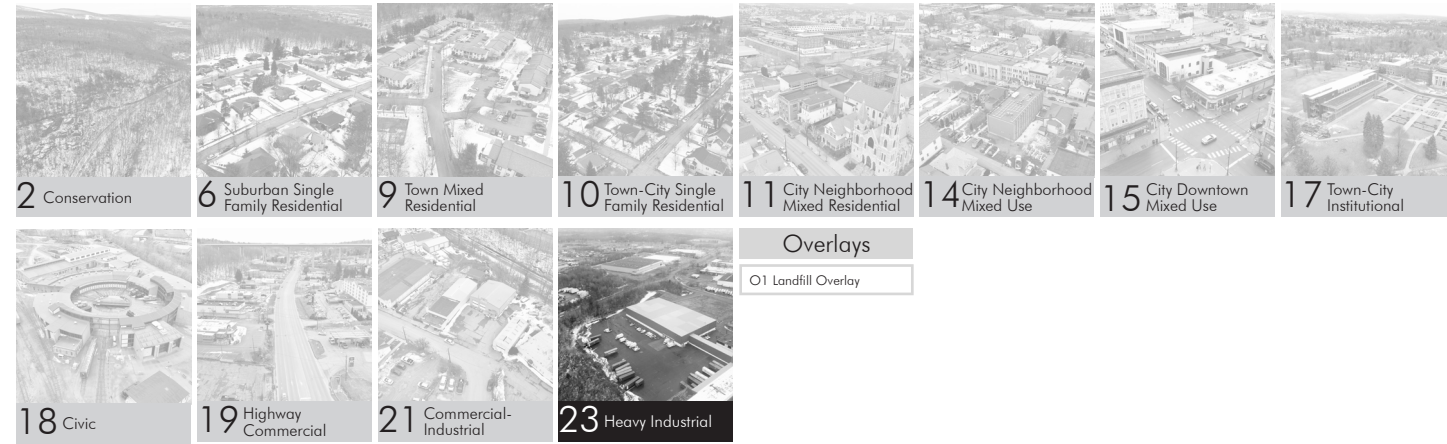


# PUBLIC REALM CHARACTER



# 23 Heavy Industrial

City



## PERMITTED USES

PRINCIPAL USES		
Adult business	C	
Agricultural products processing	P	
Brewery	P	
Building, contracting, or related business	P	
Bulk fuel storage facility	C	
Car or truck wash	P	
Craftsman-artisan workshop	P	
Distribution center	SE	
Essential services	SE	
Forestry	P	
Industrial park	SE	
Lumberyard	P	
Manufacturing, heavy	SE	
Manufacturing, light	P	
Mineral extraction and quarrying	C	
Mobile storage units	P	
Oil and gas extraction	P	
Outdoor storage of goods	C	
Recycling, large scale	P	
Recycling, small scale	P	
Research and development facility	P	
Truck stop	C	
Truck/freight terminal	P	
Vehicle or equipment sales	P	
Vehicle repair garage	P	
Warehouse	P	
Wholesale establishment	P	

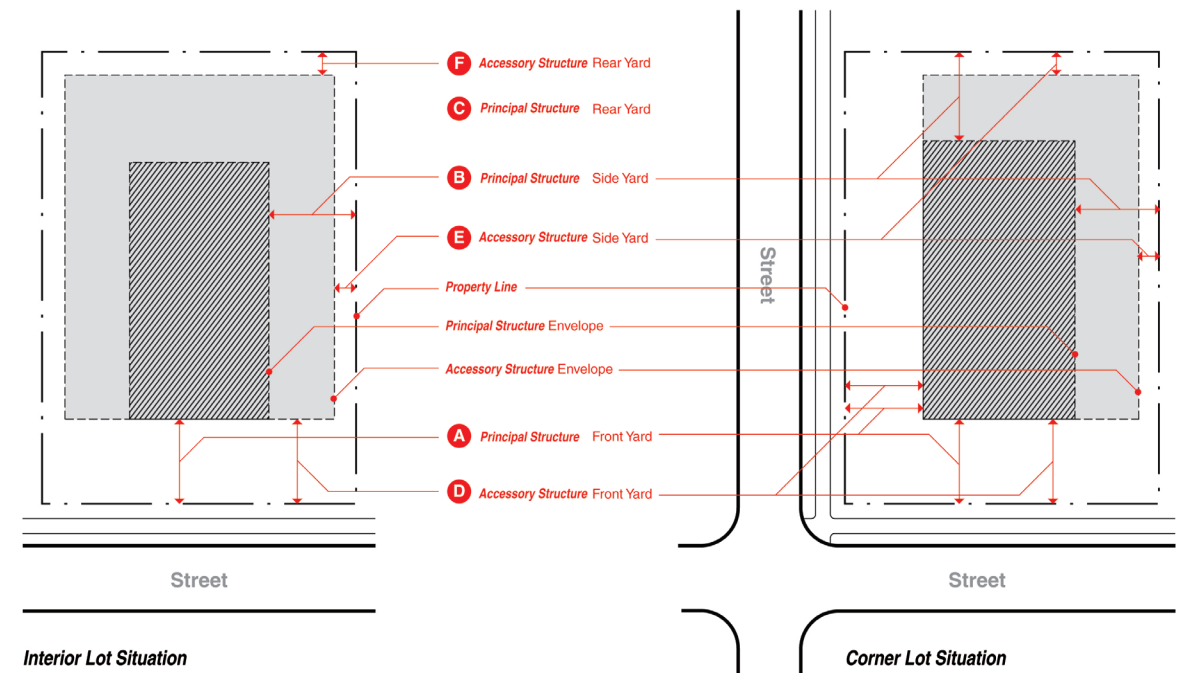
  

ACCESSORY USES		
Wireless communications tower	SE	
Crop storage, as an accessory use to farming	P	
Essential services	P	
Outdoor storage of goods	P	
Satellite dish/antenna	P	
Wireless communications antenna	P	

P = Permitted Use by Right    C = Conditional Use    SE = Use by Special Exception

## LOT DIMENSIONS STANDARDS

LOT SIZE	40,000 sf	YARD SETBACK	
LOT WIDTH		<b>PRINCIPAL STRUCTURE</b> A Front Yard, on Local/Collector Street A Front Yard, on Arterial Street B Side Yard C Rear Yard	20 ft 20 ft 20 ft 50 ft
at Building Setback Line	100 ft		
HEIGHT		<b>ACCESSORY STRUCTURE</b> D Front Yard E Side Yard F Rear Yard	25 ft 10 ft 10 ft
Principal Structure	50 ft		
Accessory Structure	20 ft		
COVERAGE			
Impervious Surface	80%		
ACCESSORY STRUCTURE FOOTPRINT	900 sf max.		



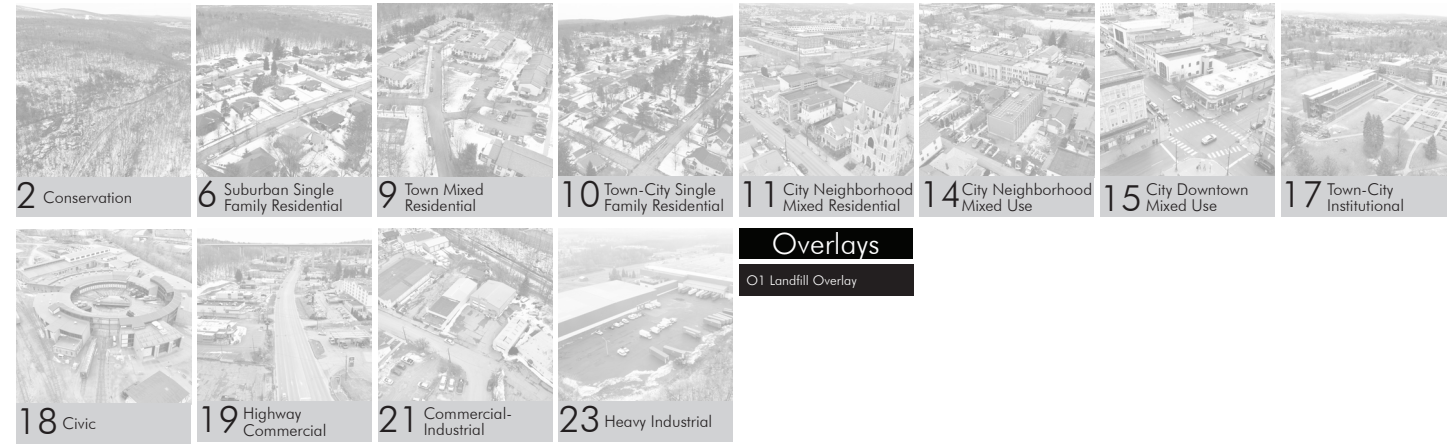
## PREFERRED LOT CONFIGURATIONS

**PUBLIC REALM CHARACTER**

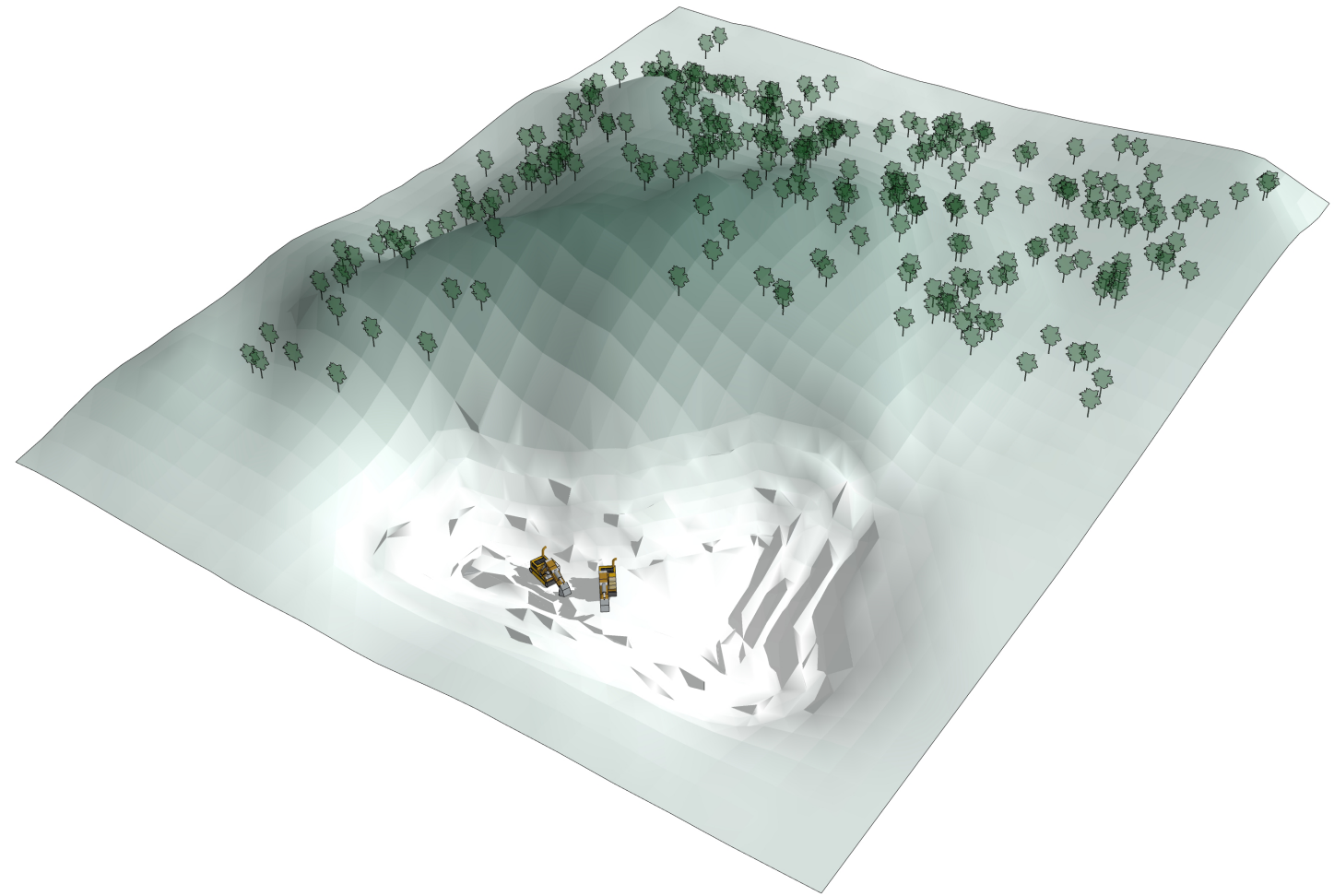


# O1 Landfill Overlay

City



## PUBLIC REALM CHARACTER



## GENERAL GUIDELINES

PRINCIPAL USES		ACCESSORY USES	
Landfill	C	Outdoor storage of goods	P
Essential services	SE		
Solar energy farm	C		
Wind farm	C		
Wireless communications tower	SE		
Forestry	P		
Recreation facility, private	C		
Recreation facility, public	C		

**ARTICLE 4**

**Overlay Regulations**

**Section 4.1 – Floodplain Overlay**

All regulations as required by the US Federal Emergency Management Agency and the Dunmore Borough Floodplain Management Ordinance shall apply to FEMA-identified flood-designated lands with the Borough.

**Section 4.2 – Airport Hazard Overlay**

A. Purpose.

The purpose of the Airport Hazard Overlay is to designate an area that considers safety issues around Wilkes-Barre/Scranton International Airport and to address requirements of the Pennsylvania State Aviation Code and Federal Aviation Regulation No. 77 limiting building and structural height in “airport hazard areas.” These height restrictions are designed to prevent any encroaching that would interfere with or obstruct normal airplane approaches or airport operations. Such interference or obstruction would pose a threat to the health, safety, welfare, and convenience to residents of Dunmore Borough as well as passengers aboard aircraft. The Airport Hazard Overlay is used to impose needed height restrictions as a zoning overlay, thereby enhancing public safety.

B. Extent of the Airport Hazard Overlay.

The land and airspace covered by the Airport Hazard Overlay are described in Subsection D.1 and shall directly correspond to such primary, approach, transitional, horizontal, and conical zones bound by the green lines depicted on the Part 77 Surface Overlay map for Wilkes-Barre/Scranton International Airport, available from the Pennsylvania Department of Transportation (PennDOT), Bureau of Aviation. If any doubt exists as to the extent of the Airport Hazard Overlay over a particular lot or portion of a lot, the provisions of the Airport Hazard Overlay shall apply.

C. Relation to Other Activities and Zoning Districts.

The Airport Hazard Overlay is an overlay district that only regulates the height of buildings and structures. The underlying zoning district shall prescribe all other zoning-related standards and uses imposed upon any lands within Dunmore Borough. In those instances where the Airport Hazard Overlay prescribes a maximum height limitation more restrictive than that specified elsewhere in this Ordinance, the more restrictive standard shall apply. The Airport Hazard Overlay shall not modify the boundaries of any underlying zoning district.

D. Use Regulations.

1. Maximum Height Permitted.

The maximum permitted height of a proposed building, structure, object, or alteration of land shall be equivalent to the vertical height from the ground surface to the slope

of the relevant approach zone as calculated below, or the maximum permitted height in the underlying zoning district, whichever is lower.

- (a) Visual Utility Runway Approach Zone – slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (b) Nonprecision Instrument Utility Runway Approach Zone – slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (c) Visual Larger-Than-Utility Runway Approach Zone – slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- (d) Nonprecision Instrument Larger-Than-Utility Runway with a Visibility Minimum Greater than 3/4 Mile Approach Zone – slopes 34 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (e) Nonprecision Instrument Larger-Than-Utility Runway with a Visibility Minimum As Low As 3/4 Mile Approach Zone – slopes 34 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- (f) Precision Instrument Runway Approach Zone – slopes 50 feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each one (1) foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- (g) Heliport Approach Zone – slopes eight (8) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the heliport approach zone centerline.
- (h) Transitional Zones – slopes seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation (961.7 feet above mean sea level, in the case of Wilkes-Barre/Scranton International Airport). In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they intersect the conical surface.



- (i) Heliport Transitional Zones – slope two (2) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90-degree angles to the primary surface centerline and heliport approach zone centerline.
- (j) Horizontal Zone – established at 150 feet above the airport elevation (961.7 feet above mean sea level, in the case of Wilkes-Barre/Scranton International Airport).
- (k) Conical Zone – slopes 20 feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (961.7 feet above mean sea level, in the case of Wilkes-Barre/Scranton International Airport) and extending to a height of 350 feet above the airport elevation.

2. Other Use Restrictions.

Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water in such a manner as to create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft.

E. Zoning Permit Requirements.

- 1. A zoning permit shall be required for the proposed erection, extension, or alteration of any structure or portion thereof or any object (natural or manmade), within the Airport Hazard Overlay.
- 2. Prior to the issuance of any zoning permit, the Zoning Officer shall review the application for the zoning permit to determine if all other necessary government permits required by state and federal laws have been obtained.
- 3. Prior to applying for a zoning permit and at least 30 days prior to commencing the permit action, the applicant shall notify the Pennsylvania Department of Transportation (PennDOT), Bureau of Aviation, by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal. The Bureau of Aviation's response must be included with the zoning permit application for it to be considered complete.
- 4. If the Bureau of Aviation returns a determination of penetration of airspace, the applicant may seek a variance from the regulations by filing an appeal, as prescribed in Subsection F.

F. Variances.

- 1. Variance requests shall be made on the forms provided by the Borough and shall be in accordance with § 910.2 of the Pennsylvania Municipalities Planning Code (MPC) and Section 10.3 of this Ordinance.

2. All requests for a variance shall include documentation in compliance with Federal Regulation Title 14 Part 77 Subpart B (FAA Form 7460-1, as amended or replaced).
3. Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Pennsylvania Department of Transportation (PennDOT), Bureau of Aviation, as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. In particular, the Zoning Hearing Board shall consider which of the following determination categories the FAA has placed the proposed erection, extension, or alteration in:
  - (a) No Objection – the subject construction/alteration is determined not (to) exceed obstruction standards and marking/lighting is not required to mitigate potential hazard;
  - (b) Conditional Determination – the proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated; or
  - (c) Objectionable – the proposed construction/alteration is determined to be a hazard and is thus objectionable.
4. Any variance or zoning permit granted pursuant to the provisions of this Subsection may be conditioned, according to the process described herein, to require the owner of the building, structure, or natural growth in question or the person requesting the variance to install, operate, and maintain such marking or lighting as deemed necessary to assure both air and ground safety.

**G. Violations, Penalties, and Remedies.**

Violations, penalties, and remedies shall be subject to the provisions of Section 11.4.

**Section 4.3 – Landfill Overlay**

Landfills shall be regulated in accordance with the rules and regulations of the Commonwealth of Pennsylvania, the Department of Environmental Protection, or any other appropriate governing authority. Refer to Section 6.5.EE for additional provisions.

## ARTICLE 5

### Supplementary Regulations

#### Section 5.1 – Requirements for All Uses

A. Application of District Regulations.

1. Unless otherwise provided by law or specifically in this Ordinance, no land, building, or structure shall be used or occupied except for a use permitted in the zoning district within which the land, building, or structure is located.
2. The regulations set forth in this Ordinance shall apply uniformly to each class or type of land, building, or structure, except as otherwise provided for in this Ordinance.
3. No building or structure shall hereafter be erected, constructed, reconstructed, moved, or structurally altered and no building, structure, or part thereof shall hereafter be used or occupied unless it is in conformity with the regulations of this Ordinance specified for the use and district in which it is located. These include, for example, regulations for height, lot area, floor area, yard dimensions, and residential density.
4. No part of a yard or other open space or off-street parking or loading space required in connection with any use for the purpose of complying with this Ordinance shall hereafter be included or shared as part of a yard, open space, or off-street parking or loading space similarly required for any other use, unless otherwise specified by this Ordinance.
5. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
6. No more than one (1) principal use shall be permitted on a lot, unless otherwise specified by this Ordinance.

B. Buffers and Setbacks Across Municipal Boundaries.

If a lot, use, or structure extends across municipal boundaries, the buffer yard and setback requirements of this Ordinance shall still apply.

C. Annexed Territory.

All territory which may hereafter be annexed by the Borough shall be automatically included in the district which most nearly corresponds to the zoning classification of the land at the time of annexation, unless otherwise specified in the ordinance of annexation.

#### Section 5.2 – Deviations from Dimensional Requirements

A. Lot Size Reduction.

No lot shall be reduced in size or otherwise altered so that any nonconformity with this Ordinance or any other applicable ordinances shall be created. This Section, however, shall not prohibit lot size reductions when such reduction is the result of conveying a portion of a lot to a government, government agency, or public utility for public purposes in an easement or a taking.

**B. Permitted Encroachments in Required Yard Areas.**

The following encroachments are permitted in required yard areas, provided that they do not cause the maximum impervious surface area or lot coverage to be exceeded beyond what is permitted for a lot in the underlying zoning district or are required by law for the purpose of public safety:

1. Light fixtures, other than lighting poles for recreational uses;
2. Sidewalks or walkways on grade;
3. Sidewalk or walkway steps, when not connected to a building, porch, deck, or other part of a building or structure or when required by law;
4. Handrails along sidewalk or walkway steps;
5. Access drives;
6. Parking spaces for dwellings having three (3) or fewer dwelling units or for uses and/or districts otherwise exempted by this Ordinance;
7. Roof overhangs, egress window wells and doors, HVAC equipment, and emergency power generators, up to a maximum dimension of two (2) feet measured horizontally;
8. Flagpoles of the display of official government flags of the United States and its political subdivisions, provided that such flagpoles do not exceed the maximum height limitations specified in Subsection C;
9. Vegetation, including trees, landscaping, and vegetative buffering, provided that a clear sight triangle is maintained at intersections of public rights-of-way and/or public rights-of-way with private driveways;
10. Landscaping materials, excluding patios, decks, and porches not otherwise exempted by this Ordinance;
11. Outdoor seating areas permitted under the provisions of Section 5.15;
12. Awnings and canopies specifically permitted under the provisions of this Ordinance;
13. Decorative lawn ornaments and walls not exceeding 32 inches in height;
14. Bird feeders;
15. Stormwater management facilities not designed to retain a permanent standing pool of water;

16. Traffic control devices required by a government or government agency;
17. Structures required for maintaining the safe passage of vehicular or pedestrian traffic;
18. Utility structures not exceeding seven (7) feet in height, including emergency call stations, other than wireless communication facilities;
19. Railroad sidings;
20. Public transit stops involving surface improvements and shelters;
21. Containers for the collection by municipal authorities of residential solid waste, recyclables, or compost;
22. Functional rain barrels holding less than 65 gallons that are connected to a roof downspout system of a building or structure; and
23. Public bicycle racks, benches, planters, and similar public street furniture.

C. Maximum Height Exceptions.

1. The following structures, when erected with a principal or accessory building roof, may exceed the permitted height of the associated building by 50%, provided that in no situation shall structures associated with buildings of 100 feet in height or taller extend 25 feet vertically beyond the roof of the associated building:
  - (a) Chimneys;
  - (b) Spires;
  - (c) Belfries, steeples, minarets, and other similar structures associated with places of worship/assembly;
  - (d) Cupolas and domes;
  - (e) Silos associated with agricultural uses;
  - (f) Flagpoles;
  - (g) Utility poles, masts, and towers;
  - (h) Antennas, other than satellite antennas and antennas associated with wireless communication facilities;
  - (i) Skylights;
  - (j) Tanks; and
  - (k) Penthouses for housing mechanical equipment.

2. The following freestanding structures are permitted to exceed the maximum height limitations specified in this Ordinance:
  - (a) Utility poles, masts, and towers associated with a public utility under the jurisdiction of the Pennsylvania Public Utility Commission, when found by the Zoning Hearing Board to not adversely affect public health, safety, and welfare or the use and value of adjacent lots and when the applicant can demonstrate a public need for such structures that cannot be accommodated if the structures were not constructed to exceed the maximum height limitations of the underlying zoning district; and
  - (b) Flagpoles of the display of official government flags of the United States and its political subdivisions, provided that such flagpoles do not exceed the maximum height limitations for the underlying zoning district by greater than 25 feet.

### **Section 5.3 – Stormwater Management**

See Section 516 of the Borough's Subdivision and Land Development Ordinance.

### **Section 5.4 – Grading and Erosion Control**

See Section 517 of the Borough's Subdivision and Land Development Ordinance.

### **Section 5.5 – Slope Control**

Reserved.

### **Section 5.6 – Buffer Areas and Screening**

A. Applicability.

1. Nonresidential Uses Abutting Residential Uses or Districts.
  - (a) When a nonresidential use is established which abuts a Residential District or a residential use, a landscaped buffer shall be established on the site of the nonresidential use immediately adjacent to and parallel to the residential use.
  - (b) The nature of the buffer area(s) permitted for the nonresidential use is specific to the zoning district of the use but includes one or more of the buffer area classes established in Subsection B. When more than one buffer area class is listed for a zoning district, any of the listed alternatives may be provided to satisfy the buffer area requirement.
  - (c) When the width of a required buffer area is in conflict with the minimum yard requirements for the zoning district, the greater distance shall apply.

2. Parking Lots Abutting Public Streets.
  - (a) When a parking lot containing five (5) or more parking spaces abuts a public street right-of-way, a landscaped buffer shall be established in the yard setback area between the parking lot and the public street.
  - (b) The nature of the buffer area(s) permitted is specific to the zoning district of the use associated with the parking lot but includes one or more of the buffer area classes established in Subsection B. When more than one buffer area class is listed for a zoning district, any of the listed alternatives may be provided to satisfy the buffer area requirement.
  - (c) When the width of a required buffer area is in conflict with the minimum yard requirements for the zoning district, the greater distance shall apply.

B. Buffer Area Classes.

The following classes of buffer areas are hereby established and made reference to throughout this Ordinance whenever a buffer area is specifically required:

1. Class A Buffer Area:
  - (a) The depth shall be dependent on the yard requirement for the zoning district but shall not be less than 25 feet.
  - (b) The buffer area shall consist of an earthen berm between three (3) feet and seven (7) feet high, with slopes not greater than three (3) feet horizontal to one (1) foot vertical.
  - (c) The buffer area shall include the following density of trees and shrubs located on the top or street side of such berm, per 100 linear feet of buffer area:
    - (1) At least four (4) deciduous shade trees or at least 10 evergreen trees, or some fractional combination of both; and
    - (2) At least 10 evergreen shrubs or at least 25 deciduous shrubs, or some fractional combination of both.
2. Class B Buffer Area:
  - (a) The depth shall be dependent on the yard requirement for the zoning district but shall not be less than 15 feet.
  - (b) The buffer area shall include the following density of trees and shrubs, per 100 linear feet of buffer area:
    - (1) At least four (4) deciduous shade trees or at least 10 evergreen trees, or some fractional combination of both; and
    - (2) At least 10 evergreen shrubs or at least 25 deciduous shrubs, or some fractional combination of both.

3. Class C Buffer Area:
  - (a) The depth shall be dependent on the yard requirement of the zoning district but shall not be less than five (5) feet.
  - (b) The buffer area shall the following density of trees and shrubs, per 100 linear feet of buffer area:
    - (1) At least four (4) deciduous shade trees or at least 10 evergreen trees, or some fractional combination of both; and
    - (2) At least 10 evergreen shrubs or at least 25 deciduous shrubs, or some fractional combination of both.
  - (c) In lieu of a buffer area with trees, an opaque or ornamental fence meeting the dimensional, material, and transparency requirements of Section 5.8 and/or a decorative or retaining wall of up to four (4) feet in height may be utilized together with the shrub requirements found in Subsection (b), if authorized by the Dunmore Borough Council upon recommendation by the Planning Commission.
4. Class D Buffer Area:
  - (a) This buffer area class shall apply to situations in which the minimum yard requirement of the zoning district is less than five (5) feet, if applicable.
  - (b) The buffer area shall include an opaque or ornamental fence meeting the dimensional, material, and transparency requirements of Section 5.8.
  - (c) If 20 or more parking spaces face the buffer area, a continuous row of evergreen shrubs shall be planted alongside the fence to provide a year-round visual screen capable of acting as a barrier to light beams emanating from the headlights of motor vehicles.

**C. Buffer Area Planting Requirements.**

1. All plantings within buffer areas shall be adhere to the following measurements at the time of installation:
  - (a) Deciduous shade trees shall have a minimum trunk diameter of two (2) inches, as measured six (6) inches above the root collar.
  - (b) Evergreen trees shall be at least six (6) feet tall.
  - (c) Shrubs shall be at least two (2) feet in height.
2. Trees, shrubs, and groundcovers shall be planted in accordance with accepted conservation practices.



D. Existing Trees in Buffer Areas.

1. Where trees of a minimum of two (2) inches in trunk diameter measured six (6) inches about the root collar already exist within a required buffer area, such trees shall remain undisturbed, except that diseased or dead material may be removed.
2. Healthy existing trees retained within a buffer area may be credited toward buffer area requirements when such trees are shown on approved plans and are adequately protected during construction.

E. Maintenance and Protection of Buffer Areas.

1. All required landscape buffer areas, including plantings and fences, shall be protected from encroachment by motor vehicles by installation of curbs, wheel stops, or other features separating the buffer area from the areas improved for vehicle parking or circulation.
2. It shall be the continuing responsibility of the landowner or lessee to assure the continued growth of all required landscaping and/or to replace diseased or dead landscaping. Fences must also be continually maintained and replaced when damaged. Failure to replace required landscaping or fencing shall be a violation of this Ordinance and shall be subject to the enforcement provisions in Article 11 and in any other applicable ordinance.

**Section 5.7 – Landscaping and Tree Preservation**

A. Landscaping Requirements.

1. General Requirements.

- (a) Required buffer areas shall be reserved solely for open space and landscaping. No proposed building addition, structure, parking area, or any other type of physical land improvement shall be located in a required buffer; provided that driveways or roads may cross required buffers if necessary to provide access to the building site. Sidewalks, bikeways, and pedestrian paths may also be located within required buffers.
- (b) Selected trees and shrubs shall not include invasive plants as determined by the Pennsylvania Department of Conservation and Natural Resources (DCNR).
- (c) All landscaping, trees, and planting materials adjacent to parking areas, loading areas, or driveways shall be properly protected by barriers, curbs, or other means from damage by vehicles. In addition, the tree or shrub shall be planted a minimum of three (3) feet from any curb.
- (d) Plant materials with seasonal diversity should be selected and distributed throughout the site where possible.
- (e) No tree, shrub, fence, wall or similar item shall be installed in the sight triangle of any corner, street intersection, or accessway intersecting a public right-of-way that would cause an obstruction to visibility.

2. Landscaping Plan Requirements.

When a site or land development plan requires the installation of landscaping, a landscaping plan shall be submitted along with the site or land development plan, subject to the following requirements:

- (a) The location of all buffer yards and planting areas shall be graphically depicted.
- (b) The plan must graphically depict the distribution, mature height, and spread of all required plant materials.
- (c) The plan must show a table which identifies the required and proposed number of each plant species being provided for each type of buffer, screen, or other use. The table shall also identify the scientific and common name of each plant, the mature height and spread, and the symbol used for the plant.

3. Planting Standards.

All landscape material planted shall meet or exceed the following standards at the time of planting:

- (a) All deciduous shade trees shall reach a height of at maturity of at least 30 feet with a spread of at least 30 feet and shall have a trunk diameter of at least two (2) inches at planting when measured six (6) inches above the ground. Deciduous shade trees are to be planted such that the majority of the canopy is located on the lot of the planting.
  - (b) All evergreen trees shall reach a minimum height of 20 feet at maturity and shall be a minimum of six (6) feet tall at planting.
4. All understory trees shall reach a minimum height of 10 feet at maturity and shall have a trunk diameter of 1.5 inches at planting. See the Borough 's official plant list for a listing of permitted understory trees.
5. All deciduous or evergreen shrubs used for screening purposes shall reach a minimum height of five (5) feet at maturity and shall be at least three (3) feet tall at planting.
6. All deciduous or evergreen shrubs used for general, or parking lot landscaping must be a minimum of two (2) gallons at planting.
7. Where plantings would result in an inappropriate or impractical design due to underground utilities, overhead wires, or other factors, the following substitutions may be made:
- (a) Two (2) understory trees meeting the requirements of Subsection 4 above may be substituted for one (1) deciduous shade tree.
  - (b) Two (2) evergreen trees may be substituted for one (1) deciduous shade tree.
  - (c) One (1) deciduous shade tree may be substituted for five (5) shrubs.

8. Maintenance Requirements.

- (a) The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscaping materials and screening fences or walls to maintain conformance with landscaping requirements.
- (b) Any plant material that is 50% dead or more shall be considered dead and must be replaced.
- (c) Replacements shall be of the same size and type of plant as shown on the landscaping plan.
- (d) All landscaped areas shall be kept free of litter and trash.

B. Preservation of Existing Vegetation.

Preservation of existing trees or groves of three (3) or more trees with a trunk diameter (caliper) of at least four (4) inches when measured at breast height shall enable an applicant to obtain credit toward lot coverage requirements. For every additional tree beyond the three (3) trees preserved, the square footage of the critical root zone circumference of the grove of trees preserved may be used to determine credit toward impervious surface requirements, up to a 15% increase in additional impervious surface beyond the base requirement.

For instance, if a one (1) acre development (43,560 square feet) is located in a part of the Borough that permits a lot coverage of 30% impervious surface (13,068 square feet) and there are 50 trees of a four (4) inch caliper or greater, the following calculations would be performed to determine the minimum additional site area that may be impervious beyond the 30% base requirement:

Trunk diameter (caliper): 4 inches;

Critical root zone ratio: 1 inch of trunk diameter (caliper) for every 18 inches of critical root zone radius;

Critical root zone radius: 4 inches  $\times$  18 inches = 72 inches (6 feet);

Critical root zone (in square feet): 6 feet squared  $\times$   $\pi$  (pi) = 113 square feet;

Additional permitted impervious surface: 50 qualifying trees  $\times$  113 square feet = 5,655 square feet;

Total permitted impervious surface with credit: 13,068 square feet + 5,655 square feet = 18,723 square feet (43% impervious surface).

Note that this example development would not be able to go beyond 45% impervious surface even if there were a substantially higher number of qualifying trees preserved, as 45% is equivalent to 15% in additional impervious surface beyond the base 30% minimum requirement.

**Section 5.8 – Fences and Walls**

A. Fences in Residential Districts.

Fences erected on lots in Residential Districts shall be subject to the following regulations:

1. The maximum height of a fence panel in a front yard shall be four (4) feet.
2. The maximum height of a fence panel in a side or rear yard shall be six (6) feet, except when abutting alleys, where the maximum height shall be four (4) feet.
3. The bottom of a fence panel shall not extend more than four (4) inches above the surface or ground that supports the fence.
4. Fence posts shall not extend more than eight (8) inches from the top of the fence panels.
5. No fence shall be erected at such a location as to interfere with minimum sight distance specifications for street intersections and intersections of driveways and streets as established in the adopted subdivision and land development regulations of Dunmore Borough.
6. Chain link fences shall not be permitted in front yards.
7. Chain link fences may only be permitted in rear and side yards if the links, posts, and mounting fixtures are vinyl clad.
8. Stockade fences shall not be permitted in front yards.
9. The Zoning Hearing Board may grant a special exception to erect fence panels on a lot in excess of the maximum height, if the applicant can demonstrate to the Zoning Hearing Board's satisfaction that due to topographical constraints or special needs related to the use of the lot in questions, fence panels of a greater height than normally prescribed are necessary. The Zoning Hearing Board shall also find that such fence panels exceeding the maximum permitted height will not have a significant negative impact on surrounding lots. The Zoning Hearing Board may attach reasonable conditions such as landscaping requirements or setback requirements when granting such a special exception.

B. Fences in All Other Districts.

Fences erected on lots in districts other than those classified as Residential Districts shall be subject to the following regulations:

1. The maximum height of a fence panel shall be ten (10) feet, except when the lot is located next to a Residential District or an alley, in which cases the maximum height shall be six (6) feet.
2. The bottom of a fence panel shall not extend more than four (4) inches above the surface or ground that supports the fence.

3. Fence posts shall not extend more than eight (8) inches from the top of the fence panels.
4. No fence shall be erected at such a location as to interfere with minimum sight distance specifications for street intersections and intersections of driveways and streets as established in the adopted subdivision and land development regulations of Dunmore Borough.
5. Chain link fences may only be permitted in rear and side yards if the links, posts, and mounting fixtures are vinyl clad.
6. The Zoning Hearing Board may grant a special exception to erect fence panels on a lot in excess of the maximum height, if the applicant can demonstrate to the Zoning Hearing Board's satisfaction that due to topographical constraints or special needs related to the use of the lot in questions, fence panels of a greater height than normally prescribed are necessary. The Zoning Hearing Board shall also find that such fence panels exceeding the maximum permitted height will not have a significant negative impact on surrounding lots. The Zoning Hearing Board may attach reasonable conditions such as landscaping requirements or setback requirements when granting such a special exception.

C. Retaining Walls.

Retaining walls necessary to support the geotechnical needs of a lot shall be permitted.

**Section 5.9 – Regulation of Nuisance Elements**

A. Noise Control.

1. No person shall operate or cause to be operated on public or private property any source of continuous sound (any sound which is static, fluctuating, or intermittent with a recurrence greater than one (1) time in any 15-second interval) in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use group in the following table when measured at or within the property boundary of the receiving land use:

<b>Sound Level Limits and Permitted Hours by Receiving Land Use Group</b>		
<b>Land Use Group(s) Receiving Noise</b>	<b>Hours and Days</b>	<b>Maximum Permitted Sound Level (dBA)</b>
<ul style="list-style-type: none"> <li>– Residential</li> <li>– Care-Related</li> <li>– Institutional</li> <li>– Conservation</li> </ul>	7:00 a.m. to 10:00 p.m., other than Sundays and legal holidays	62
	10:00 p.m. to 7:00 a.m., plus Sundays and legal holidays	52
<ul style="list-style-type: none"> <li>– Commercial</li> </ul>	7:00 a.m. to 10:00 p.m., other than Sundays and legal holidays	67

<b>Sound Level Limits and Permitted Hours by Receiving Land Use Group</b>		
<b>Land Use Group(s) Receiving Noise</b>	<b>Hours and Days</b>	<b>Maximum Permitted Sound Level (dBA)</b>
- Commercial	10:00 p.m. to 7:00 a.m., plus Sundays and legal holidays	62
- Industrial - Infrastructure	All times and days	70

2. The maximum permissible sound level limits set forth in Subsection A shall not apply to any of the following noise sources:
  - (a) Uses falling under the Agricultural land use group;
  - (b) The emission of sound for the purpose of alerting persons to the existence of an emergency;
  - (c) Emergency work to provide electricity, water, or other public utilities when public health or safety are involved;
  - (d) Domestic power tools, between the hours of 7:00 a.m. and 10:00 p.m.;
  - (e) Construction, including necessary blasting and explosives between the hours of 7:00 a.m. and 10:00 p.m., and street and utility repair operations;
  - (f) Motor vehicles traveling on public streets, except as otherwise specified by law;
  - (g) Public celebrations specifically authorized by Dunmore Borough;
  - (h) Railroads and airplanes; and
  - (i) The unamplified human voice.
  
3. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one (1) time in any 15-second interval), the sound level shall not exceed 20 dBA over the ambient sound level, regardless of time of day or night or receiving land use group.

**B. Vibration Control.**

No person shall operate or permit the operation of any device or conduct or permit any use to be conducted that creates vibration (detectable without instruments) above the vibration perception threshold of an average person on private property beyond the lot lines of the use generating the vibration or on public property (including the public right-of-way) 50 feet or greater beyond the lot lines of the use generating the vibration. This restriction shall not apply to occasional non-routine blasting that may be necessary during construction or demolition of structures, streets, or utilities.

C. Dust, Dirt, Smoke, Vapor, Gas, and Odor Control.

1. No person shall operate or permit the operation of any device or conduct or permit any use to be conducted which does not conform with the standards set by the Pennsylvania Department of Environmental Protection (DEP), the Air Pollution Control Act of January 8, 1960 (and all amendments thereto), or any other applicable federal or state law or agency.
2. No use shall generate odors, smoke, vapors, or gases above the odor perception threshold of an average person on private or public property beyond the lot lines of the use generating the odors.
3. No use shall generate dust, dirt, smoke, vapors, or gases at any point for longer than five minutes in any hour of a visible color or shade darker than No. 3 on the Ringelmann Smoke Chart as distributed by the U.S. Department of the Interior, Bureau of Mines.

**Section 5.10 – Lighting and Glare**

A. General Provisions.

1. All uses shall direct, deflect, and shield lights and control the intensity of lights and illuminated signs to avoid nuisances and to prevent glare onto other properties and streets. Lights shall not shine directly into the normal line of sight of motorists.
2. Low-voltage and light-emitting diode (LED) lighting systems are encouraged.
3. All outdoor lighting shall be designed, installed, located, and maintained so that nuisance glare onto adjacent lots or streets shall be minimized and all direct illumination kept within the boundaries of the lot.
4. Lights on motion sensors shall not be triggered by movement or activity that occurs off-property from where the light is located.
5. Lighting associated with any canopy structure shall be installed as internal illumination of the canopy only.

B. Lighting Zones.

The following lighting zones are hereby established for the zoning districts designated in Article 3, with the following maximum illumination provisions for each lighting zone:

<b>Lighting Zone 1</b>	
<b>Zoning Districts: CONSV, R-3, R-6, R-7, R-8</b>	
<b>Provision</b>	<b>Measurement</b>
Maximum illumination at lot lines	0.10 horizontal and vertical foot-candles, when measured three feet above ground

<b>Lighting Zone 1</b>	
<b>Zoning Districts: CONSV, R-3, R-6, R-7, R-8</b>	
<b>Provision</b>	<b>Measurement</b>
Maximum on-site illumination value	3 foot-candles, when measured three feet above ground
Maximum average on-site illumination	1 foot-candle, when measured three feet above ground
Maximum proportion of illumination at a 90-degree angle or greater from nadir	5% of the lighting fixture's lumens

<b>Lighting Zone 2</b>	
<b>Zoning Districts: N, CIV, HC, HI TCI, D, CI</b>	
<b>Provision</b>	<b>Measurement</b>
Maximum illumination at lot lines	0.20 horizontal and vertical foot-candles, when measured three feet above ground
Maximum on-site illumination value	5 foot-candles, when measured three feet above ground
Maximum average on-site illumination	1.5 foot-candles, when measured three feet above ground
Maximum proportion of illumination at a 90-degree angle or greater from nadir	10% of the lighting fixture's lumens

**Section 5.11 – Outdoor Storage**

A. Outdoor Storage of Materials.

All outdoor storage of fuel, raw materials, and products, except for finished products for retail sale to the public for a commercial or industrial use in any Mixed Use, Commercial, or Industrial district shall be completely screened from view from any public right-of-way and any residential use or Residential District by a sight-obscuring evergreen planting, fence, or wall at least six (6) feet in height.

B. Outdoor Storage of Garbage.

1. All organic refuse or garbage stored outdoors shall be placed in watertight, vermin-proof containers, with the lid kept in place at all times.



2. All trash dumpsters, compactors, and other refuse storage containers, other than those for single-family or two-family dwellings and other curbside collection, must be completely screened from view on all sides. Solid waste collection and storage areas shall be screened on all sides. Such screening shall consist of decorative masonry walls, solid weather-resistant wood fencing, fencing of a similar appearance (including, but not limited to, vinyl vertical planks) or chain link fencing with privacy slats. The fence or wall shall include a self-latching door or gate.
3. The screening to be installed must be sight-obscuring and shall be installed to at least the height of the dumpster, compactor, or refuse storage container. The permitted screening materials are as follows: solid weather-resistant wood fencing, fencing of a similar appearance (including, but not limited to, vinyl vertical planks) or chain link fencing with privacy slat, decorative masonry walls, or evergreen plantings in combination with deciduous shrubs. Plants installed for screening are required to be the height of the dumpster, compactor, or refuse storage container at the time of planting. Dumpsters, compactors, and refuse storage containers other than those for single-family or two-family dwellings and other curbside collection shall not be permitted in the front yard of any property and shall not be located closer than 25 feet to any front yard property line.
4. The locations of all dumpsters, other than those for single-family or two-family dwellings and other curbside collection, shall be shown on all site plans and land development plans.

C. Outdoor Storage of Trailer, Mobile Homes, and Recreational Vehicles.

1. The parking and storage of trailers, mobile homes, motor homes, campers, and recreational vehicles shall be prohibited within the right-of-way of any public street.
2. At no time shall such parked or stored vehicle be occupied or used as a dwelling.
3. Trailers, mobile homes, motor homes, motor homes, campers, and recreational vehicles shall be parked entirely behind the front face of the principal building, unless completely screened from view by a sight-obscuring evergreen planting, fence, wall, or gate.

D. Outdoor Storage of Goods

The following requirements apply to Outdoor Storage of Goods when permitted as an Accessory Use.

1. Any article or material authorized to be stored outside an enclosed structure shall be buffered by six- (6) foot-high opaque fencing, planting, earthen mounds or existing topography to ensure that it cannot be seen from adjoining public streets or adjacent residential uses or residentially zoned properties and to ensure no adverse effect on adjacent property.
2. Outdoor storage shall not be permitted in the required front yard.
3. Toxic or volatile chemicals shall not be stored outside an enclosed structure.

4. All organic rubbish or waste materials shall be stored in airtight vermin-proof containers.
5. No movable vehicle such as a truck or trailer shall be used for outside storage.
6. Outdoor storage shall not include operable and/or inoperable vehicles including, but not limited to, automobiles, buses, motorcycles and similar machines.
7. Outdoor storage shall not be visible from the primary entrance of any commercial use.
8. Access driveways to outdoor storage shall be paved with a minimum of two (2) inches of slag or stone.
9. The outside storage facility shall not reduce the area required for off-street parking or loading for the principal use, nor shall its location interfere with the free flow of traffic on the site or the use of any off-street parking or loading area.
10. The owner(s) and operator(s) of an outdoor storage facility shall incorporate Best Management Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

**Section 5.12 – Sewage Disposal**

- A. A sewage permit shall be a prerequisite to the issuance of a zoning permit.
- B. Mobile Homes.
  1. Individual mobile homes not located in a mobile home park and not located in an area with an available public sewer system may be served by an on-lot sewage disposal system, provided such system meets the regulations of the Pennsylvania Department of Environmental Protection (DEP) found in Title 25, Chapter 73 of the Pennsylvania Code.

C. On-Lot Sewage Disposal.

On-lot sewage disposal shall not be permitted for new uses on lots of less than 0.5 acres, unless otherwise permitted by this Ordinance. Any on-lot system proposed shall meet the regulations of the Pennsylvania Department of Environmental Protection (DEP) found in Title 25, Chapter 73 of the Pennsylvania Code.

**Section 5.13 – Accessory Structures**

- A. Accessory uses, buildings, and structures are permitted only in conjunction with an established principal use and must be located on the same lot as said principal use.
- B. No structure accessory to a nonresidential use, other than signs and lighting fixtures, shall be located in the front yard setback.
- C. Setbacks for accessory structures shall comply with the requirements specified in each zoning district, unless otherwise regulated in this Ordinance.
- D. No object exceeding a height of three (3) feet, unless otherwise permitted by this Ordinance, shall be temporarily or permanently placed, erected, installed, or parked within the clear sight triangle required at the intersection of streets or the intersection of a driveway or private lane with a public street.
- E. Specific types of accessory structures named in this Ordinance shall be regulated by applicable sections in this Ordinance governing such accessory structures. It is the responsibility of the landowner to abide by any provisions for such structures as may be found in this Ordinance or any other ordinances of the Borough.

**Section 5.14 – Keeping of Household Animals Other than Pets**

- A. General Provisions.
  - 1. The keeping of household animals for private, noncommercial use and enjoyment may be permitted in Conservation Districts wherever it is demonstrated that the dimensional and density provisions in this Section can be met.
  - 2. No animals shall be allowed to stray so as to create any health or safety hazards. Animals shall be maintained as to be free from objectionable behavior. Noise shall not exceed the maximum permitted levels found in Section 5.9, Subsection A.
  - 3. All animal structures and roaming areas shall be maintained as to comply with the odor standards found in Section 5.9, Subsection C. Likewise, all manure shall be managed so as to prevent any odor from affecting other properties, contaminating any stream, or otherwise having an adverse impact on the human and natural environment.
  - 4. All pasture, grazing, and exercise areas shall be fenced with materials of sufficient height, strength, and density to adequately confine the animal in question. All such fencing must be in compliance with Section 5.8.

5. All animals shall be properly immunized.
6. Every owner engaged in the keeping of animals shall provide facilities maintained with best management practices so as to be clean and well-maintained and to avoid attracting vermin.
7. The disposal of dead animals shall be in accordance with the Domestic Animal Law, Title 3, Chapter 23, Section 2352 of the Pennsylvania Code. Dead animals shall be disposed of within 48 hours after death.
8. Permitting Process.

Applicants proposing the keeping of animals covered by this Section must submit an application to the Zoning Officer identifying the following:

- (a) A zoning permit application fee payable to the Borough in the amount of \$25.00 (this amount may be amended by resolution adopted by the Dunmore Borough Council);
- (b) Property address, name, and contact information of the applicant;
- (c) Description of the proposed animals and activities on the property;
- (d) Location, area, and height of the proposed shelter/enclosures;
- (e) Distance between the proposed shelters/enclosures and neighboring lots; and
- (f) Verification that the applicant is familiar with the requirements set forth in this Section.

**B. Chickens, Ducks, and Rabbits.**

1. Up to six (6) chickens, ducks, or rabbits can be raised or kept on lots measuring 3,000 square feet or greater in size. For every additional 1,000 square feet of lot size, the household is permitted one (1) additional chicken, duck, or rabbit.
2. A sheltered area of a size sufficient for good sanitation practices and adequate and sanitary drainage shall be in accordance with the following minimum requirements:
  - (a) All shelters shall have a roof and at least three (3) enclosed sides.
  - (b) Shelters must be located not less than 20 feet from the lot line of the property. No such structures may be erected or maintained in a front yard or a side yard abutting a street.
  - (c) Shelters shall provide a minimum of eight (8) square feet per animal.
3. The keeping of roosters shall be prohibited.

C. Miniature Goats.

1. Up to two (2) dehorned, adult female or neutered male goats can be raised or kept on lots measuring 10,000 square feet or greater in size. For every additional 5,000 square feet of lot size, the resident is permitted one (1) additional dehorned, adult female or neutered male goat.
2. A sheltered area of a size sufficient for good sanitation practices and adequate and sanitary drainage shall be in accordance with the following minimum requirements:
  - (a) All shelters shall have a roof and at least three (3) enclosed sides.
  - (b) Shelters must be located not less than 30 feet from the lot line of the property. No such structures may be erected or maintained in a front yard or a side yard abutting a street.
  - (c) Shelters shall provide a minimum of 20 square feet per animal.

D. European Honeybees.

1. Colonies shall be maintained in moveable frame hives, with hives being no closer than 25 feet to any property line and at least 50 feet from any dwelling located on an adjacent property.
2. All hives shall have access to an on-site water supply, whether it be a water-filled tank or natural water sources located on the property.
3. Swarm management techniques shall be employed to maintain gentle colonies.
4. Beekeeping practices must be consistent with the Pennsylvania Apiary Advisory Board's "Voluntary Best Management Practices for Maintaining European Honey Bee Colonies in the Commonwealth of Pennsylvania."
5. All hives shall have a solid fence or vegetative obstruction six (6) feet or more in height or be elevated so as to direct the flight path of the bees well above traffic and pedestrians.
6. Any beekeeper shall provide documentation that they are in compliance with Pennsylvania's Bee Law, 3 Pa.C.S.A. §§ 2101-2117, which requires the owner of an apiary located in Pennsylvania to register the apiary with the Pennsylvania Department of Agriculture.
7. Ownership, care, and control of the honeybees shall be the responsibility of a resident of the dwelling on the lot or the individual listed on the state registration form.

E. Other Animals.

1. Animals other than chickens, ducks, rabbits, miniature goats, or European honeybees that do not meet the definition of a household pet may only be kept on lots greater than three (3) acres in size.

2. The total number of additional animals permitted on any lot exceeding three (3) acres in lot area shall be computed according to the number of acres (listed below) required per animal. For example, one (1) horse may be kept on a lot of three (3) acres. Two (2) more acres are required for each additional horse. One (1) sheep may be kept on a lot of three (3) acres. One-half (0.5) acre is required for each additional sheep.

<b>Additional Required Lot Area for Additional Animals</b>	
Equine	2.0 acres
Bovine	2.0 acres
Swine	1.5 acres
Sheep	0.5 acres
Poultry and fowl other than chickens and ducks (such as but not limited to geese, turkeys, ostriches, and pea fowl)	0.1 acres

3. Animals not specifically listed above shall be judged as animals of similar size, diet, temperament, and behavior.

**Section 5.15 – Outdoor Seating Areas**

Outdoor seating areas may be proposed for restaurants, bars or taverns, and brewpubs subject to the following provisions:

- A. A clear pedestrian passageway of five (5) feet or greater shall be maintained. Street furniture, such as light poles, kiosks, mailboxes, tree pits, planters, public benches, and fire hydrants, shall not be located in the clear pedestrian passageway.
- B. No part of the outdoor seating area, including canopy umbrellas, planters, barriers, signage, and freestanding menu displays, shall extend into the required clear pedestrian passageway or into/over the street.
- C. A mobile freestanding menu display may be placed at the edge of the outdoor seating area in lieu of a sandwich board sign (as defined in this Ordinance and provided for in Article 8) but not both.
- D. Outdoor seating areas that extend three (3) feet or less into the public right-of-way or clear pedestrian passageway and that do not include the service of alcohol are not required to be enclosed by a barrier. Otherwise, a barrier between three (3) and four (4) feet in height is required to be erected between the clear pedestrian passageway and the outdoor seating area. Such barrier, which may consist of planters or fencing, shall be at least 60% opaque.
- E. Chairs and tables shall be weather-resistant to sun, rain, and wind and must be freestanding.
- F. Canopy umbrellas shall be between seven (7) and ten (10) feet in height.

- G. Outdoor seating areas shall be subject to any noise, nuisance, and property maintenance ordinances as well such related provisions found in this Article.
- H. No outdoor seating area shall be located closer than 100 feet from a Residential District.

**Section 5.16 – Short-Term Rentals**

- A. The dwelling associated with a short-term rental must be the permanent address of the owner, and the owner must occupy the dwelling for at least six (6) months of the calendar year.
- B. All activity at the short-term rental shall be subject to enforcement of any noise, nuisance, and property maintenance ordinances as well such related provisions found in this Article.
- C. If a house guest is convicted for any disturbance of the peace on the premises, the owner of the dwelling shall not be permitted to continue the use of the dwelling as a short-term rental.

**Section 5.17 – Solar Energy Systems**

- A. Intent.

It is the intent of this Section to promote the safe, effective, and efficient use of installed solar energy systems that reduce on-site consumption and demand of utility-supplied energy while protecting the health, safety, and welfare of adjacent and surrounding land uses and lots. This Section seeks to:

- 1. Provide property owners and businessowners/operators with flexibility in satisfying their energy needs;
- 2. Reduce overall energy demands within the community and to promote energy efficiency; and
- 3. Integrate alternative energy systems seamlessly into the community's neighborhoods and landscapes without diminishing the quality of life of the community.

- B. Applicability.

- 1. This Section applies to building-mounted and ground-mounted solar energy systems installed and constructed after the effective date of this Ordinance.
- 2. Solar energy systems constructed prior to the effective date of this Ordinance are not required to meet the requirements of this Section.
- 3. Any upgrade, modification, or structural change that materially alters the size and placement of an existing solar energy system shall comply with the provisions of this Section.

4. Building-integrated solar energy systems, as defined in this Ordinance, are not considered an accessory use and are not subject to the requirements of this Section.
  5. This Section does not apply to principal solar energy systems (PSES), as defined in this Ordinance.
- C. Location on a Property.
1. Building-mounted solar energy systems are permitted to face any front, rear, or side yard as defined in this Ordinance. Such systems may only be mounted on lawfully permitted principal and accessory buildings.
  2. Ground-mounted solar energy systems are permitted based on the requirements for accessory uses and structures in the property's zoning district.
- D. Design and Installation Standards.
1. Solar energy systems must be constructed to comply with the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as administered by the Pennsylvania Department of Labor and Industry (DLI).
  2. All wiring must comply with the edition of the National Electrical Code (NEC) adopted by the Commonwealth of Pennsylvania. For ground-mounted solar energy systems, all exterior electrical lines must be buried beneath the surface of the ground where possible or otherwise placed in a conduit.
- E. Dimensional Requirements.
1. Setback Requirements for Ground-Mounted Solar Energy Systems.  

Ground-mounted solar energy systems are subject to the accessory use setback requirements in the zoning district in which the system is to be constructed. The required setbacks are measured from the lot line to the nearest part of the system. No part of a ground-mounted solar energy system shall extend into the required setbacks, including in the case of tracking systems or other adjustments of related equipment or parts.
  2. Height Requirements.  

Notwithstanding the height limitations of the underlying zoning district:

    - (a) For a building-mounted solar energy system installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.
    - (b) For a building-mounted solar energy system installed on a sloped roof that faces the front yard of a lot, the system must be installed at the same angle as the roof on which it is installed, with a maximum distance, as measured perpendicular to the roof, of 18 inches between the roof and the highest edge of or surface of the system.



- (c) For a building-mounted solar energy system installed on a flat roof, the highest point of the system shall be permitted to extend up to six (6) feet above the roof to which it is attached.
- (d) Ground-mounted solar energy systems may not exceed the permitted height of accessory structures in the zoning district where the system is to be installed.

F. Screening and Visibility.

- 1. Building-mounted solar energy systems installed on a sloped roof shall not be required to be screened.
- 2. Building-mounted solar energy systems mounted on a flat roof shall not be visible from the public right-of-way within a 50-foot radius of the lot, exclusive of an alley, at a level of five (5) feet from the ground. Such systems shall be screened in a similar manner as other rooftop HVAC and mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the edge of the roof.

G. Impervious Lot Coverage Restrictions.

The surface area of any ground-mounted solar energy system, regardless of the mounted angle of any portion of the system, shall be considered an impervious surface and shall be calculated as part of the lot coverage limitations for the zoning district. However, if the ground-mounted solar energy system is mounted above an existing impervious surface, it shall not be calculated as part of the lot coverage limitations for the zoning district.

H. Nonconformance.

1. Building-Mounted Solar Energy Systems.

- (a) If a building-mounted solar energy system is to be installed on any building or structure that is nonconforming because its height exceeds the maximum height limitations of the zoning district in which it is located, the building-mounted system shall be permitted so long as the system does not extend above the highest point of the roof to which it is mounted and so long as it complies with the other provisions of this Section.
- (b) If a building-mounted solar energy system is to be installed on a building or structure on a nonconforming lot that does not meet the setback requirements or exceeds the lot coverage limits for the zoning district in which it is located, the building-mounted system shall be permitted so long as there is no expansion of any setback or lot coverage nonconformity and so long as it complies with the other provisions of this Section.

2. Ground-Mounted Solar Energy Systems.

- (a) If a ground-mounted solar energy system is to be installed on a lot containing a structure that is nonconforming because the required minimum setbacks are exceeded, the proposed system shall be permitted so long as the system does not encroach into the required setback for the lot.

- (b) If a ground-mounted solar energy system is to be installed on a lot that is nonconforming because it violates zoning district requirements other than setbacks, then a variance must be obtained for the proposed installation following the procedures found in Article 10.

I. Signage and/or Graphical Content.

No signage or graphical content may be displayed on the solar energy system except for the manufacturer's badge, safety information, and equipment specification information. Said information shall be depicted within a graphical area no more than 36 square inches in size.

J. Performance Requirements.

All solar energy systems are subject to compliance with any applicable performance standards found elsewhere in this Ordinance.

K. Permit Requirements.

Before any construction or installation of any solar energy system shall commence, a permit issued by the Zoning Officer shall be obtained to document compliance with this Section.

L. Inspection, Safety, and Removal.

1. Dunmore Borough reserves the right to inspect a solar energy system for fire or building code compliance and safety.
2. If upon inspection, the Borough determines that a fire or building code violation exists or that the system poses a safety hazard to persons or property, the Borough may order the property owner to repair or remove the system within a reasonable timeframe. Such an order shall be in writing, shall offer the option to repair or otherwise correct the issue, shall specify the code violation or safety hazard found, and shall notify the owner of his or her right to appeal such determination.
3. If the property owner fails to repair or remove a solar energy system as ordered and any appeal rights have been exhausted, the Borough may enter the property, remove the system, and charge the owner and/or operator for all costs and expense of removal, including reasonable attorney's fees, or pursue other legal action to have the system removed at the owner and/or operator's expense.
4. In addition to any other available remedies, any unpaid costs resulting from the Borough's removal of a vacated, abandoned, or decommissioned solar energy system shall constitute a lien upon the property against which the costs were charged. Legal counsel of the Borough shall institute appropriate action for the recovery of such costs, plus attorney's fees, including but not limited to the filing of municipal claims pursuant to the Pennsylvania Municipal Claims and Tax Lien Act, 53 P.S. § 7101 et seq., for the cost of such work, 6% interest per annum, plus a penalty of 5% of the amount due plus attorneys' fees and costs incurred by the Borough in connection with the removal work and filing of the municipal claim.

**Section 5.18 – Swimming Pools**

- A. All outdoor swimming pools and impoundments of water 18 inches in depth or greater with a surface area of 72 square feet or greater shall be properly fenced so as to not become a hazard to any person. The top of such fence or wall shall be at least five (5) feet above the ground. No opening in the fence or wall shall be larger than two (2) inches in width, and all gates shall close with self-catching latches.
- B. Swimming pools shall be designed and constructed to the applicable standards of the Pennsylvania Uniform Construction Code (UCC).
- C. No outdoor swimming pool may be located in any front or side yard setback area. If located in the rear yard setback area, no part of the pool shall be located within ten (10) feet of the rear lot line.

**Section 5.19 – Temporary Uses, Buildings, and Structures**

- A. Temporary Construction Buildings or Trailers.

The parking of construction vehicles and temporary construction offices on a site that is necessary for construction that is actively underway on the same lot is permitted by right, provided that such vehicles or offices shall be removed immediately once the construction they relate to is completed or suspended.

- B. Temporary Real Estate Sales Offices.

A temporary real estate sales office may be established within a dwelling unit not occupied for residential purposes in a residential development having more than 10 dwelling units, if the real estate sales office is used only to market the real estate offered within the development. A temporary real estate office shall be removed within 14 days of the sale or lease of the last property in the development.

- C. Tents and Membrane Structures.

- 1. In addition to the special exception procedure provided for in this Ordinance, the Zoning Officer may allow the temporary erection of a tent, membrane, or similar temporary structure that is not totally enclosed for a maximum of seven (7) consecutive days in any four (4) month period for clearly routine customarily accessory uses such as a wedding in the rear yard of a dwelling, a festival by a place of worship, or a special sale within the lot of a lawful commercial use.
- 2. The Zoning Officer may allow the temporary erection of a tent, membrane structure, or similar temporary structure for a period of up to a maximum of 180 days in any given calendar year, for clearly routine customary accessory uses.
- 3. All tents, membrane structures, or similar temporary structures to be erected for a total of more than seven (7) consecutive days shall require the submission of a site plan and an application for a zoning permit. The fee shall be established by resolution of the Dunmore Borough Council.

D. Food Trucks and Food Carts.

A permitted accessory use on lots of more than 20,000 square feet may include the temporary use of a food and nonalcoholic beverage cart for on-site sales, provided that the following requirements are met:

1. The cart is used for a maximum period of four (4) consecutive days once in any six (6) month period.
2. The cart is removed within 48 hours after sales are complete.
3. The applicant submits a site plan showing that the cart will be well-located to avoid traffic conflicts.

E. Other Temporary Uses.

A temporary permit may be issued by the Zoning Hearing Board as a special exception for structures or uses, other than those specifically listed in this Ordinance, subject to the following additional provisions:

1. Duration.

The Zoning Hearing Board shall establish a limit on the duration of the use. In most cases, a temporary approval should have a maximum term of no longer than two (2) years. In the case of a special event, except under special circumstances, this term should be a maximum of six (6) consecutive days in any sixty (60) day period. The Zoning Hearing Board may grant a single approval once for numerous occurrences of an event.

2. Fee.

Either the Zoning Hearing Board or the Dunmore Borough Council may waive and/or return the required application fee if the applicant is a 501(c)(3) nonprofit corporation and if the applicant clearly shows that the proposed use is temporary and will be used to serve a charitable or public service purpose.

3. Special Events.

For a new special event (not including annual reoccurrences of a previously held event) that will attract significant numbers of the public, the Zoning Hearing Board shall deny the use if it determines that the following will not be generally appropriate for the provision of the temporary use: sanitary and water service, traffic control, off-street parking, and protection of public health, safety, and welfare.

**Section 5.20 – Wind Energy Systems**

- A. Only one wind energy system shall be permitted as an accessory structure on any lot.
- B. The lowest part of the rotor blade must be a minimum of 30 feet higher than the surrounding structures and/or obstructions.

C. Setbacks from all lot lines, utility lines, and structures shall be 1.5 times the total height of the wind energy system.

D. Permitting Requirements.

In addition to a zoning permit, applications to construct a wind energy conversion system shall be accompanied by a plot plan package that includes the following:

1. Property lines and physical dimensions of the lot;
2. Location of the wind energy system tower on the lot;
3. Location, dimensions, and types of existing principal and accessory structures on the lot;
4. The right-of-way delineation of public streets adjacent to the lot;
5. The presence of any overhead utility lines;
6. Any easements;
7. A map of the 200-foot area surrounding the slot showing all affected lands and structures at a legible scale;
8. Specifications of the wind energy system, including manufacturer and model, rotor diameter, tower height, and tower type (e.g., freestanding or guyed);
9. Standard installation drawings shall be submitted showing the wind turbine structure, including the tower, the base, and the footings, stamped, and sealed by a professional engineer licensed by the Commonwealth of Pennsylvania;
10. An engineering analysis of the tower showing compliance with the Uniform Construction Code and certified by a licensed professional engineer;
11. A site-specific wind resource assessment by a qualified professional; and
12. Drawings, plans, and/or narratives demonstrating that the wind energy conservation system is equipped with manual braking and meets all building and electrical codes.

E. When an application is made for approval of a wind energy system, all property owners within 200 feet of the lot on which the system is to be constructed shall be notified in written form.

F. The applicant shall comply with all applicable regulations of the Pennsylvania Public Utility Commission (PUC) governing generation of electricity for private use and shall provide evidence that he or she has notified the incumbent utility provider of his or her desire to install an interconnected wind energy system.

G. Artificial lighting is not permitted, whether directly or indirectly, except as required by the Federal Aviation Administration.

- H. The owner/operator shall make all reasonable efforts to minimize and/or eliminate shadow flicker to occupied buildings on immediately adjacent properties. The applicant is responsible for identifying problem areas where shadow flicker will interfere with existing or future residences and to described proposed mitigation measures when called upon, including but not limited to, a change in siting of the wind energy system, a change in the operation of the wind energy system, or grading or landscaping mitigation measures.
- I. Noise levels for the wind energy system shall not exceed the permitted decibel levels for the underlying zoning district prescribed in Section 5.9.
- J. The wind energy system shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance problem is identified, the owner shall correct the problem within 90 days of being notified of the problem.
- K. The wind energy system shall maintain a galvanized neutral finish or be painted to conform to the surrounding environment to minimize adverse effects.
- L. The wind energy system shall have an automatic overspeed control to render the system inoperable when winds are blowing in excess of the speeds for which the system is designed, and a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system.
- M. All ground-mounted electrical and control equipment shall be labelled and secured to prevent unauthorized access. The tower shall be designed and installed so as not to provide step bolts, a ladder, rungs, or other publicly accessible means of climbing the tower, for a minimum height of eight (8) feet above the ground elevation. Safety fencing is required if the wind energy system has climbing features below 12 feet.
- N. All electrical wires associated with a wind energy system shall be located underground when practicable. All wires not located underground, including but not limited to wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be contained within an appropriate conduit suitable for the same.
- O. A wind energy system is considered abandoned if it is inoperable or unsafe or unattended for a period of 12 months. Non-function or lack of operation may be proven by reports from the interconnected incumbent utility provider. Wind energy systems must be immediately removed at the expense of the property owner if deemed abandoned.
- P. Wind energy systems cannot be used to support signage, satellite dishes, or antennas.

**Section 5.21 – Wireless Communication Facilities**

A. Purposes.

The purposes of this Section include a desire to establish reliable standards for the siting, design, permitting, construction, operation, inspection, maintenance, repair, modification, removal, and replacement of wireless communication facilities (WCFs) in Dunmore Borough, in recognition of the federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); the federal Middle Class Tax Relief and Job Creation Act of 2012

(Spectrum Act) Pub. L. No. 112-96, 126 Stat. 156 (2012), and FCC regulations promulgated thereunder by the Federal Communications Commission (FCC), including the FCC’s Report and Order of October 21, 2014, FCC 14-153 (rel. Oct. 21, 2014); and the Pennsylvania Wireless Broadband Collocation Act (Act 191 of 2012), 53 P.S. § 11702.1 et seq. Moreover, the Borough desires to plan and accommodate for the managed deployment of infrastructure that is necessary to accommodate the wireless communication needs of the Borough’s residents, businesses, and emergency service providers. While the Borough recognizes the benefit of wireless communication facilities in providing high quality communications service and enhancement to its residents, businesses and emergency service providers, the Borough also recognizes that it has an obligation to protect public safety through the standards set forth in the following provisions.

**B. Zoning District Regulations.**

1. Tower-based WCFs are permitted on all municipally owned property regardless of zoning district. Otherwise, the use provisions of Section 3.4 shall apply.
2. Non-tower WCFs are permitted by right subject to application requirements stated herein in all districts, except that no non-tower WCF shall be located, in any zoning district, on a single-family or two-family dwelling.
3. Eligible facilities requests that do not substantially change the tower, base station, or wireless support structure are permitted by right in all zoning districts.

**C. Area and Bulk Requirements.**

The following table shall reflect the height, lot size, setback, and locational requirements for tower-based and non-tower WCFs:

<b>TOWER-BASED WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Height</b>	<p>Shall be designed to minimum functional height but not to exceed 100 feet. Applicants must submit documentation justifying the total height.</p> <p>Equipment buildings, cabinets and accessory structures shall not exceed 15 feet in height.</p>	<p>Shall be designed to minimum functional height, not to exceed 55 feet in non- residential districts. Applicants must submit documentation justifying the total height.</p>
<b>Lot Size</b>	<p>Subject to underlying zoning district. Area needed to accommodate the WCF and guy wires (if approved), equipment building or cabinets, security fence, and buffer planting must not extend outside the lot.</p>	Not applicable

<b>TOWER-BASED WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Setback – Towers</b>	Setback from property lines at least one hundred percent (100%) of the combined height of the wireless support structure and antenna, or the applicable minimum building setback in the underlying zoning district, whichever is greater.	Not applicable
<b>Setback – Equipment Buildings/Cabinets</b>	Subject to applicable minimum building setback in the underlying zoning district.	Not applicable
<b>Location</b>	Shall not be located between front façade of the principal structure and the street the lot fronts on, except for equipment cabinets located underground.	Not applicable

<b>NON-TOWER WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Height – On a Building or Similar Structure</b>	Shall not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a variance.	Not applicable
<b>Height – On Electrical Transmission Towers, Streetlights, Utility Poles, Traffic Signals, Signs, and Similar structures</b>	Shall not exceed a height of 5 feet above the electrical transmission tower, streetlight, utility pole, traffic signal, sign and similar structure, unless the WCF applicant obtains a variance.	WCFs located above the surface grade shall consist of equipment components designed at the minimum functional height.
<b>Setback – Mounted Antennas</b>	Not applicable	Not applicable
<b>Setback – Equipment Buildings/Cabinets</b>	Shall comply with the applicable minimum building setback requirements in the underlying zoning district.	Not applicable



<b>NON-TOWER WCFs</b>	<b>Outside of ROW</b>	<b>Within ROW</b>
<b>Lot Size</b>	Subject to applicable minimum lot size in the underlying zoning district.	Not applicable
<b>Setback – Towers</b>	Setback from property lines at least one hundred percent (100%) of the combined height of the wireless support structure and antenna, or the applicable minimum building setback in the underlying zoning district, whichever is greater.	Not applicable
<b>Setback – Equipment Buildings/Cabinets</b>	Subject to applicable minimum building setback in the underlying zoning district.	Not applicable
<b>Location</b>	Shall not be located between front façade of the principal structure and the street the lot fronts on, except for equipment cabinets located underground.	Not applicable

D. Permit Application Requirements.

1. Collocation Analysis.

An application for a new tower-based WCF where the new wireless communication tower will be more than 40 feet in height shall not be approved unless the applicant demonstrates that the wireless communication equipment planned for the proposed WCF cannot be collocated on an existing structure or building within a 0.25-mile radius of the proposed WCF location to achieve the coverage or capacity objectives of the applicant.

2. Gap in Coverage or Lack of Adequate Capacity.

An applicant for a tower-based WCF more than 40 feet in height must demonstrate that a significant gap in wireless coverage exists or a lack of adequate capacity at the proposed location is likely to exist within one (1) year of the filing of its application.

3. Authorization.

An applicant for a WCF shall submit a copy of the lease or other form of written authorization with the property owner confirming that the applicant has standing to file the application and to maintain the proposed WCF on the subject lot.

4. Licensing and Applicable Regulations.

If the applicant is a commercial wireless communications provider, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with its application copies of all FCC permits and licenses.

5. Emissions.

The applicant shall demonstrate that the proposed WCF will comply with all applicable standards established by the FCC governing human exposure to electromagnetic emissions.

6. Insurance.

The applicant shall provide a certificate of insurance issued to the owner/operators of the WCF, evidencing that there is or will be adequate current liability insurance in effect.

7. Application Fees.

(a) The Borough may assess appropriate and reasonable permit application fees directly related to the actual costs in reviewing and processing the application for approval of a WCF. The amount of this fee may not be in excess of the actual reasonable cost to review and process the application.

(b) The Borough may assess to the applicant, in addition to application fees, appropriate and reasonable review fees directly related to the costs incurred by the Borough, including but not limited to professional/consultant fees to review the WCF application.

(c) For special exception applications, the Borough's regular special exception application fees shall apply.

8. Review Timeframes.

The following table prescribes the timeframes for Borough review of applications for WCFs:

	<b>Borough shall notify the applicant in writing of any information that may be required to complete application:</b>	<b>Borough shall approve or deny the application, unless a shorter time period is applicable under the PA MPC:</b>
<b>Tower-Based WCFs</b>	Within 30 calendar days of the date the application was filed with the Borough.	Within 150 days* of submission of a complete application for a WCF.
<b>WCFs on Existing Structures</b>	Within 30 calendar days of the date the application was filed with the Borough.	Within 90 days* of submission of a complete application for a WCF.
<b>Eligible Facilities Requests** (as defined)</b>	Within 30 calendar days of the date the application was filed with the Borough.	Within 60 days* of submission of a complete application for a WCF.

\*The time period may be tolled by mutual agreement or in cases where the Borough informs the applicant in a timely manner that the application is incomplete. If an application is considered incomplete, the time period begins running again as soon as the applicant makes a supplemental submission, but may be tolled again if the Borough provides written notice to the applicant within 10 days that the application remains incomplete and specifically delineates which of the deficiencies specified in the original notice of incompleteness have not been addressed.

\*\*The Borough shall only require the applicant to provide documentation that is reasonably related to determining whether the request is an Eligible Facility Request.

E. Design, Construction, and Operations.

1. All WCFs shall be sited, designed, constructed, operated, inspected maintained, repaired, modified, removed, and replaced in strict compliance with all current applicable federal and state technical and safety codes.
2. Subdivision plan approval shall not be required when a WCF is located on a leased parcel that is less than the entire lot or property.
3. All WCFs shall be operated in accordance with all applicable FCC rules regarding interference with public safety communications or the reception of broadband, television, radio or other communications services.

4. Collocation.

All tower-based WCFs where the wireless communication tower will be more than 40 feet in height shall be designed to accommodate both the applicant's antennas and comparable antennas for future users. As a condition of approval for all tower-based WCFs where the tower will be more than 40 feet in height, the applicant shall agree to allow other service providers to collocate antennas on the tower where technically and economically feasible.

5. Signage.

- (a) All WCFs shall include a posted sign at the location. Such signage shall include the ownership, contact name and phone number in the event of an emergency and FCC registration number (if applicable). Such signage shall not include commercial advertising, shall not protrude from the tower or WCF, and is subject to approval by the Borough.
- (b) For tower-based WCFs outside of the right-of-way, the posted sign shall not exceed two (2) square feet in area.
- (c) For all other WCFs, the sign shall be limited to the maximum necessary size to provide the required information in a readable manner.

6. Lighting.

WCFs shall not be artificially lighted beyond what is required by law. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect to surrounding properties as is permissible while still meeting state or federal requirements.

7. Noise.

All WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards established in Section 5.9 of this Ordinance. The use of a backup generator is prohibited except that in emergency situations and for periodic maintenance and testing by the wireless communications provider's technicians, such use shall be permitted, where such noise standards may be exceeded on a temporary basis.

8. Vehicular Access.

- (a) An access driveway and one off-street parking space shall be provided to ensure adequate emergency and service access to all tower-based WCFs located outside of the right-of-way.
- (b) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
- (c) Where possible, access driveway construction shall at all times minimize ground disturbance and the cutting of vegetation.
- (d) Access driveway grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.
- (e) An applicant shall present documentation to the Borough that the property owner has granted an access easement for the proposed WCF, if located on a lot or property.
- (f) Any required access easement shall be a minimum of 20 feet in width and the access driveway shall be improved with a dust-free, all weather surface, including gravel, to a width of at least 10 feet throughout its entire length.
- (g) Vehicular access to all WCFs shall not interfere with the parking or vehicular circulations for a principal use, if located on the lot or property. However, where appropriate and available, existing parking for the principal or other uses on the lot or property may be utilized.

9. Fencing.

A security fence, which may include barbed wire, with a minimum height of eight (8) feet may be required to surround any tower-based WCF located outside the right-of-way, where the wireless communication tower is more than 40 feet in height, including guy wires, associated equipment, and buildings. All or any of the requirements herein for a security fence may be waived by the Zoning Hearing Board when the fence would not be appropriate or feasible.

10. Safety in Rights-of-Way.

(a) Schedule of Operations.

The Borough shall determine the time, place, and manner of siting, design, construction, maintenance, repair, modification, removal, and/or replacement of all WCFs located in the right-of-way, based on public safety, traffic management, physical burden on the right-of-way, and related considerations. For public utilities, the time, place, and manner requirements shall be consistent with the requirements of the Pennsylvania Public Utility Code or other applicable ordinances or laws.

(b) Alteration of a WCF.

Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF located in the right-of-way shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable PUC regulations, shall have determined that such removal, relocation, change, or alteration is reasonably necessary under any one of the following circumstances:

- (1) The construction, repair, maintenance or installation of any municipal or other public improvement located in the right-of-way;
- (2) The operations of any governmental entity in the right-of-way;
- (3) Vacation of a street or the release of a utility easement; or
- (4) An emergency as determined by the Borough.

No permit is required for such removal, relocation, change, or alteration ordered by the Borough.

(c) Visual Obstruction.

All WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, to create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the right-of-way as determined by the Borough. In no case shall ground-mounted equipment, walls, screening, or landscaping be located within 18 inches of the face of the curb or, in an area in which there are no curbs, within (3) feet of the edge of cartway.

11. Maintenance.

An applicant for a WCF shall describe anticipated maintenance needs, including frequency of service, personnel needs, and equipment needs, and the traffic, safety, and noise impacts of such maintenance.

12. Soil Report.

An applicant for a tower-based WCF where the new wireless communication tower will be more than 40 feet in height shall submit a soil report complying with the ANSI/EIA-222-G standards for geotechnical investigations to the Borough Engineer prior to construction to document and verify the design specifications of the foundation for the wireless support structure and anchors for the guy wires, if used.

13. Aviation Safety.

All WCFs shall comply with federal and state laws and regulations concerning aviation safety.

14. Inspections.

Inspections are required for all WCFs where the new wireless communication tower will be more than 40 feet in height. Copies of all inspection reports shall be provided to the Borough following the inspection. Any repairs advised by the report shall be completed by the WCF owner within 60 calendar days after the report is filed with the Borough.

15. Equipment Storage.

The storage of unused equipment or supplies is prohibited on any WCF site.

16. Historic Sites.

No WCF may be located on a building or structure that is listed on either the National Register of Historic Places, county or state lists, or any Borough-maintained historic resources inventory. This prohibition may be waived by the Zoning Hearing Board.

F. Visibility, Landscaping, and Screening.

1. Stealth Technology.

(a) All WCFs shall employ the most current stealth technology available, where appropriate, in an effort to appropriately blend the proposed WCF into the surrounding environment and minimize aesthetic impact. Equipment buildings and cabinets shall be designed to blend into the environment in which they are situated, to the extent practicable.

(b) In the case of a tower-based WCF, compliance with this Subsection may be evidenced by the following:

(1) The tower shall have a galvanized finish or be painted silver above the top of surrounding trees and green below treetop level.

(2) The tower shall comply with FAA and PennDOT Bureau of Aviation lighting standards and shall not be artificially lighted unless required by those agencies.

2. Landscaping and Screening.

An applicant for tower-based WCF where the new wireless communication tower will be more than 40 feet in height shall submit a landscaping and screening design complying with the following:

- (a) The applicant shall ensure that the existing vegetation, trees, and shrubs located within close proximity of the WCF support structure shall be preserved to the maximum extent possible.
- (b) Ground mounted equipment must be screened from public view using an evergreen screen, artificial screen, or fencing, as directed by the Borough. Where the site abuts a Residential district, public property, or street, a buffer area shall be provided along the perimeter abutting the affected district, property, or street to include at minimum two (2) staggered rows of evergreen trees a minimum of six (6) feet in height, which trees shall be replaced with trees of equivalent height when dead or damaged.

G. Replacement, Collocation, and Modification of Existing Wireless Support Structures.

1. Notwithstanding the requirements for all WCFs, as set forth herein, an application for replacement, collocation, or modification of a previously approved wireless support structure shall be reviewed for conformance with the Borough's building permit requirements, including requirements applicable to the added structural loading of the proposed antennas and accessory equipment. These previously approved facilities shall not be subject to the issuance of new zoning or land use approvals, provided that there is no substantial change to the structure.
2. Replacement of WCFs on existing wireless support structures or within existing equipment compounds may be performed by the applicant without obtaining building or zoning permits from the Borough.
3. Any substantial change to an existing WCF shall require approval of the Borough in accordance with the terms of this Section.

H. Discontinuation, Abandonment, and Removal.

In the event that use of a WCF is planned to be discontinued, the owner/operator shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

1. All unused or abandoned WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Borough.
2. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough. The Borough's costs in connection with removal, including professional or consultant fees

and the cost of removal work and site remediation, may be assessed against the owner of the WCF or the lot upon which the WCF was located.

I. Reimbursement for Use of the Right-of-Way.

In addition to permit application fees, every WCF in the right-of-way is subject to the Borough's right to impose annually a fair and reasonable fee to be paid for use and occupancy of the right-of-way. Such annual fee shall be directly related to the Borough's costs of owning, maintaining, and managing the right-of-way and to the loss of use to the Borough of that portion of the right-of-way consumed by the WCF.

J. Special Exception Criteria and Procedures.

An application for approval by special exception for any tower-based WCF shall, in addition to meeting other applicable requirements in this Ordinance, meet the following criteria:

1. The applicant shall provide to the Borough, prior to issuance of a zoning permit for construction, financial security to guarantee the removal of any tower-based WCF. Such financial security shall be in an amount determined by the Borough Engineer based upon industry standards for removal and shall be acceptable in form and content to the Borough Engineer.
2. No tower-based WCF shall be located or within 100 feet of an area in which all utilities are located underground.
3. The applicant shall provide a propagation study evidencing the need for the proposed WCF, a description of the type and manufacturer of the proposed transmission and receiving equipment, the frequency range assigned to the WCF applicant, the power in watts at which the WCF will transmit, and the results of any relevant tests conducted by the applicant to determine the need for the proposed WCF.
4. The applicant shall supply documentation demonstrating that the proposed WCF complies with all state and federal requirements regarding aviation safety.
5. Where the WCF is located on a property with another principal use, the applicant shall present documentation that the property owner has granted an appropriate lease or easement for the WCF and for access to the WCF.
6. The special exception procedures and criteria in sections 6.3 and 10.4 shall apply and be satisfied by the applicant. In addition, the applicant shall, at his or her expense, mail written notice of the scheduled public hearing for the WCF to all owners of record of property located within 500 feet of the proposed WCF. Such notice shall be mailed at least 14 days prior to the scheduled public hearing, and the applicant shall provide a copy of such notice and proof of such mailing to the Borough prior to the hearing.



## ARTICLE 6

### Specific Criteria, Conditional Uses, and Special Exceptions

#### **Section 6.1 – Process for Uses Permitted by Right**

Each use that is listed in the Table of Principal Use Regulations for each district and the Table of Accessory Use Regulations for each district in Section 3.4 as permitted by right (notated with the letter 'P') shall comply with all applicable performance standards and supplementary regulations in this Ordinance. Applications for a zoning permit, a certificate of use and occupancy, and a building permit must be submitted to the Zoning Officer following the provisions and procedures found in Section 11.1.

#### **Section 6.2 – Process for Conditional Uses**

A. Applicability.

Each use that is listed in the Table of Principal Use Regulations for each district and the Table of Accessory Use Regulations for each district in Section 3.4 as permitted by conditional use (notated with the letter 'C') shall comply with the provisions of this Section, any applicable provisions for the corresponding use found in Section 6.4, and all other applicable performance standards and supplementary regulations in this Ordinance. A conditional use permit shall only be granted when the minimum conditions set forth in Section 6.4 for the specific conditional use have been met.

B. Procedure.

1. An application form prescribed by the Borough shall be submitted by the applicant for a conditional use permit along with a fee in an amount as established from time to time by resolution of the Dunmore Borough Council.
2. The applicant shall submit seven (7) paper copies and one (1) digital copy of the necessary documentation of the proposed conditional use to enable the review of such proposal by the Borough. The burden of submitting adequate data to allow for full evaluation of the proposal shall rest with the applicant. The applicant must demonstrate that the following conditions have been addressed to the maximum extent applicable:
  - (a) That the proposed conditional use will not adversely affect the health, safety, or welfare of residents in the neighborhood or district in which the use is to be located;
  - (b) That the proposed conditional use will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage, or other public improvements;
  - (c) That the proposed conditional use meets all other requirements for the zoning district in which the use is proposed;

- (d) That the proposed conditional use is in general conformity with the Scranton-Abingtons Planning Association Comprehensive Plan; and
  - (e) That the proposed conditional use will not be detrimental to the use or development of or change the essential character of the neighborhood or district in which the use is proposed. The Dunmore Borough Council shall consider, at a minimum, the impact of noise, dust, light, odor, and adequacy of parking.
3. If subdivision or land development approval is required for the proposed conditional use, the application for a conditional use permit and the application for the subdivision or land development may be processed concurrently, provided that all requirements for the separate applications are met.
4. The grant of approval of a conditional use permit shall not relieve the applicant from filing and having the Borough approve any zoning permit, building permit, certificate of use and occupancy, subdivision, land development, or site plan required by this Ordinance or any other Borough ordinance.
5. The Dunmore Borough Council may attach such reasonable conditions and safeguards as necessary to implement the purpose and goals of this Ordinance and of the Scranton-Abingtons Planning Association Comprehensive Plan, except that any such conditions shall not be related to off-site transportation or road improvements, as prescribed by Section 603(c)(2) of the Pennsylvania Municipalities Planning Code (MPC).
6. Public Hearings.
  - (a) Prior to granting approval or denying a conditional use application, the proposal shall be reviewed by the Dunmore Borough Planning Commission. The Planning Commission and Borough Engineer shall be given an opportunity to provide written recommendation to Borough Elected Body concerning whether to approve, conditionally approve, or deny the application.
  - (b) A minimum of one (1) public hearing shall be held by the Borough Elected Body at a regularly scheduled meeting within 60 days of the date that the applicant filed the conditional use application.
  - (c) Notice of said public hearing shall be placed in the classified section of a newspaper of general local circulation once in each of two (2) successive weeks, the first notice appearing not more than 30 days or less than seven (7) days prior to the hearing, and shall be conspicuously posted by the Borough at least one (1) week prior to the date of the hearing at highly visible locations along the perimeter of the lot affected by the conditional use request. Written notice of the hearing shall also be sent by first-class mail to the owners of lots abutting the subject lot or within 300 linear feet of the subject lot and other recognized parties at least one (1) week prior to the date of the hearing. Notices shall indicate the date, time, and place of the hearing, the particular nature of the matter to be considered, and the street address of the specific lot involved.
  - (d) If a subsequent public hearing is required, the hearing shall be held within 45 days of the prior hearing.

- (e) The Borough Elected Body shall render a written decision, upon review by the Planning Commission, or when no decision is called for, make written findings on the conditional use request, within 45 days after the prior public hearing.
- (f) If the Borough Elected Body denies the conditional use application, the applicant may reapply for the same use no sooner than one (1) year after the date of denial of the application or the date of denial of appeal to the Lackawanna County Court of Common Pleas.

C. Duration of Conditional Use Permit.

- 1. If a conditional use requires the processing of a subdivision or land development plan, then the grant of the conditional use permit shall expire if a zoning permit, building permit, certificate of use and occupancy, or grading permit is not obtained within 24 months from the date of the grant of the conditional use permit. However, the Borough Elected Body, in its discretion, may grant an extension of up to 12 additional months upon written request by the applicant prior to the conditional use permit's expiration.
- 2. If a subdivision or land development plan is not required, then the grant of the conditional use permit shall expire if a zoning permit, building permit, certificate of use and occupancy, or grading permit is not obtained within 12 months from the date of the grant of the conditional use permit. However, the Borough Elected Body, in its discretion, may grant an extension of up to 12 additional months upon written request by the applicant prior to the conditional use permit's expiration.

**Section 6.3 – Process for Uses by Special Exception**

A. Applicability.

Each use that is listed in the Table of Principal Use Regulations for each district and the Table of Accessory Use Regulations for each district in Section 3.4 as permitted by special exception (notated with the letters 'SE') shall comply with the provisions of this Section, any applicable provisions for the corresponding use found in Section 6.4, and all other applicable performance standards and supplementary regulations in this Ordinance. A special exception permit shall only be granted when the minimum conditions set forth in Section 6.4 for the specific use by special exception have been met.

B. Procedure.

Applicants seeking to obtain approval for a use by special exception shall follow the process described in Section 10.6 of this Ordinance.

C. Conditions for Approval.

- 1. In addition to the minimum conditions contained in Section 6.4 for each use by special exception, the use shall meet the following additional requirements:
  - (a) The Zoning Hearing Board shall find that the proposed use by special exception will not adversely affect the health, safety, or welfare of residents in the neighborhood or district in which the use is to be located.

- (b) The Zoning Hearing Board shall find that the proposed use by special exception will not overburden existing public services, including water, sanitary sewer, public roads, storm drainage, or other public improvements.
  - (c) The Zoning Hearing Board shall find that the proposed use by special exception meets all other requirements for the zoning district in which the use is proposed.
  - (d) The Zoning Hearing Board shall find that the proposed use by special exception is in general conformity with the Scranton-Abington Planning Association Comprehensive Plan.
  - (e) The Zoning Hearing Board shall find that the proposed use by special exception will not be detrimental to the use or development of or change the essential character of the neighborhood or district in which the use is proposed. The Zoning Hearing Board shall consider, at a minimum, the impact of noise, dust, light, odor, and adequacy of parking.
2. In granting a use by special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the policy, goals, and community development objectives of this Ordinance.

#### **Section 6.4 – Environmental Assessment**

- A. 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.
- B. 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.
- C. 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.
- D. Content of the Environmental Assessment
  1. 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.
  2. 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.
3. 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.
  4. 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.
  5. Any Adverse Effects which Cannot be Avoided Should the Proposal be Implemented. Include a discussion of the unavoidable adverse impacts described above, and an analysis of who or what will be affected and the degree of impact.
  6. 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.
  7. 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.
  8. 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.
- E. Outline Considerations for Developing Environmental Assessment
1. Description of the Proposal
    - (a) Who is proposing the action?
    - (b) What is the nature of the action to be taken?

- (c) What is it designed to accomplish? What identified needs will be met and to what degree?
  - (d) Where will it take place?
  - (e) When will it take place? Indicate phasing of acquisition and development activities, if applicable, and timetables for completion.
  - (f) How does it fit in with local planning efforts, comprehensive plans, etc.
2. Description of the Environment
- (a) Present and past land uses of the site and of the surrounding area.
  - (b) Special topographic features which may be present.
  - (c) Describe the site's surface and subsurface geologic characteristics.
  - (d) Describe the nature of the soils in the area, particularly their fertility and susceptibility to erosion.
  - (e) Describe the area's water resources, with specific reference to ground water, water quality, aquifers and aquifer recharge areas, and areas subject to flooding.
  - (f) Describe the area's vegetation, including species composition, distribution, commercial utility, and aesthetics. Special reference should be made to unusual or unique species.
  - (g) Describe the nature of existing transportation routes in the immediate area and the accessibility to the project site.
3. Environmental Impact of the Proposed Action
- (a) What will be the effect on land uses in the area?
  - (b) Will the project affect a site listed on the National Register of Historic Places?
  - (c) 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 view lines to landmarks, blockage of view corridors, etc.
  - (d) 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.
  - (e) 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.

- (f) 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.
  - (g) How will fauna be affected? Consider habitat destruction, reduction of population, impact caused by human intrusion, mobility restrictions, food chains, etc.
  - (h) How will transportation routes be affected? Consider congestion, hazards, capacities of affected roads and intersections and traffic to be generated.
  - (i) 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.
  - (j) Describe management practices proposed for the area.
4. 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.
  5. Unavoidable Adverse Effects. If adverse effects have been identified under other sections of the Environmental Impact Study and can not be mitigated, they should be again identified here. Describe who or what will be affected, and to what degree. Quantify wherever possible.
  6. 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 current 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?

7. Any Irreversible and Irretrievable 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.
8. 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.

### **Section 6.5 – Specific Regulations for Conditional Uses and Uses by Special Exception**

#### **A. Adult business**

1. Procedures. A conditional use permit for an adult business use shall be issued by the Borough Council provided that the following specific conditions are met:
  - a. Applications for a conditional use permit for an adult business use shall be submitted to the Borough Manager at least 20 days prior to the next regular meeting of the Borough Council. At that meeting, the Borough Council shall receive the application and all information required by this subsection. The Borough Council shall refer such information to the Dunmore Borough Planning Commission for its review before taking action on the conditional use permit application.
  - b. Upon receipt of an application for an adult business conditional use permit, the Borough Council shall establish the date, time, and place for a public hearing on the application. Notice of the public hearing shall be advertised to the public in accordance with applicable law. The notice shall describe the proposal in general terms. In addition to the public hearing notice, a written notice shall be mailed to the owners of all property within 200 feet of the site proposed for the adult business use. Such public hearing shall be held no later than 60 days following the meeting at which the Borough Council receives such application.
  - c. The Planning Commission shall review the application at its next regular meeting following the receipt of the application from the Borough Council. Within 7 days of such review, the Planning Commission shall submit a written report to the Borough Council on its findings regarding the conformity of the adult business conditional use permit application with the requirements of this and other applicable Chapter sections.
  - d. At the first regular or special meeting of the Borough Council subsequent to the occurrence of the public hearing, the Borough Council shall take action on such application. The Borough Council may approve the conditional use permit subject to specific conditions or changes, or may disapprove the conditional use permit with a specific list of reasons for such disapproval. Written notification of



the action of the Borough Council, with reasons, therefore, shall be mailed to the applicant by the Borough Secretary within 5 days of action by the Borough Council.

- e. All applications for an adult business use conditional use permit shall be accompanied by a land development plan. The minimum information required on the land development plan shall include, in addition to the requirements of the Borough's Subdivision and Land Development Ordinance:
    - i. The adult business use intended.
    - ii. The location and elevations of all buildings.
    - iii. Off-street parking areas and traffic circulation patterns.
    - iv. All signs, displays and advertising, including locations.
2. Other Requirements.
- a. All storage and displays shall be located within the building.
  - b. All business transactions on the premises shall be conducted within the building.
  - c. No exterior changes, excluding maintenance, to a building proposed to be used for an adult business use shall be made without the approval of the Borough Council. In no case shall the opaque covering of display windows be permitted.
  - d. All new construction shall be in keeping with the scale and architectural styles of the buildings surrounding the site proposed for an adult business use.
  - e. Not more than one type of adult business use, as defined herein, may operate on any lot.
  - f. Advertisements, displays or other promotional materials of specified sexual activities or specified anatomical areas shall not be shown or exhibited so as to be visible to the public from the exterior of the building.
  - g. No openings are permitted through walls that separate private viewing booths.
3. Signs and other Visible Messages. In addition to the regulations of the Borough Sign Ordinance and applicable State laws, the following shall apply to all adult business uses:
- a. Sign messages shall be limited to written descriptions of material or services available on the premises.
  - b. Sign messages may not include any graphic or pictorial depiction of material related to specific sexual activities or specified anatomical areas.
4. Locational Requirements.
- a. No adult business use shall be located within 1,000 feet of any other existing adult business use measured from the nearest point of the property on which the use is to be located to the nearest point of the parcel or property from which the use is to be separated.

- b. No adult business use shall be located within 1,000 feet of any lot on which the following uses are located as measured from the nearest point of the property on which the adult business use is to be located to the nearest point of the parcel or property from which said use is to be separated.
    - i. Any stand-alone residential structure (excludes commercial buildings with accessory residential units).
    - ii. Churches, monasteries, chapels, synagogues, convents or rectories or any other place of worship.
    - iii. Schools, up to and including the twelfth grade, daycare centers, and their associated play areas.
    - iv. Public or private playgrounds, parks, swimming pools and libraries.
    - v. Premises licensed to sell alcoholic beverages.
  - c. In addition, no adult business shall be located within 1,000 feet of lots which are owned by a school, place of worship or public agency, as measured from the nearest point of the property on which the adult business use is to be located to the nearest point of the parcel or property from which the use is to be separated.
5. Landscaping. A Buffer Yard shall be required between any adult business use and adjacent land uses. In addition, the Borough's Corridor Overlay district requirements shall apply where applicable.
6. Statement of Ownership. Applications for a conditional use permit for an adult business use shall include a statement providing specific information on each individual, partner, limited partner, corporate officer, corporate stockholder owning more than 3% of the issued and outstanding stock of a corporate applicant, or corporate director comprising the applicant as follows:
- a. Name, residence address and Social Security number.
7. Termination or Modification of Conditional Use Permit.
- a. When a conditional use permit for an adult business use is authorized by the Borough Council, the continuation of such use shall be dependent upon the conditions established under the permit and this Chapter. In the event of a change of conditions or noncompliance with conditions, the Borough Council and the Borough Zoning Administrator shall have the responsibility and right to terminate or revoke the conditional use permit.
  - b. A conditional use permit may be modified subject to the criteria and procedures established in this Ordinance.
- B. Animal hospital or veterinary clinic
1. Such uses and structures shall be located at least one hundred (100) feet from any lot line adjoining a residential use or zoning district and at least fifty (50) feet from any other lot line.
  2. Animal holding areas shall be within an enclosed building.

3. If any adjacent property is or has been developed for any residential dwelling, the kennels/boarding area of said animal hospital/care facility shall be soundproofed to minimize noise impact on adjacent properties.
  4. The facility shall be licensed by the Commonwealth of Pennsylvania, and compliance with all applicable rules and regulations of the Commonwealth of Pennsylvania and local/County Health Department shall be maintained.
  5. At no time shall the animals be permitted to run loose on the lot other than in a completely enclosed area.
  6. Sufficient screening and buffering of parking areas must be provided to protect the neighborhood from detrimental noise, dust and other disturbances.
  7. No disposal of dead animals shall occur on the lot. Cremation shall only be permissible if lawful in accordance with other requirements of the Dunmore Borough Code relating to such instances.
- C. Assisted living facility
1. Minimum of two (2) acres.
  2. Setbacks of fifty (50) feet from all property lines.
- D. Bakery
1. The maximum lot size shall be 20,000 square feet.
  2. The use shall be connected to a public sewer.
- E. Bar or Tavern
1. The maximum lot size shall be 20,000 square feet.
  2. There shall be no selling of liquor on site.
  3. Off-street parking must conform to the parking requirements as set forth in this Ordinance.
  4. There shall be no parking on the frontage of the lot.
  5. Hours of operation are limited to 8 a.m. to 2 a.m.
  6. Outdoor hours of operation are limited to 8 a.m. to 10 p.m. on weekdays and 8 a.m. to 12 a.m. on weekends.
- F. Brew pub
- See bar or tavern
- G. Bulk fuel storage facility
1. The use shall meet the applicable outdoor storage control provisions set forth in this Ordinance.

2. The use shall meet applicable standards for fire safety from the National Fire Protection Association and applicable Federal, State, and local authorities.
  3. An Emergency Response Plan should be submitted annually for approval by the Fire Chief.
- H. BYOB club
1. Such use shall not fall under any category under Adult business.
  2. The hours of operation shall be limited to 8 a.m. to 12 a.m.
- I. Campground or recreational vehicle park
1. A sewage disposal plan shall be submitted along with the conditional use application.
  2. The siting of any areas associated with outdoor recreation and/or entertainment shall be located a minimum of five hundred (500) ft from any residential lot.
- J. Car or truck wash
1. Traffic flow and ingress-egress shall not cause traffic hazards on adjacent streets.
  2. On-lot traffic circulation channels and parking areas shall be clearly marked.
  3. Adequate provisions shall be made for the proper and convenient disposal of refuse.
  4. Water used in the operation shall not flow into streets, sidewalks, separated storm sewers or waterways.
  5. Any car wash that is located within 200 feet of an existing primarily residential, nursing home or hospital building shall not operate between the hours of 9:00 p.m. and 7:00 a.m.
  6. Any chemicals that may be hazardous to aquatic life shall be stored within an area that will completely contain any leaks or spills.
- K. Cemetery
1. The landowner and/or developer shall provide a statement of guaranteed perpetual maintenance before approval is given.
  2. No burial sites shall be within fifty (50) feet of any lot line or one hundred (100) feet of a street right-of-way.
  3. Access drives shall be located to take maximum advantage of sight distances for motorists.
- L. Cluster Residential Development
- Net density shall equal the permissible gross density for the zoning district in which the development exists.

M. Commercial recreation facility, large-scale/intensive

1. Primary or accessory uses that are not enclosed shall be limited to operating from dawn to dusk; exceptions may be made for organized activities that are held in outdoor areas with approved lighting.
2. Impervious coverage limited to 30%.
  - a. Use of impervious material for parking is encouraged. Material must be approved by the Borough Engineer.
  - b. The design of permanent stormwater facilities to allow for recreational activities must be approved by the Borough Engineer.
3. Buffering of any accessory use within the boundary of the site shall not be required; however, landscaping shall be used to delineate the boundaries of the site from adjacent uses in separate ownership and all landscaping required within parking areas shall be provided.
4. All signs, other than directional signage shall be located on site. The use of temporary event signage must be approved by the Zoning Administrator:
  - a. Any requests for on-site signage beyond that which identifies the principal use of the site or any that is approved as part of the land development plan shall be considered for approval at the sole discretion of the Borough Council. Such consideration may include a review of size, location, material, and illumination.
5. Any other conditions that the Board determines are necessary to address the impacts associated with the specific use or the specific site.

N. Community center or library

A traffic study shall be completed to affirm the scale of any necessary improvements for safety or circulation to the adjacent right-of-way.

O. Conservation residential

A buildable area analysis shall be completed to identify land areas with slopes greater than 25%. Said land areas shall have a maximum disturbance of 15%.

P. Country Club

1. The ground surface of off-street parking and loading spaces shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.
2. An additional ten (10) feet of yard setback with landscape buffering a minimum of six (6) feet in height for off-street parking and loading areas shall be provided in accordance of this Chapter to protect the surrounding neighborhood from inappropriate light and other disturbances as defined by this Ordinance.

3. A country club's hours of operation and activities must be appropriately scheduled to protect the surrounding neighborhood from detrimental noise, disturbance, or interruption.
4. The owner(s) and operator(s) of a country club/golf course shall be responsible for the conduct and safety of the members, visitors or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by the members, visitors, and guests.
5. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases, or solids is permitted.
6. The owner(s) and operator(s) of a country club shall incorporate Best Management Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

**Q. Craftsman-artisan manufacturing**

1. Hours of operation shall be limited to 8 a.m. to 10 p.m.
2. Retail of products made on site shall be permitted as accessory use.

**R. Day care center, adult, and child**

1. The use shall comply with any applicable county, state, and federal regulations, including having an appropriate PA. Department of Public Welfare registration certificate or license.
2. Convenient parking spaces within the requirements of this Ordinance shall be provided for persons delivering and waiting for children.
3. In residential districts, where permitted as a principal use, shall have a minimum lot area of 6,000 square feet and a minimum setback of 5 feet from an abutting "residential lot line."
4. Any area routinely used for outdoor play by children under the age of 12 shall be surrounded by a secure fence with a minimum height of 4 feet.
5. Outside play areas in Residential Districts shall be limited to use between 7:30 a.m. and 9:00 p.m. if located within 100 feet of an abutting dwelling.
6. Outdoor play areas of a day care center involving the care of 20 or more children at any one time shall be setback a minimum of 10 feet from windows or doors of an abutting existing occupied dwelling.
7. In residential districts, any permitted day care center shall maintain an exterior appearance that resembles and is compatible with any existing dwellings in the neighborhood.
8. A day care center may occur in a building that also includes permitted or non-conforming dwelling units.

S. Distribution center

7. The ground surface of off-street parking and loading spaces shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.
8. An additional ten (10) feet of yard setback with landscape buffering a minimum of six (6) feet in height for off-street parking and loading areas shall be provided in accordance of this Ordinance to protect the surrounding neighborhood from in appropriate light and other disturbances.
9. Any outdoor storage conducted on the lot shall comply with the regulations for outdoor storage as defined in this Ordinance.
10. A distribution center, cargo facility, warehousing area or freight terminal shall have one (1) point of ingress and egress to an arterial or collector street. The point of ingress and egress shall be located in a manner that minimizes detrimental traffic impacts (both pedestrian and vehicular).
11. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases, or solids is permitted.
12. The owner(s) and operator(s) of such facilities shall be responsible for the conduct and safety of employees or visitors and shall be available to respond to inquiries and promptly quell any disturbances caused by employees and visitors.
13. The height of proposed buildings and structures that are for non-aviation uses shall be subject to the requirements of the Lackawanna County Airport Zoning Regulations and approval by the Federal Aviation Administration (FAA).

T. Dwelling: apartment building

1. Parking spaces shall be located no more than three hundred (300) feet from the apartment's primary entrance.
2. All parking spaces and driveways shall be surfaced with bituminous, brick, concrete or stone block paving material.
3. The means of a building's ingress and egress shall meet requirements as outlined in the Pennsylvania Uniform Construction Code.
4. A twelve (12) foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.
5. The structure shall be limited to five (5) stories or a maximum of fifty-five (55) feet in height.
6. All dumpsters and/or waste collection areas shall be located at least fifty (50) feet from nearest residential unit. Dumpsters shall be located in the rear setback yard and shall be screened with an earth berm, landscaped buffer yard, fence or wall with a minimum height of eight (8) feet and a minimum opacity of eighty (80) percent.

7. Maximum height of lighting for outdoor parking areas and roadways shall be twenty-five (25) feet.
  8. As part of all land development, the landowner and /or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of one (1) foot candle.
  9. Buffer yards between an apartment development and any other adjacent residential lot shall be increased by ten (10) feet in addition to the required buffer yard width. Landscaping, within this additional width, shall be provided according to spacing, quantity and type of plants specified by the applicable Borough.
  10. Slopes shall be graded at a maximum of a three (3) foot horizontal to one (1) foot vertical (3:1) ratio.
  11. Said development shall be permitted on a corner lot unless adjacent to a residential district.
  12. A traffic study may be required, at the expense of the Applicant, if deemed necessary by Council.
  13. If the parking area for a development is adjacent to a single-family residential lot and demands greater than ten (10) automobiles, the following shall apply:
    - a. An additional ten (10) foot buffer yard with one (1) of the following shall be provided along the parking lot's perimeter to minimize the impact of inappropriate noise, dust, light and other disturbances on adjacent residential lots.
    - b. One and one-half (1½) times the required number of plants for screening and buffering off-street parking and loading areas; or
    - c. A mound, a minimum of three and one-half (3½) feet in height at its peak, shall be constructed whereas the sides do not exceed a four (4) foot horizontal to one (1) foot vertical (4:1) change in elevation. The mound shall be landscaped in its entirety with plants that provide four (4) seasons of interest but shall not include turf grass. The landowner and/or developer shall coordinate site drainage so that site development and grading do not create any adverse effects on adjacent lots.
- U. Dwelling: townhouse
1. Density shall not exceed eight (8) dwelling units per acre, with no more than six (6) dwelling units being permitted in a single building.
  2. Driveway access shall be provided to a rear alley, unless the property to be developed contains no alley frontage.
- V. Dwelling: conversion apartment
1. All parking spaces provided on the lot shall be paved in asphalt, concrete or decorative paving block and shall meet the parking requirements provided in the Ordinance.



2. Each dwelling unit shall have a minimum floor area of 600 square feet of habitable floor area, with all areas used to meet such required floor area complying with the following conditions:
  - a. All such floor area shall have a floor-to-ceiling height clearance of at least 6 feet 8 Inches that not unobstructed by pipes, ducts, joists or other Intrusions,
  - b. All such floor area shall be heated and completely enclosed,
  - c. A minimum of 50% of the floor surface of such required floor area shall be located above the average surrounding ground level.
3. Each dwelling unit shall have at least 1 window that opens to the outside.
4. The use shall comply with the Pennsylvania Sewage Facilities Act, as amended, and State and local fire safety regulations.
5. A total maximum over the lifetime of the property of no more than 2 dwelling units may be added to any existing single family detached dwelling, single family semi-detached dwelling, two family detached dwelling or townhouse beyond the number of dwelling units that existed in such building at the time of adoption of this Ordinance.
6. The following regulations shall apply to the conversion of an existing single-family detached dwelling into a greater number of dwelling units:
  - a. The building shall maintain the appearance of a single-family detached dwelling with a single front entrance. Additional entrances may be placed on the side or rear of the structure. The dwelling units may internally share the single front entrance.
  - b. The conversion shall not be permitted If it would require the placement of an exterior stairway on the front of the building or would require the placement of more than 3 off-street parking spaces in the required front yard abutting an arterial street.
7. Separate cooking and sanitary facilities shall be provided for each dwelling unit.
8. Off-street parking lots with 4 or more spaces shall be buffered from abutting dwellings by evergreen screening meeting the requirements of this Ordinance.
9. A site plan shall be submitted to the Zoning Officer.

W. Dwelling: garden apartments

All parking spaces provided on the lot shall be paved in asphalt, concrete or decorative paving block and shall meet the parking requirements provided in the Ordinance.

X. Essential services

1. Such a 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.
2. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.

3. Adequate fences, barriers and other safety devices shall be provided, and shall be landscaped in accordance with this Ordinance.
4. Noise emitted from the electric substations shall be in accordance with this Ordinance.

Y. Galleries

Auctions are not permitted.

Z. Golf course

1. All applications for a conditional use permit shall be accompanied by a land development plan prepared in conformance with this Ordinance.
2. All lighting must conform to the standards of this Ordinance.
3. All buildings shall be set back 75 feet from any adjoining roads and 100 feet from adjoining residential structures or parcels.
4. In no case shall the golf course design permit or encourage a golf ball to be driven across any building, building lot, parking lot, street, or driveway.
5. Golf courses may include the following uses provided such uses are reasonably sized and located so as to provide incidental service to the golf course users and employees:
  - a. Clubhouse, which may include:
    - i. Restaurant, snack bar, or lounge.
    - ii. Locker and rest rooms; classrooms; and instructional space.
    - iii. Pro shop.
    - iv. Administrative offices.
    - v. Golf cart and maintenance equipment storage and service facilities.
    - vi. Fitness and health equipment, including workout machines, whirlpools, saunas, and steam rooms.
  - b. Freestanding maintenance equipment and supply buildings, storage yards, locker rooms and/or team meeting facilities.
  - c. Accessory amenities located outside of the clubhouse including:
    - i. Driving range.
    - ii. Practice putting green.
    - iii. Picnic tables, pavilions, and park benches.
    - iv. Snack shacks.

AA. Golf driving range

1. Par 3 courses and miniature golf courses shall also be permitted as an accessory to this use.
2. Minimum lot area shall be twenty-five (25) acres.
3. The number of off-street parking and loading spaces shall be provided in accordance of this Ordinance.
4. The ground surface of off-street parking and loading spaces shall be paved with bituminous, brick, concrete or stone block paving material to protect the surrounding neighborhood from inappropriate dust and other disturbances.
5. A driving range's hours of operation and activities must be appropriately scheduled to protect the surrounding neighborhood from detrimental noise, disturbance, or interruption.
6. The owner(s) and operator(s) of a driving range shall be responsible for the conduct and safety of the members, visitors or guests and shall be available to respond to inquiries and promptly quell any disturbances caused by the members, visitors, and guests.
7. No storage or transfer of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases, or solids is permitted.
8. Light fixtures for the night illumination of putting greens, driving range. areas and parking areas shall be designed to minimize illumination levels to zero (0) footcandles when measured from an adjacent lot line.
9. The owner(s) and operator(s) of a driving range shall incorporate Best Managements Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion**Error! Bookmark not defined.**, siltation and surface water and groundwater contamination.

BB. Hotel

1. The location, orientation and lot circulation shall be such as to minimize the disturbance to surrounding uses.
2. All off-street parking areas located adjacent to existing residences shall reduce exterior lights to half power after 9:00 P.M. and shall be screened as per this Ordinance.
3. A traffic impact study shall be required to be submitted, where the proposed development according to the Institute of Transportation Engineers (ITE) standards will generate one hundred (100) trips in addition to the adjacent roadway's peak hour volumes.
4. Drop-off/temporary parking areas shall remain free and clear of obstructions for general safety and fire department access.

5. A twelve (12) foot wide fire/emergency access route shall be provided around the perimeter of each building. Topography or other characteristics of the site or the development that might affect the use of emergency equipment between buildings may dictate a greater separation of structures.
6. Service of meals and/or beverages (alcoholic/non-alcoholic) must be secondary to the principal use of room or suite rental.
7. Secondary eating establishments serving alcoholic beverages or secondary bars or nightclubs must be licensed by the Pennsylvania Liquor Control Board.
8. The owner(s)/operator(s) of a hotel/motel shall be responsible for the conduct and safety of the renters and guests and shall be available to respond to inquiries and promptly quell any disturbances caused by renters or guests.

CC. Industrial Park

A traffic impact study shall be submitted along with the conditional use application.

DD. Kennel

1. Shall have a minimum lot size of five (5) acres.
2. Minimum of five (5) off-street parking spaces plus one for each employee.
3. All areas used for exercise shall be securely fenced.
4. All animals shall be within a completely enclosed building which shall be a minimum of one hundred and fifty (150) feet from any property line.
5. Animals shall be permitted to exercise daily between the hours of 8 A.M. - 8 P.M. All outdoor exercise areas shall be two hundred (200) feet from any property line.
6. Satisfactory evidence must be presented to indicate that adequate storage and disposal of animal waste will be provided in a manner that will not create a public health hazard or nuisance.
7. Evidence of adequate water supply and wastewater disposal must be provided by the applicant.

EE. Landfill

Unless otherwise regulated by the Commonwealth of Pennsylvania, the Department of Environmental Protection, and/or any other applicable entities, the following conditions apply:

1. Content
  - a. Solid Waste Material Permitted at Facilities. No facility in Dunmore Borough shall accept materials inconsistent with the Solid Waste Management Act, as amended, and/or the PA Department of Environmental Protection.
2. Environmental Assessment. All proposed solid waste disposal facilities shall prepare and submit to the Borough an Environmental Assessment pursuant to Section 6.4

- hereof and shall fully comply with the regulations of the Pennsylvania Department of Environmental Protection.
3. 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.
  4. 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. 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 the following provisions.
  - b. All municipal solid waste is brought to the site shall be removed from the site by the end of business on the date that it is brought to that site, notwithstanding and 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. Hazardous waste, infectious waste, and/or residual waste as classified by DEP 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.
6. Staging Areas
  - a. 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.
  - b. Staging areas shall be screened from public view in accordance with this Ordinance.
7. 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 purpose 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 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 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 a 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 landowners.
  - c. Security guards shall be placed at the site for the purposes of control against illegal dumping.
8. 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.
9. 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.

10. 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 storage, washing or other processes 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 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 6.5.EE.10 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 permittee related to the permit.

11. Height

The height of any landfill shall not exceed a peak elevation of 1,586 feet above sea level.

FF. Laundromat/dry cleaners

1. A wastewater plan must be submitted.
2. The structure shall have access to public water and sewer.

GG. Manufacturing, heavy

1. All materials and equipment shall be stored within a completely enclosed building.
2. The use shall comply with all performance standards specified in this Ordinance.
3. The storage or manufacture of hazardous or potentially hazardous materials shall not be permitted.
  - a. Any outdoor storage conducted on the lot shall comply with Borough standards.
4. Hours of operation and activities must be appropriately scheduled to protect the operation of the surrounding neighborhood from detrimental noise, dust, odor, vibration, light or other disturbance or interruption.
5. An inventory of toxic, corrosive, flammable, carcinogenic or explosive materials, chemicals, liquids, gases or solids stored and/or used on site shall be available upon request.

HH. Mineral extraction and quarrying

1. Permits.
  - a. Use of land for surface mining shall be permitted as a Conditional Use, provided the Borough Council determines in each instance that the proposed location will offer reasonable protection to the neighborhood in which the mining operation will occur against possible detrimental effects of the surface mining operations, taking into consideration the physical relationship of the proposed mining site to surrounding properties and permitted land uses, access to the site from public roads, streets and other public rights-of-way that must be traveled in removing minerals from the site and the effect of the mining operations on the public water supply. In granting a use permit under this provision, the Borough Council may impose such conditions upon the location of the mining operation as are shown to be necessary and appropriate to protect the public health, safety, and welfare. No permit granted under this provision shall be valid unless the mine operator also has secured a valid permit to conduct surface mining operations from the



appropriate State or Federal agency having regulatory authority over the conduct of surface mining operations.

- b. The Borough Council shall forward one copy of all applications for a Conditional Use for surface mining to the Dunmore Borough Planning Commission immediately upon receipt for review and comment by that agency on all aspects of the application as they relate to the purposes and requirements of this Chapter. The Dunmore Borough Planning Commission shall prepare a report on the application within 30 days of the receipt of the application, which report shall be presented to the Borough Council by an authorized representative of the Dunmore Borough Planning Commission during the public hearing held on the application for a Conditional Use. Copies of the report shall be made available to any party to the proceeding before the Board at a reasonable cost for duplication or reproduction.

2. Application.

- a. Application for a special exception permit from the Zoning Hearing Board shall include a duplicate copy of the application the company made to Pennsylvania Department of Environmental Protection in accordance with the Surface Mining Conservation and Reclamation Act of 1971.

3. Limitations.

- a. No surface mining shall be conducted closer than 100 feet of any public right-of-way or within 300 feet of any property line.
- b. Edges of stockpiles of excavated materials shall not be located closer than 300 feet to the property line, and all reasonable precaution shall be taken to prevent any material or waste deposited upon any stockpile from being transferred off the premises by wind, water or other natural cause.
- c. Fencing. A 6 foot fence that completely encloses the portion of the property that includes the open pit area, high wall, water pool or spoilbank and culm bank (as those terms are defined in the Surface Mining Conservation and Reclamation Act) shall be provided and shall be constructed as to have openings no larger than 6 inches and if pickets are used, the openings shall not exceed 6 inches.

II. Mixed Use Building

1. Residential units shall not exceed 67% of the total floor area of a mixed-use building.
2. Notwithstanding any permitted density increases as part of a Master Plan, the maximum density of residential units shall not exceed the permitted density per acre of the zoning district in which the building will be located.
3. Mixed-use buildings shall only be permitted as part of a Master Plan.

JJ. Nightclub

1. Nightclubs shall cease operations between the hours of 2:00 a.m. and 5:00 p.m.
2. There shall be no noise or vibration discernible along any property line greater than

- the average noise level occurring on adjacent streets and properties.
3. All operations shall be conducted within a completely enclosed building, and doors and windows shall remain closed during hours when entertainment is presented.
  4. The owner/operator of the nightclub shall provide private security, licensed under the laws of the Commonwealth of Pennsylvania, if the maximum permitted occupancy allowed by the Borough building or Fire Codes for the nightclub exceeds 100 persons.
  5. Any nightclub that proposes a maximum permitted occupancy allowed by the building or Fire Codes of 200 or more persons shall be located at least 500 feet from any property line that adjoins a residential zoning classification.
  6. Any nightclub that offers adult entertainment, as defined herein, shall be further subject to the conditions pertaining to Adult Business.

**KK. Nursing home**

1. The institution shall be accredited by the Commonwealth.
2. The institution shall be the sole occupant of the lot.
3. Access drives shall be located to take maximum advantage of sight distances for motorists and shall be as remote as possible from street intersections.
4. Parking areas shall be screened from view of neighboring houses or those directly across the street from the lot.
5. Buildings shall be set back from one another, and residential occupancy shall be in conformance with this Ordinance.

**LL. Office, business or professional**

1. A Delivery Zone Plan acceptable to the Borough Engineer shall be submitted to demonstrate adequate delivery and associated circulation areas do not conflict with existing Borough development and circulation patterns.

**MM. Office, medical or dental**

1. Facilities and equipment to support overnight boarding shall not be permitted.
2. Access for emergency response shall be clearly distinguished and provided so that no parking or circulation of visitor or employee traffic blocks such access.

**NN. Outdoor Storage of Goods**

11. Any article or material authorized to be stored outside an enclosed structure shall be buffered by six- (6) foot-high opaque fencing, planting, earthen mounds or existing topography to ensure that it cannot be seen from adjoining public streets or adjacent residential uses or residentially zoned properties and to ensure no adverse effect on adjacent property.
12. Outdoor storage shall not be permitted in the required front yard.
13. Toxic or volatile chemicals shall not be stored outside an enclosed structure.

14. All organic rubbish or waste materials shall be stored in airtight vermin-proof containers.
15. No movable vehicle such as a truck or trailer shall be used for outside storage.
16. Outdoor storage shall not include operable and/or inoperable vehicles including, but not limited to, automobiles, buses, motorcycles, and similar machines.
17. Outdoor storage shall not be visible from the primary entrance of any commercial use.
18. Access driveways to outdoor storage shall be paved with a minimum of two (2) inches of slag or stone.
19. The outside storage facility shall not reduce the area required for off-street parking or loading for the principal use, nor shall its location interfere with the free flow of traffic on the site or the use of any off-street parking or loading area.
20. The owner(s) and operator(s) of an outdoor storage facility shall incorporate Best Management Practices as outlined in the Pennsylvania Handbook of Best Management Practices for Developing Areas to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

OO. Personal Service Establishment

1. There shall not be any outdoor storage.

PP. Place of worship/assembly

1. Primary or accessory uses that are not enclosed shall be limited to operating from dawn to dusk; exceptions may be made for organized activities that are held in outdoor areas with approved lighting.
2. Impervious coverage limited to thirty percent (30%).
  - a. Use of impervious material for parking is encouraged. Material must be approved by the Borough Engineer.
  - b. The design of permanent stormwater facilities to allow for recreational activities must be approved by the Borough Engineer.
3. Buffering of any accessory use within the boundary of the site shall not be required; however, landscaping shall be used to delineate the boundaries of the site from adjacent uses in separate ownership and all landscaping required within parking areas shall be provided.
4. All signs, other than directional signage shall be located on site. The use of temporary event signage must be approved by the Zoning Administrator:
  - a. Any requests for on-site signage beyond that which identifies the principal use of the site or any that is approved as part of the land development plan shall be considered for approval at the sole discretion of the Borough Council. Such consideration may include a review of size, location, material, and illumination.

5. Any other conditions that the Board determines are necessary to address the impacts associated with the specific use or the specific site.
6. To align with the impacts of natural resource demands, any structure shall be limited to an occupancy of two hundred fifty (250) occupants.

QQ. Planned residential development (PRD)

The purpose of this section shall be to permit the planned residential development 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.

A. Spacing and Orientation of Residential Developments

- 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. When a development is designed to be served by an interior pedestrian or vehicular circulation system, buildings may face the interior roadways; however, where such an orientation results in the rear or 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 this Ordinance.

B. Vehicle and Pedestrian Circulation

- 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.

C. Paving and Drainage

The developer shall install throughout any proposed PRD, hard-surfaced streets, which shall include curbs, or gutters, catch basins and storm sewers.

D. Development Standards

- a. Minimum Lot Area Per Dwelling Unit

- i. 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.
- ii. 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 this Ordinance.

c. Minimum Lot Frontage

The minimum lot frontage requirement shall be as follows:

- i. 1-family and 2-family dwellings, detached: 80 feet
- ii. 1-family and 2-family dwellings, semi-detached: 50 feet for each side
- iii. 1-family dwellings, attached (townhouses): 20 feet per dwelling unit plus an additional 25 feet at each end of all rows
- iv. 1-family cluster development: None
- v. 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 townhouses 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 for the District where located. There shall be no side yard requirements for all other residential structures, except as follows:

- i. Side Yards adjoining public rights-of-way or other thoroughfares shall be not less than 25 feet.
- ii. All other distances between buildings shall be as set forth under this Ordinance.

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 right-of-way).

h. Supporting Commercial Facilities

Local retail and service commercial facilities, including those uses designed as principal permitted uses in a CNMU Commercial Neighborhood Mixed Use District may be permitted in a Planned Residential Development provided that such commercial development including required off-street parking, off-street loading and landscape shall not exceed 10 percent of the net land area of the Planned Residential Development; provided that such uses shall not include automobile service stations, bars, cocktails lounges, and similar uses; and, provided further, that 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 Planned Residential Development of which they are a part.

i. Esthetic Considerations

Due to the potential impact of a Planned Residential 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.

RR. Radio/television studio

If indoor and/or outdoor space is allocated for performances and/or rental, a parking plan and a noise abatement shall be submitted for Borough review and assessment as part of

the application. Recommendations associated with the assessment shall be incorporated into the lot so as to protect the health, safety and welfare of Borough residents and visitors.

SS. Recreation facility, public and private

1. All pools, tennis courts, or other comparable facilities shall be considered structures for the purpose of this Ordinance.
2. Coverage, including structures, parking lots, and buildings, shall not exceed fifty (50) percent of the lot.
3. The facility area and lot boundaries shall be landscaped as required by the Borough to minimize noise projection and make the grounds aesthetically compatible to the surrounding properties.
4. All structures shall not be less than one hundred (100) feet from any lot line, and no less than two hundred (200) feet from the nearest house.
5. All facilities shall have a paved parking area in accordance with this Chapter; and it shall not be closer than twenty-five (25) feet to any residential lot line.
6. All facilities shall abut a public road and have a permanent access thereto.
7. Alcoholic beverages without a Pennsylvania Liquor Control Board license, amplified music, and juke boxes shall be prohibited on the premises.
8. No direct or sky-reflected glare, whether from floodlights or any other kind of light, shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.
9. All pools shall be surrounded by a fence at least six (6) feet in height, the entrance to which shall be kept locked when attendant is not present; and shall be constructed in accordance with all applicable state requirements.
10. Tennis courts shall be protected by a permanent fence ten (10) feet in height behind each base line extending ten (10) feet beyond the playing area in each direction.
11. The landowner and/or developer shall demonstrate the proposal will be compatible with the neighborhood and not adversely affect adjoining lot.
12. The amount of new traffic generated shall not have a detrimental impact on the neighborhood.
13. Plans shall clearly show ingress-egress facilities and provide proper sight visibility for motorists.
14. Hours of operation shall be scheduled to minimize negative impacts on surrounding residential neighborhoods. The Borough may limit hours within this time frame based on the use and location of the facility. Operating hours for the purpose of this section shall mean the period of time that the recreational or athletic activity is occurring.

TT. Recycling, small, and large scale

1. The use shall be conducted within a completely enclosed building.
2. Recycling storage containers shall be completely enclosed.
3. Vehicular access shall not be from the primary commercial frontage if access from the rear or side is possible.
4. Vehicular drop-off areas shall be located a minimum of sixty (60) feet from any intersection or driveway and shall not conflict with residential parking.
5. Council shall determine that such use will not create detrimental impacts on the surrounding properties, taking into consideration probable traffic generation, truck routes, hours of operation, and noise generation.

UU. Research and development facility

1. An inventory of toxic, corrosive, flammable, carcinogenic or explosive materials, chemical, liquids, gases or solids stored and/or used on site shall be available upon request.
2. All storage of materials shall be within a completely enclosed building.

VV. Restaurant, drive through/drive-in

1. No drive-thru window or the like shall be located in a front yard.
2. The drive-thru shall have direct access to a public right-of-way.
3. A minimum of three (3) stacking spaces shall be provided for each drive-thru lane.
4. Stacking shall not interfere with the normal traffic flow within the lot nor shall it cause the stopping of vehicles on any public right-of way.

WW. School, private

1. All outdoor play areas shall be completely enclosed by a fence or wall with a minimum height of 4 feet and screened by an evergreen planting which shall reach a height of at least 6 feet within 5 years of planting.
2. The required side yard and rear yard setbacks for a school shall be doubled for any portion of the school that is used for public assembly, whether indoor or outdoor. A school shall be considered as being used for public assembly if it possesses bleachers, permanent seating for viewing events or a cafeteria.
3. There shall be no outside storage materials, equipment or machinery used in the training activities.
4. Vehicular access to a school building shall be via either an arterial or collector street. Vehicular access to a school building via a local street shall be prohibited, except



and only to the extent necessary to provide access for individuals with disabilities or secondary emergency access.

5. A Traffic Study shall be submitted with the application. The traffic study shall address and mitigate any adverse impact occasioned by:
  - a. Proposed changes in parking and traffic circulation on the site and into and out of the site; and
  - b. Proposed trip generation, parking and traffic circulation compared with those features of the school when it was operational; and
  - c. Comparative impact on the adjacent streets and surrounding development or the proposed use and the former school use.
6. Any exterior lighting proposed for a building or parking area in a Zoning district shall be of low intensity and shall be shielded so that the source of the lighting is not visible. The maximum intensity measured on the ground or surface of the parking area shall be two (2) footcandles. Flood lighting or similar lighting shall not be permitted.

XX. Shopping center or mall

1. The use shall front on an arterial street.
2. Additional area and bulk regulations shall be as follows:
  - a. Lot area: five acres minimum.
  - b. Side yard setback: 100 feet minimum from the lot line of an existing residential use.
3. The site shall utilize interior access drives to the greatest extent possible to minimize the number of driveways entering onto an arterial street. The applicant shall prove that all proposed driveways are placed in the most logical and reasonable locations, considering impacts upon abutting streets and on nearby residential uses. The Borough Council may require that no new traffic access that would involve left-hand turns onto and off an arterial street shall be permitted if reasonable access could be provided using another street deemed adequate by Borough Council, except at an intersection where a traffic signal exists or will be provided as part of the shopping center or mall use.
4. Where a drive-through facility is proposed for any permitted use within the shopping center, a stacking lane shall be provided to serve a minimum of 10 cars. The stacking lane shall connect to internal access drives and parking lots and shall not have direct access from the street. The stacking lane shall not be used as a parking lot circulation aisle nor shall it in any way conflict with the circulation of traffic through the parking lot.
5. Pedestrian walkways shall be provided between the existing sidewalk and the front of the shopping center.

6. Accessible pedestrian walkways shall be provided linking buildings in a shopping center.
7. No loading areas or dumpsters shall be provided within the required front yard area. Trash dumpsters shall be well screened from view of streets or dwellings by appropriate evergreen planting, fencing or walls.

YY. Small scale grocery

1. There must be one (1) parking spot for each full-time equivalent employee.
2. There must be one (1) additional parking space for every 300 sf of gross floor area.
3. Parking areas must be illuminated.
4. The landowner and/or developer shall provide a plan for photometrics of the lot. Illumination, when measured at a lot line, shall be a maximum of zero (0) footcandles. Outdoor lights shall not exceed 18 feet in height.
5. There shall be no deliveries between the hours of 6 a.m. and 10 p.m.
6. Active seasonal displays are permitted so as long as they are not located on any parking space designated to meet the minimum parking requirements. No other outdoor storage shall be permitted on the lot.

ZZ. Small scale retail

The hours of operation shall be limited to 8 a.m. to 10 p.m.

AAA. Solar energy farm

1. Principal Solar Energy Systems (PSES) constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Section. Any physical modification to any existing PSES, whether or not existing prior to the effective date of this Section that expands the PSES shall require approval under this Ordinance. Routine maintenance or replacements do not require a permit.
2. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory(ETL) or other similar certifying organizations, and shall comply with Borough's Building Code, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
3. All on-site utility transmission lines and plumbing shall be placed underground to the greatest extent feasible.
4. The owner of a PSES shall provide the Borough written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. The owner shall provide a copy of the final inspection report or other final approval

- from the utility company to the Borough prior to the issuance of a certificate of use and occupancy for the PSES.
5. If a PSES is being used as an accessory use for commercial/industrial activity on another property, then the municipality shall be informed of the intent of the PSES.
  6. Signage shall comply with the prevailing sign regulations.
  7. All PSES shall be situated to eliminate concentrated glare onto nearby structures or roadways.
  8. All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
  9. Minimum Lot Size.
    - a. The PSES shall meet the lot size requirements of the applicable zoning district.
  10. Setbacks.
    - a. The PSES shall comply with the setbacks of the applicable zoning districts.
    - b. If located adjacent to a residential district, the PSES shall have an increased setback of 100 linear feet.
    - c. PSES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.
  11. Height.
    - a. Ground mounted PSES shall comply with the building height restrictions of the applicable zoning district.
  12. Impervious Coverage.
    - a. The following components of a PSES shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the underlying zoning district:
      - i. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
      - ii. All mechanical equipment of PSES including any structure for batteries or storage cells.
      - iii. Gravel of paved access roads servicing the PSES.
  13. Stormwater.
    - a. The Applicant shall submit a storm water management plan that demonstrates stormwater from the PSES will infiltrate into the ground beneath the PSES at a rate equal to that of the infiltration rate prior to the placement of the system.

- b. PSES owners are encouraged to use low maintenance and/or low growing vegetative surfaces under the system as a best management practice for stormwater management.
14. Screening.
- a. Ground mounted PSES shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen. In lieu of a planting screen, a fence that provides visual screening and meets requirements of the controlling ordinance may be used.
15. Security.
- a. All ground mounted PSES shall be completely enclosed by fencing that consists of a minimum eight (8) foot high fence with a locking gate, or as designated by the municipality.
  - b. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.
16. Access Drives.
- a. Access drives are required to allow for maintenance and emergency management vehicles and shall have a cartway with a minimum width of 12'.
17. Removal.
- a. If a ground mounted PSES is removed, any earth disturbance as a result of the removal of the ground mounted solar energy system must be graded and re-seeded.

**BBB. Spa**

- 1. Hours of operation shall be limited to 8 a.m. to 10 p.m.
- 2. Off-street parking shall not be located along the frontage of the lot.
- 3. Buffering of parking and loading areas adjacent to residential lots shall be provided in accordance with this Ordinance.

**CCC. Studio or school for special training**

- 1. The hours of operation shall be limited to 8 a.m. to 10 p.m.
- 2. A drop-off area shall be provided to ensure ongoing street traffic movement throughout remainder of lot.

**DDD. Tasting rooms**

- 1. Hours of operation are limited to 8 a.m. to 10 p.m.
- 2. The parking requirements set forth in this Ordinance shall be met.

3. The maximum square footage associated with customer space shall not exceed five thousand (5,000) square feet.

EEE. Theater

1. The landowner and/or developer shall demonstrate that the primary visitor drop-off and pick-up area is located in a manner that does not cause undue traffic impacts (both pedestrian and vehicular) on the surrounding neighborhood.
2. Any additional standards that are needed to protect public health, safety, and welfare or to address unique characteristics of a particular lot defined by the Borough shall be complied with by the lot owner and/or developer.

FFF. Truck Stop

1. The minimum site area shall be ten (10) acres.
2. The site shall have frontage on and direct vehicular access to an arterial or collector street, as defined by this chapter. Access to a local street, as defined by this chapter, shall not be permitted.
3. No point on the site boundary shall be located within three hundred (300) feet of any point on a site boundary of a property containing a residential dwelling.
4. Ingress, egress, and internal traffic circulation shall be designed to ensure safety and minimize congestion.
5. Site lighting shall be designed with cutoff luminaries that have a maximum cutoff angle of sixty (60°) degrees. The maximum illumination at any property line shall be 0.2 footcandle.
6. All property lines adjoining, abutting or adjacent to a residential use or zoning classification shall be screened by opaque evergreen vegetation.
7. All materials and equipment shall be stored within a completely enclosed building.
8. No repair of vehicles shall be permitted outside a completely enclosed building.

GGG. Reserved.

HHH. Wind farm

1. The required setback from a residential structure shall equal twice the height of the Wind Energy Conversion System.
2. The required setback from a road shall equal the height of the system plus (fifty) 50 feet.

III. Wireless communications tower

Unless county, State, or Federal law, orders, court rulings, or legal precedent supersede the following provisions, wireless communications facilities shall be permitted as a special exception in districts identified in this Ordinance subject to the criteria stated below.

1. The purpose of this Section is to establish uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in Dunmore Borough. While the Borough recognizes the importance of wireless communications facilities (WCFs) in providing high-quality communications service to its residents and businesses, the Borough also recognizes that it has an obligation to protect public safety and to minimize the adverse visual effects of such facilities through the standards set forth in the following provisions.
2. By enacting this Section, the Borough intends to:
  - a. Promote the health, safety and welfare of Borough residents and businesses with respect to wireless communications facilities;
  - b. Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both Borough residents and wireless carriers in accordance with federal and state laws and regulations;
  - c. Establish procedures for the design, siting, construction, installation, maintenance and removal of both tower-based and non-tower-based wireless communications facilities in the Borough, including facilities both inside and outside the public rights-of-way;
  - d. Address new wireless technologies, including but not limited to, distributed antenna systems, small-cell antennas, data collection units, cable Wi-Fi, and other wireless communications facilities;
  - e. Encourage the collocation of wireless communications facilities on existing structures rather than the construction of new tower-based structures;
  - f. Protect Borough residents from potential adverse impacts of wireless communications facilities and preserve, to the extent permitted under law, the visual character of established communities and the natural beauty of the landscape; and
  - g. Update the Borough's wireless facilities regulations to incorporate changes in federal and state laws and regulations.
3. Regulations for All Tower-Based Wireless Communications Facilities
  - a. Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property.
  - b. Any tower-based WCF structure shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry

Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).

- c. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of one hundred fifty feet (150'), which height shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Borough justifying the total height of the structure.
- d. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- e. Maintenance Requirements for Tower-Based WCFs.
  - i. Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - ii. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
  - iii. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- f. No tower-based WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as amended.
- g. No tower-based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or is identified as a historic site by the Borough.
- h. No tower-based WCF shall be located in the public right-of-way unless otherwise permitted by county, State, or Federal law.
- i. All tower-based WCFs shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Borough.
- j. Tower-based WCFs shall not be artificially lit, except as required by law and as may be approved by the Borough. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.
- k. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.
- l. Tower-based WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under State law, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

- m. Tower-based WCFs shall comply with all Federal and State laws and regulations concerning aviation safety.
  - n. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Section. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
  - o. Within thirty (30) calendar days of the date that an application for a tower-based WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. All applications for new tower-based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such tower-based WCF, and the Borough shall advise the applicant in writing of its decision. If additional information is requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the one-hundred-fifty (150) day review period.
  - p. Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Section.
  - q. Unused or Abandoned Tower-Based WCFs.
    - i. In the event that use of a tower-based WCF or a portion thereof is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued.
    - ii. All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Borough.
    - iii. If the WCF and/or accessory facility is not removed within six (6) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
    - iv. Any unused portions of tower-based WCFs, including antennas, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a tower-based WCF previously removed.
  - r. The Borough may assess the applicant and/or owner of the WCF appropriate and reasonable permit fees consistent with limits set by the Federal Communications Commission and directly related to the Borough's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs.
4. Regulations for Tower-Based WCFs Outside the Rights-of-Way



- a. No tower-based WCF shall be located within five hundred feet (500') of a lot in residential use or a residential district boundary.
- b. An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Borough's decision on an application for approval of tower-based WCFs.
- c. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the requirements for the applicable zoning district.
- d. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use subject to the following conditions:
  - i. The existing use on the property may be any permitted use in the applicable district other than a residential use and need not be affiliated with the communications facility.
  - ii. The minimum lot size shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence and buffer planting.
  - iii. The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within five hundred feet (500') of a lot in residential use or a residential district boundary.
- e. Upon receipt of an application for a tower-based WCF, the Borough shall mail notice thereof to the owner or owners of every property within five hundred feet (500') of the parcel or property of the proposed facility.
- f. An application for a new tower-based WCF shall not be approved unless the Borough finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a two (2) mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Borough that a different distance is more reasonable, and shall demonstrate conclusively the reasons why an existing tower or other suitable structure cannot be utilized.
- g. Design Guidelines for Tower-Based WCFs Outside the Rights-of-Way.
  - i. The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.

- ii. Any height extensions to an existing tower-based WCF shall require prior approval of the Borough. The Borough reserves the right to deny such requests based upon any lawful considerations related to the character of the Borough.
- iii. Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennas for future users.
- iv. A security fence having a maximum height of six feet (6') shall completely surround any tower-based WCF, guy wires, or any building housing WCF equipment.
- v. An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
- vi. The WCF applicant shall submit a landscape plan to the Borough for review and approval for all proposed screening.
- h. The WCF applicant shall submit a soil report to the Borough to document and verify the design specifications of the foundation of the tower-based WCF and anchors for guy wires, if used.
- i. Accessory Equipment for Tower-Based WCFs Outside the Rights-of-Way.
  - i. Ground-mounted equipment associated with or connected to a tower-based WCF shall be underground. In the event an applicant can demonstrate the equipment cannot be located underground to the satisfaction of the Borough Engineer, then the ground-mounted equipment shall be screened from public view using stealth technologies, as described above.
  - ii. All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
- j. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to collocate antennas on tower-based WCFs where technically and economically feasible and that the WCF applicant shall not unreasonably withhold such permission. The owner of a tower-based WCF shall not install any additional antennas without obtaining the prior written approval of the Borough.
- k. An access road, turn-around space and parking shall be provided to ensure adequate emergency and service access to a tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Borough that the property owner has granted an easement for the proposed facility.
- l. Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do

business in Pennsylvania and maintain financial security acceptable to the Borough Solicitor in an amount of \$100,000 to assure the faithful performance of the terms and conditions of this Section. The financial security shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Section, after reasonable notice and opportunity to cure. The owner shall file the financial security with the Borough.

- m. The Borough reserves the right to deny an application for the construction or placement of any tower-based WCF based upon visual and/or land use impact, to the extent permitted by law.
  - n. The Borough reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this Section and any other provisions found within the Borough Code or Commonwealth or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
5. Regulations for All Non-Tower Wireless Communications Facilities
- a. Non-tower WCFs are permitted in all zoning districts subject to the restrictions and conditions prescribed below; to prior written approval of the Borough; and to county, state, or federal law, orders, court rulings, or legal precedent.
  - b. Upon receipt of an application for a non-tower WCF, the Borough shall mail notice thereof to the owner or owners of every property within five hundred feet (500') of the parcel or property of the proposed facility.
  - c. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any non-tower WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property.
  - d. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI EIA/TIA-222-G, as amended).
  - e. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
  - f. Non-tower WCFs shall comply with all federal and Commonwealth laws and regulations concerning aviation safety.
  - g. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology

Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as amended.

- h. Unused or Abandoned Non-Tower WCFs.
    - i. In the event that use of a non-tower WCF or portions thereof is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued.
    - ii. All unused or abandoned WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Borough.
    - iii. If the WCF and/or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
  - i. Within thirty (30) calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. Within ninety (90) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the Borough's ninety (90) day review period.
  - j. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF or \$1,000, whichever is less.
6. Regulations for Non-Tower Wireless Communications Facilities That Substantially Change the Wireless Support Structures to Which They Are Attached
- a. Non-tower WCFs are permitted in all zones subject to the restrictions and conditions prescribed below and subject to prior written approval of the Borough.
  - b. Upon receipt of an application for a non-tower WCF, the Borough shall mail notice thereof to the owner or owners of every property within five hundred feet (500') of the parcel or property of the proposed facility.
  - c. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified, and removed in strict compliance with all current applicable technical, safety and safety-related codes including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, and National Electrical Code. Any non-tower WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property.

- d. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI EIA/TIA-222-G, as amended).
- e. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.
- f. No non-tower WCF may be located on a building or structure that is listed on either the National or Pennsylvania Register of Historic Places or is identified as a historic site as defined in the Ordinance of Definition.
- g. Non-tower WCFs shall comply with all federal and Commonwealth laws and regulations concerning aviation safety.
- h. Maintenance Requirements for Non-Tower WCFs That Substantially Change the Wireless Support Structures to Which They Are Attached
  - i. Any non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - ii. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
  - iii. All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- i. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio-frequency emissions in excess of the standards and regulations of the FCC including, but not limited to, the FCC Office of Engineering Technology Bulletin 65, entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as amended.
- j. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Section. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities
- k. Prior to the issuance of a permit, the owner of a non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor in the amount of \$25,000 for each individual non-tower WCF to assure the faithful performance of the terms and conditions of this Section. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Section after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Borough.
- l. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for

approval of a non-tower WCF, as well as related inspection, monitoring, and related costs.

7. Regulations for Non-Tower WCFs Outside the Rights-of-Way
  - a. Design Guidelines for Non-Tower WCFs Outside the Rights-of-Way.
    - i. Non-tower WCFs shall be collocated on existing structures such as existing buildings or tower-based WCFs.
    - ii. If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
    - iii. A six-foot (6') high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
    - iv. Non-tower WCFs shall employ stealth technology to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.
    - v. Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of fifteen feet (15') above the roof or parapet, whichever is higher, unless the WCF applicant obtains a conditional use approval.
    - vi. All non-tower WCF applicants must submit documentation to the Borough justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.
    - vii. Antennas and their respective accompanying support structures shall be no greater in diameter than any cross-sectional dimension that is reasonably necessary for their proper functioning.
    - viii. The design guidelines above shall not apply to direct-broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.
  - b. The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the number of antennas.
  - c. Any material modification to a WCF shall require a prior amendment to the original permit or authorization.
  - d. The Borough reserves the right to deny an application or the construction or placement of any non-tower WCF based upon visual and/or land use impact to the extent permitted by law.
  - e. The Borough reserves the right to inspect any non-tower WCF to ensure compliance with the provisions of this Section and any other provisions found

within the Borough Code or Commonwealth or federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

8. Regulations for Non-Tower WCFs Within the Right-of-Way (ROW)
  - a. Design Guidelines for Non-Tower WCFs Within the Right-of-Way.
    - i. Non-tower WCFs in the ROW shall be collocated on existing poles, such as existing utility poles or light poles.
    - ii. WCF installations located above the surface grade in the public ROW including, but not limited to, those on streetlights and joint utility poles shall consist of equipment components that are no more than six feet (6') in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
    - iii. Antennas and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted or otherwise coated to be visually compatible with the support structure upon which they are mounted.
  - b. In addition to permit fees as described herein, every non-tower WCF in the ROW is subject to the Borough's right to fix annually a fair and reasonable compensation to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Borough's actual ROW management costs including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising, and other ROW management activities by the Borough. The owner of each non-tower WCF shall pay an annual fee to the Borough to compensate the Borough for the Borough's costs incurred in connection with the activities described above. The annual ROW management fee for non-tower WCFs shall be determined by the Borough and authorized by resolution of the Borough Council and shall be based on the Borough's actual ROW management costs as applied to such non-tower WCF.
  - c. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all non-tower WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. For public utilities, the time, place and manner requirements shall be consistent with the police powers of the Borough and the requirements of the Public Utility Code.
  - d. Safety Guidelines for Non-Tower WCFs Within the Rights-of-Way.
    - i. Non-tower WCFs and accessory equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Borough.

- ii. In no case shall ground-mounted equipment, walls, or landscaping be located within eighteen inches (18”) of the face of the curb, or in the absence of a curb, the edge of the pavement.
      - iii. Any underground vaults related to non-tower WCFs shall be reviewed and approved by the Borough.
    - e. Design Guidelines for Non-Tower WCFs Within the Right-of-Way.
      - i. Ground-mounted equipment shall be located underground. In the event that an applicant can demonstrate to the satisfaction of the Borough Engineer that ground-mounted equipment cannot be underground, then all such equipment shall be screened to the fullest extent possible through the use of landscaping or other decorative features to the satisfaction of the Borough.
      - ii. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Borough.
      - iii. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within ten (10) business days of notice of the existence of the graffiti.
    - f. Removal or Relocation.

Within sixty (60) days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of non-tower WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

      - i. The construction, repair, maintenance, or installation of any Borough or other public improvement in the right-of-way;
      - ii. The operations of the Borough or other governmental entity in the right-of-way;
      - iii. Vacation of a street or road or the release of a utility easement; or
      - iv. An emergency as determined by the Borough.
    - g. The Borough reserves the right to deny an application for the construction or placement of any non-tower WCF based upon visual and/or land use impact to the extent permitted by law.
  - 9. Any person violating any provision of this Section shall be subject, upon finding by a Magisterial District Judge, to a penalty not exceeding \$500 for each and every offense, together with attorneys’ fees and costs. A separate and distinct violation shall be deemed to be committed each day on which a violation occurs or continues to occur. In addition to an action to enforce any penalty imposed by this Section and any other remedy at law or in equity, the Borough may apply to a Federal District Court for an



- injunction or other appropriate relief at law or in equity to enforce compliance with or restrain violation of any provision of this Section.
10. In the event a determination is made that a person has violated any provision of this Section, such person shall be provided written notice of the determination and the reasons therefore. Except in the case of an emergency, the person shall have thirty (30) days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the Borough may, in its reasonable judgment, extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts to cure. If the violation has not been cured within the time allowed, the Borough may take any and all actions authorized by this Section and/or federal and/or Pennsylvania law and regulations.
  11. The Borough, by granting any permit or taking any other action pursuant to this Section, does not waive, reduce, lessen or impair the lawful police powers vested in the Borough under applicable federal, Commonwealth, and local laws and regulations.
  12. If any subsection, sentence, clause, phrase or word of this Section is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not render the remainder of this Section invalid.

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## ARTICLE 7

### Off-Street Parking and Loading

#### Section 7.1 – General Regulations for Parking Facilities

##### A. Availability of Facilities

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

##### B. Lighting

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

##### C. Public Right-of-Ways

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

##### D. Off-Street Parking in the (D) City Downtown Mixed Use District

Off-street parking for uses involving new construction in the (D) City Downtown Mixed Use District shall be provided to the rear of the principal structure. In the case of a change in use in the D District which does not involve an expansion of a structure or additional floor area, additional off-street parking shall be provided equal to the difference between the number of spaces required by §7.1E for the new use and the number required for the existing use as though parking had been provided in accord with §7.1E. The replacement of non-conforming uses in the D District shall not require parking as required by §7.1E.

##### E. Number of Spaces to Be Provided

1. Any structure or building not exempted by §7.1D and which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off-street parking spaces adequate to serve such use but with not less than the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

2. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
3. Additional parking for people with disabilities shall be provided in accord with §7.1L.
4. Should the applicant provide evidence that the number of parking spaces required by this Article §7 is not necessarily required to meet the immediate needs of the proposed use, the number of spaces provided may be reduced as a conditional use by a maximum of fifty percent (50%) provided sufficient and suitable area is dedicated to future parking to meet the normal standards in this Article 7 and the applicant shall agree in writing to install the parking at the direction of the Borough Council. Reserve parking areas shall be included in the calculation of lot coverage area. Parking facilities used jointly by two (2) or more principal uses may be considered for a parking reduction (See §7.1I. Joint Use Parking).

F. Parking and Loading Area Buffers

All parking and loading areas (not including parking decks) and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall be separated from any public road right-of-way or adjoining property lines by a buffer area not less than three (3) feet in width unless adjoining uses share parking in accord with §7.1I. In the case of adjoining R-1, R-2, R-3 or RP Districts, the buffer shall be increased to ten (10) feet. Buffers shall be improved in accord with §7.2.

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

G. Surfacing

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

H. Off-Lot Parking

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

I. Joint Use Parking

In cases where two principal uses share a common property line, shared parking facilities may be utilized. The arrangement for joint-use parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The joint-use parking area may span the common property line thereby eliminating the setback required in §7.1F. The standards in §7.1E for number of spaces to be provided shall apply to joint-use parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to ten (10) percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)

J. Existing Parking Areas

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

K. Parking for Residential Use

Off-street parking shall be provided in accord with this §7 for all residential uses in all Districts.

L. Handicapped Parking

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

<b>Total # of Required Spaces on Parking Lot</b>	<b>Required Minimum # / % of Handicapped Parking Spaces</b>
4 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

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

**Subsection 7.1.1 – Table of Off-Street Parking Requirements**

USE	PARKING SPACES REQUIRED
A. Dwellings	2 per dwelling unit
B. Hotels, motels and tourist homes, bed and breakfast establishments and other uses providing overnight accommodations	1 per bedroom
C. Sales and rental of goods, merchandise, and equipment	
1. Retail establishments	1 per 200 SFGFA open to the public
2. Wholesale establishments	1 per 800 SFGFA
D. Offices, research facilities and services not primarily related to goods	
1. Serving customers or clients on premises such as attorneys, physicians, insurance, banks, service establishments, and travel agents	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
E. Manufacturing, processing, renovating, assembling goods, merchandise, and equipment	1 per 600 SFGFA
F. Educational, cultural, religious, social, fraternal uses	
1. Schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Places of worship	1 per every 4 seats used for services
3. Libraries and museums, social, fraternal clubs, and lodges; and similar uses	1 per 300 SFGFA open to the public
G. Recreation, amusement, and entertainment	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 3 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums, and similar uses with seating accommodations	1 per every 2.5 seats
3. Public and private outdoor recreation facilities such as golf courses, swimming pools and similar uses	1 per 200 SFGFA open to the public plus 1 per every 3 persons of fully utilized design capacity
H. Health related facilities	
1. Hospitals, clinics, and other medical treatment facilities	1 per bed or 1 per 200 SFGFA, whichever is greater
2. Nursing homes, personal care homes, group homes	1 per three resident beds plus 1 for each employee at maximum capacity

USE	PARKING SPACES REQUIRED
I. Restaurants, bars, taverns, and other eating establishments	1 per 50 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
J. Vehicle related uses	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car or truck wash	1 per employee plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
4. Truck terminals	1 per 200 SFGFA devoted to office use plus 2 per company vehicle using the facility
K. Warehousing and storage	1 per 2,000 SFGFA
L. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA
2. Nursery schools and day care	1 per staff member plus 1 per 5 clients at maximum capacity
3. Emergency services	1 per 200 SFGFA open to the public
4. Post office	1 per 200 SFGFA open to the public
5. Recycling centers	1 per employee with a minimum of 2
6. Kennels	1 per 400 SFGFA with a minimum of 4
<p>Note: SFGFA means "square feet of gross floor area". Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.</p>	

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

**Section 7.2 – Design Standards for Parking Facilities**

A. Size and Design of Parking Spaces

Parking shall be provided in accord with an overall parking plan prepared in accord with generally accepted design standards and which takes into consideration access design



and control, size and shape of the parking area, types of vehicles using the parking area, traffic patterns and other applicable considerations. The net parking space per vehicle shall be not less than nine (9) feet wide and eighteen (18) feet long. Garages and carports not in the public right-of-way may be considered parking spaces. Notwithstanding the above, all parking spaces shall be ample in size for the vehicles for which use is intended.

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

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

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

D. Landscaping

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

1. Buffer Areas - The buffer area required by §7.1F shall be landscaped to a minimum of thirty (30) inches in height including vegetation; of which a minimum of fifty (50) percent shall be evergreen shrubbery; and shall average at least one shrub for every ten (10) feet of frontage.
2. Parking Lot Interiors - A minimum of five (5) percent of the interior of any parking lot having twenty-five (25) or more parking spaces shall be maintained with landscaping, including trees and shrubs in plots of at least sixty (60) square feet in area. One (1) deciduous tree with a trunk diameter of not less than one (1) inch measured at a height of one (1) foot above finished grade shall be provided for every three thousand (3,000) square feet of paved area. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption within the parking area and to insure safe patterns of internal circulation. In no case shall more than fifteen (15) spaces be permitted in a continuous row without interruption by landscaping, and not more than sixty (60) spaces shall be permitted in one lot, said lots being separated by landscaping plots a minimum of four (4) feet in width.
3. Plants - Plant species shall be of a type proven suitable to local soil and climate conditions and which are resistant to disease, road salt and air pollution as determined by the Borough. All landscaping including plants shall be protected from damage by vehicles and shall be maintained in a good condition with plants that have died being replaced by similar plants.

4. Plan - A landscaping plan showing the arrangement of the landscaping and parking areas and including plant sizes and species shall be submitted by the applicant for approval by the Borough.

### Section 7.3 – Parking of Commercial, Recreational, and Junk Vehicles

#### Parking of Unregistered Vehicles, Commercial Vehicles and Junk Vehicles

A. Purpose - To prevent the character of residential areas from being harmed by nuisances, hazards, and visual blight, and to prevent the establishment of junkyards in residential districts.

B. Storage of Unregistered, Commercial or Junk Vehicles.

1. Definitions - For the purposes of this §7.3, the following terms shall have the following meanings:
  - a. Commercial Vehicle - A motor vehicle that has a gross vehicle weight of greater than six thousand (6,000) pounds and is primarily used for business purposes, including but not limited to making service calls, transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material.)
  - b. Tractor of a Tractor-Trailer - A truck with a minimum of three (3) axles that is primarily intended to pull a trailer, as defined below, and not primarily to carry goods itself.
  - c. Trailer of a Tractor-Trailer - A commercial vehicle with a length of 20 feet or more that is not self-propelled, that is intended to haul materials, vehicles, goods, gases or liquids and that is intended to be pulled by a tractor (as defined above), and that is not a "recreational vehicle."
2. Residential District - Within a residential district, no motor vehicle or trailer that does not display current registration and current safety inspection (or safety inspection and registration that expires less than 90 days prior) and no abandoned or junk vehicle, motor home, recreational vehicle, camper, bus or ambulance shall be parked or stored in any way that is visible from a public street or an adjacent dwelling.
3. Non-Residential District - Within a non-residential district, no motor vehicle or trailer that does not display current registration and current safety inspection (or

safety inspection and registration that expires less than 90 days prior) and no abandoned or junk vehicle shall be parked or stored in any way that is visible from a public street or an adjacent structure. This §7.3 shall not apply to a permitted auto sales use, auto service station, junkyard, or auto repair garage, provided that the regulations for that use are met.

4. Exceptions - This section does not apply to the following, provided they are in an operational condition:
  - A. Municipally-owned vehicles
  - B. Vehicles operated by the U.S. Postal Service or a level of government or a Municipal Authority
  - C. Vehicles actively engaged in the construction or repair of buildings, streets, curbs, sidewalks, rehabilitation or utilities in the immediate area.
  - D. Vehicles actively engaged in making routine household deliveries or rendering routine household services to a property that is adjacent or on the same lot as the vehicle is parked.
  
5. Commercial Vehicles in a Residential District
  - A. In a residential district, a maximum of two (2) "vehicles" which are commercial in nature (having a business name painted on it and/or other advertising on it) may be parked for more than eight (8) hours in any forty-eight (48) hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of transportation between their home and work. No commercial vehicle in a residential district shall have a gross vehicle weight of over eight thousand (8,000) pounds if parked outside of an enclosed building.
  - B. In a residential district, the engine of a tractor or a tractor-trailer shall not be idled for more than 10 minutes on the property between the hours of 10 p.m. and 6 a.m. or be repaired, except for clearly emergency repairs.
  - C. No trailer of tractor-trailer shall be parked, stored, maintained, or kept in a residential district for more than 8 hours in any forty-eight (48) hour period.
  - D. See the requirements of the State Motor Vehicle Code that require vehicles parked on a public street to have current registration.

**Section 7.4 – Off-Street Loading**

A. Loading and Unloading Areas

In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital, or other non-residential uses, to provide adequate off-street areas for loading and unloading to vehicles. The applicant shall provide, to the satisfaction of the Zoning Officer, Borough Council or Zoning Hearing Board, as the case may be, documentation that the use will have sufficient numbers and sizes of loading facilities.

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

B. Access to Off-Street Parking and Loading Areas

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

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

<b>WIDTH</b>	<b>1-Way Use</b>	<b>2-Way Use</b>
Minimum	12 feet	20 feet
Maximum	35 feet	50 feet

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

3. Distance Between Non-residential Driveways · In no case shall one entrance or exit be located within fifty (50) feet of any other on the same property or adjoining property along the same public right-of-way.

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## ARTICLE 8

### Signs

#### Section 8.1 – Definitions and Interpretation

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) signs are placed upon any property unless such property fronts upon more than one street, in which event two (2) more signs, 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 twenty (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 (a) such signs may be erected, one (1) 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 a Residential District shall project into the public way or project higher than one story or twenty (20) feet, whichever is lower.

**Section 8.2 – Signs in Commercial, Mixed Use and Industrial Districts.**

- A. Size of Signs. (Detached). No detached sign shall have a gross surface of more than 100 sq. ft. in any Commercial District or Mixed Use District and 150 sq. ft. in any Industrial 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 City Neighborhood Mixed Use District (N), all signs shall be securely attached to a building. Free-standing signs shall be permitted in all other Mixed Use, Commercial, and Industrial 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 Industrial 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 Commercial and Industrial 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.

### **Section 8.3 – Outdoor Advertising (Billboards)**

Outdoor advertisements (billboards) are permitted in Commercial and Industrial Districts 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.

### **Section 8.4 – General Requirements**

- 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 fifteen (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 Section 8.1 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 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 for all signs requiring permits shall be in accordance with the Fee Schedule; 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 the Fee Schedule.

## ARTICLE 9

### Nonconformities

#### Section 9.1 – Intent and Applicability

- G. It is the intent of this Article to recognize the right of nonconformities to continue but to encourage that such lots, uses, and structures be brought into conformity with this Ordinance as soon as constitutionally permissible. To achieve this end, nonconformities are subject to the regulations set forth in this Article.
- H. A lawful nonconforming use, structure, or lot as defined by this Ordinance may be continued and may be sold and continued by new owners. Any expansion of, construction upon, or change in use of a nonconformity shall only occur in conformance with this Section and subject to the following criteria and standards:
3. The alteration or extension provides for a natural expansion which is not detrimental to public health, safety, and general welfare, provided such expansion does not exceed 50% of the existing ground floor area of the structure or other space occupied by the use.
  4. The alteration or extension does not constitute the addition of a new nonconforming use or structure.
  5. The alteration or extension does not decrease yards when already failing to meet minimum yard setback areas.
  6. The alteration or extension meets the district regulations for such use or structure as if the use or structure were being altered or extended in a district where such use is permitted.

#### Section 9.2 – Nonconforming Uses

- A. Expansion of Nonconforming Residential Uses.

An existing nonconforming residential use may be expanded in floor area as a permitted by right use, provided that:

1. The number of dwelling units is not increased;
2. The expansion meets all applicable setbacks;
3. No new types of nonconformities are created; and
4. A nonconformity is not made more severe (including the building area within the required setback area).

**B. Expansion of Nonconforming Nonresidential Uses.**

A nonconforming use or a building used by a nonconforming use shall not be expanded, except in accordance with the following provisions:

1. An expansion of a total of more than 5% in total building floor area in any five-year period shall require special exception approval from the Zoning Hearing Board under Article 10.
2. Such reconstruction or expansion shall be only upon the same lot that the nonconforming use was located upon at the time the use became nonconforming.
3. The total building floor area used by a nonconforming use, or the total area covered by impervious surfaces of a nonconforming use shall not be increased by greater than 50% beyond each such measurement that existed in such use at the time the use became nonconforming. This maximum increase shall be measured in aggregate over the entire life of the nonconformity.
4. Any expansion of a nonconforming use shall meet the required setbacks and other requirements of this Ordinance, unless the Zoning Hearing Board grants a variance.

**C. Abandonment of Nonconforming Uses.**

If a nonconforming use is discontinued or abandoned for 12 months or longer, subsequent use shall conform with the current regulations of this Ordinance.

**D. Nonconforming Outdoor Storage Activities.**

If a nonconforming junkyard, outside storage area, or similar use of open land is discontinued for 90 days or more, or is damaged or destroyed to an extent of 50% or more of replacement cost, such use shall not be continued, repaired, or reconstructed.

**E. Change from One Nonconforming Use to Another.**

1. Once changed to a conforming use, such use shall not revert to a nonconforming use.
2. A nonconforming use may be changed to another nonconforming use only if permitted as a special exception by the Zoning Hearing Board. The Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equally or less objectionable in external effects than the pre-existing nonconforming use with regard to:
  - (a) Traffic generation (especially truck traffic);
  - (b) Noise, dust, fumes, vapors, gases, odor, glare, vibration, fire, and explosive hazards;
  - (c) Amount and character of outdoor storage;
  - (d) Hours of operation if the use would be close to dwellings; and
  - (e) Compatibility with the character of the surrounding area.

F. Nonconformities Due to Zoning Changes.

Any uses that become nonconforming because of a zoning district change shall be regulated under this Section on nonconformities.

**Section 9.3 – Nonconforming Structures**

A. Reconstruction or Expansion of Nonconforming Structures.

1. The Zoning Officer shall permit a nonconforming structure to be reconstructed or expanded, provided that:
  - (a) Such action will not increase the severity, extent, or amount of the nonconformity (such as the area of the building extending into the required setback) or create any new nonconformity; and
  - (b) Any expanded area complies with the applicable height restrictions and applicable setbacks set forth in the underlying zoning district in which the nonconforming structure is located as well as all other requirements of this Ordinance.
2. In the case of a nonconforming structure which is used by a nonconforming use, any expansion shall also meet the requirements of this Section regarding nonconforming uses.

B. Damaged or Destroyed Nonconforming Structures.

1. A nonconforming structure that has been destroyed or damaged by fire, windstorm, lightning or a similar cause to an extent of 50% or more of its total value and shall be deemed not to be the fault of the owner may rebuild in a nonconforming fashion only if the application for a building permit is submitted within 18 months after the date of damage or destruction, work begins in earnest within 12 months afterward, and no nonconformity is created or increased by any reconstruction.
2. Rebuilding of a damaged or destroyed nonconformity shall not begin until plans for rebuilding have been presented and approved by the Zoning Officer. Any change of one nonconforming use to another nonconforming use shall comply with the provisions of this Section.
3. Nonconforming agricultural structures on farms may be reestablished or reconstructed as a use permitted by right if damaged or destroyed, without a time limit.

C. Abandonment of Nonconforming Structures.

If a nonconforming structure is razed, removed, or abandoned for 12 months or longer, subsequent use of such building or land shall conform with the current regulations of this Ordinance.

D. New Construction and Building Permits.

1. New Construction.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

2. Building Permits and Nonconformities.

When an active building permit has been lawfully issued prior to the adoption of this Ordinance that makes such activity nonconforming, such use, lot, or structure shall be regulated under the applicable nonconforming regulations, provided that such construction is completed within a maximum of 12 months of the issuance of such permit.

**Section 9.4 – Nonconforming Lots of Record**

A. In any district in which dwellings are permitted as principal uses, a single-family detached dwelling and customary accessory uses may be erected on any single nonconforming lot of record at the effective date of adoption of this Ordinance, provides that such lot:

1. Has a minimum width of 100 feet measured at the minimum building setback line;
2. Has a minimum lot area of 0.5 acres;
3. Will comply with minimum setbacks and other requirements of this Ordinance for any new construction or expanded area, except for minimum lot depth and those provisions specifically allowed to be altered by this Section or for which a variance is granted; and
4. Has minimum side yard setbacks of eight (8) feet each or 10% each of the lot width, whichever is larger.

B. Integration of Nonconforming Lots.

If two (2) or more abutting lots or combinations of abutting lots and portions of lots under the same ownership are of record and not in conformity at the time of adoption of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width or area, the lands involved shall be integrated to form one (1) lot that would be in conformance with this Ordinance or otherwise less nonconforming. Such integrated lot in common ownership shall not be subdivided, re-subdivided, or sold in parts using separate deeds to separate owners, unless specifically approved as a subdivision under the adopted subdivision and land development regulations of Dunmore Borough.

**Section 9.5 – Registration of Nonconformities**

It shall be the responsibility of a property owner asserting a nonconformity to provide the evidence that it is lawful. The property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence.

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## ARTICLE 10

### Zoning Hearing Board

#### Section 10.1 – Organization and Procedure

A. Organization.

1. The Dunmore Borough Zoning Hearing 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 Zoning Hearing Board, but the Zoning Hearing 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 Zoning Hearing Board as provided in Subsection E.
2. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with the ordinances of Dunmore Borough and the laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business, records of which shall be the property of Dunmore Borough. The Zoning Hearing Board shall submit reports of its activities to the Dunmore Borough Council when requested.

B. Membership, Terms, and Vacancies.

The membership of the Zoning Hearing Board shall consist of five (5) residents of Dunmore Borough appointed by the Dunmore Borough Council by resolution. Their terms of office shall be five (5) years and shall be so fixed that the term of office of no more than one (1) member shall expire each year. The Zoning Hearing Board shall promptly notify the Dunmore Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in Dunmore Borough.

C. Removal of Members.

Any Zoning Hearing Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by majority vote of the Dunmore Borough Council, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

D. Appeals and Applications to the Zoning Hearing Board.

Appeals and applications to the Zoning Hearing Board from the terms of this Ordinance shall be filed with the Zoning Officer and shall contain:

1. The name and address of the applicant;
2. The name and address of the owner of the real estate involved in the appeal;

3. A brief description and location of the real estate involved in the appeal;
4. A statement of the present zoning classification of the involved real estate and a description of the improvements thereon and the present use thereof;
5. Reference to the section or sections of this Ordinance under which the appeal or application is filed; or, reference to the section or sections of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed and reasons for the appeal;
6. An accurate description of the present and/or proposed use intended to be made, indicating the size and use of such proposed use;
7. A plot plan of the involved real estate as required to accompany applications for permits; and
8. An application fee, in an amount as established from time to time by resolution of the Dunmore Borough Council, payable to Dunmore Borough.

E. Conduct of Hearings.

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with Section 10.6 and with Section 908 of the Pennsylvania Municipalities Planning Code (MPC).

F. Expenditures for Services.

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

**Section 10.2 – Zoning Hearing Board Functions**

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except when a curative amendment is brought before the Dunmore Borough Council;
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance;
- C. Appeals from the determination of the Zoning Officer, including but not limited to the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease-and-deist order or the registration or refusal to register any nonconforming use, structure, or lot;

- D. Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to any floodplain or flood hazard ordinance or such provisions within a land use ordinance;
- E. Applications for variances from the terms of this Ordinance;
- F. Applications for uses by special exception under the terms of this Ordinance;
- G. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of this Ordinance;
- H. Appeals from the Zoning Officer's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC); and
- I. Appeals from any determination of the Borough Engineer or the Zoning Officer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management as far as the same relate to development not involving subdivision and land development applications or applications for a planned residential development.

### **Section 10.3 – Variances**

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. Upon appeal, the Zoning Hearing Board shall have the power to authorize variances from the requirements of this Ordinance and to attach conditions to such variances as it deems necessary to assure compliance with the purposes of this Ordinance. A variance may be granted if 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 lot and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the lot 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 this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the lot;
  - 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 lot is located, nor substantially or permanently impair the appropriate use or development of adjacent lots, nor be detrimental to the public welfare; and
  - 5. That the variance, if authorized, will represent the minimum variance necessary to afford relief and will represent the least modification possible of the regulation in issue.

- B. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the policy, goals, and community development objectives of this Ordinance.
- C. Unless specifically authorized by the Zoning Hearing Board, the grant of a variance shall expire if a zoning permit, building permit, certificate of use and occupancy, or grading permit is not obtained within 12 months from the date of the grant of the variance. However, the Zoning Hearing Board, in its discretion, may grant an extension of up to 12 additional months upon written request by the applicant prior to the initial expiration date.

#### **Section 10.4 – Uses by Special Exception**

The Zoning Hearing Board shall have the power to hear and decide on applications for uses by special exception as authorized by this Ordinance, in harmony with the purpose and goals of this Ordinance and of the Scranton-Abingtons Planning Association Comprehensive Plan, and in accordance with the provisions set forth in Article 6. The Zoning Hearing Board shall approve a use by special exception only if it meets all applicable requirements of this Ordinance and the express standards and criteria set forth in Section 6.5. In granting a use by special exception, the Zoning Hearing Board may attach such reasonable safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to properly implement the purpose and goals of this Ordinance and to protect the public health, safety, and welfare.

#### **Section 10.5 – Parties Appellant Before the Board**

Appeals under Section 10.2, subsections A, B, C, D, G, H, and I, may be filed in writing with the Zoning Hearing Board by:

- A. The landowner affected;
- B. Any officer or agency of the Borough; or
- C. Any person aggrieved.

#### **Section 10.6 – Hearings and Decisions**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with Section 908 of the Pennsylvania Municipalities Planning Code (MPC). The rules and procedures for such hearings shall be as follows:

- A. Public notice shall be placed in the classified section of a newspaper of general local circulation once in each of two (2) successive weeks, the first notice appearing not more than 30 days or less than seven (7) days prior to the hearing, and shall be conspicuously posted at highly visible locations along the perimeter of the subject lot at least one (1) week prior to the hearing. In addition, written notice of the hearing shall be sent by first-class mail to the owners of lots abutting the subject lot or within 300 linear feet of the subject lot and other recognized parties at least one (1) week prior to the date of the hearing. Notices shall indicate the date, time, and place of the hearing, the particular nature of the matter to be considered, and the street address of the specific lot involved.

- B. The parties to the hearing shall be the applicant, the municipality, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person, including civic or community organizations, permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall require all persons who wish to be considered parties to enter such request on an appearance form provided by the Zoning Hearing Board for that purpose.
- C. The Chairman of the Zoning Hearing Board or the hearing officer presiding shall conduct the hearing and shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and/or the production of relevant documents and papers, including witnesses and documents requested by the parties.
- D. The parties in a hearing shall have the right to be represented by counsel and shall be afforded the opportunity to respond, present evidence and cross-examine adverse witnesses on all relevant issues.
- E. Formal rules of evidence shall not apply and irrelevant or redundant evidence may be excluded.
- F. The first hearing before the Zoning Hearing Board or the hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time.
- G. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record.
- H. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
- I. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven (7) hours of hearings within the 100 days, including the first hearing.
- J. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and the Borough, be granted additional hearings to complete their opposition to the application, provided the applicant is granted an equal number of additional hearings for rebuttal.
- K. The Zoning Hearing Board, or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer, or shall be paid by the person appealing the decision of the Zoning Hearing Board if such an 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.

- L. The Zoning Hearing Board, or the hearing officer, as the case may be, shall not communicate, directly or indirectly, with any party and/or representative of any party in connection with any issue relevant to the hearing except upon notice and opportunity for all parties to participate; shall not take notice of any communications, reports or other materials, except advice from the Zoning Hearing Board's legal counsel, unless all parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings with any party and/or representative of any party after the start of hearings unless all parties are given an opportunity to be present.
- M. The Zoning Hearing Board, or the hearing officer, as the case may be, shall render a written decision, or, when no decision is required, a written finding on the application, within 45 days after the last hearing. Decisions shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this Ordinance, or any other ordinance or regulation 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.
- N. If the hearing is conducted by a hearing officer and there has been no stipulation that his or her decisions or findings are final, the Zoning Hearing Board shall make the hearing officer's report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings. The Zoning Hearing Board may concur in the hearing officer's decision, overturn it, or order a new hearing, provided that such decision by the Zoning Hearing Board is entered no later than 30 days after the report of the hearing officer.
- O. Where the Zoning Hearing Board fails to render the decision within the period required by this Section or fails to hold the required hearing within 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.
- P. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as herein provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in this Section. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this Section shall prejudice the right of any party opposing the application to appeal the decision to the Lackawanna County Court of Common Pleas.
- Q. A copy of the final decision, or the findings, if no decision is required, shall be mailed to the applicant not later than the day after the date of the decision. All others requesting notice of the decision not later than the last day of the hearing shall receive by mail a summary of the findings or decision and a statement of the place at which the full decision or findings may be examined.

### **Section 10.7 – Mediation**

- A. Parties to proceedings authorized in this Section may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party.

Mediation shall supplement, not replace, those procedures in this Section once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.

- B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. The Borough, in offering the mediation option, shall assure that in each case the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
1. Funding mediation;
  2. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation;
  3. Completing mediation, including time limits for such completion;
  4. Suspending time limits otherwise authorized by this Ordinance or the Pennsylvania Municipalities Planning Code (MPC), provided that there is written consent by the mediating parties, and by an applicant or decision-making body of the Borough, if either is not a party to the mediation;
  5. Identifying all parties and affording them the opportunity to participate;
  6. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public; and
  7. Assuring that mediated solutions are in writing and signed by the parties and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in this Ordinance or the Pennsylvania Municipalities Planning Code (MPC).
- C. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

### **Section 10.8 – Time Limitations**

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate Borough 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 by the Zoning Officer on a challenge to the validity of an ordinance or map pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code (MPC), shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the preliminary submission.

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

**Section 10.9 – Appeals to Court and Other Administrative Proceedings**

Nothing contained in this Article shall be construed to deny the appellant the right to proceed directly to a court where appropriate, pursuant to the Pennsylvania Rule of Civil Procedure No. 1091, relating to action in mandamus. Appeals to court from any decision of the Zoning Hearing Board may be taken by any party aggrieved in accordance with the time frame and manner provided by Article X-A of the Pennsylvania Municipalities Planning Code (MPC).



## ARTICLE 11

### Administration and Enforcement

#### Section 11.1 – Permits and Certificates

A. Applications for Zoning Permits, Certificates of Use and Occupancy, and Building Permits.

The applicant shall be responsible to submit sufficient data with his or her applications for a zoning permit, a certificate of use and occupancy, and/or a building permit to enable the Borough to review said applications for full compliance with the provisions of this and other applicable ordinances. The Borough reserves the right to request that the applicant submit information certified by a professional engineer or registered surveyor licensed by the Commonwealth of Pennsylvania when it is deemed necessary for an accurate review of the application(s).

B. Permits.

1. Zoning Permits.

(a) A zoning permit shall be required prior to:

- (1) A change in use of land or structure;
- (2) The placement, erection, construction, improvement, or alteration of a structure, or portion thereof, including a fence, that has a fair market value exceeding \$500, except that a zoning permit shall be required prior to all construction or development located in the Floodplain Overlay and the Airport Hazard Overlay, regardless of cost;
- (3) The alteration or improvement of any existing structure, where such improvement or alteration thereof increases the amount of space enclosed by the structure;
- (4) The alteration or development of any improved or unimproved real estate; and
- (5) The erection or alteration of any signs specified in Article 8, except for those specifically exempted from permit.

(b) No zoning permit shall be required for the following:

- (1) The placement, erection, construction, improvement, or alteration of a structure, or portion thereof, including a fence, that has a fair market value of less than \$500, except that a zoning permit shall be required prior to all construction or development located in the Floodplain Overlay and the Airport Hazard Overlay, regardless of cost;
- (2) Ordinary repair to existing structures, except signs;

- (3) Light fixtures for single-family and two-family dwellings complying with the provisions of Section 5.10;
  - (4) Sidewalks or walkways on grade;
  - (5) Sidewalk or walkway steps, when not connected to a building, porch, deck, or other part of a building or structure;
  - (6) Handrails along sidewalk or walkway steps;
  - (7) Access drives;
  - (8) Parking spaces for dwellings having three (3) or fewer dwelling units;
  - (9) Flagpoles of the display of official government flags of the United States and its political subdivisions placed on lots containing single-family and two-family dwellings, provided that such flagpoles do not exceed the maximum height limitations for the underlying zoning district;
  - (10) Vegetation, including trees, landscaping, and vegetative buffering;
  - (11) Landscaping materials, excluding patios, decks, and porches;
  - (12) Decorative lawn ornaments and walls not exceeding 32 inches in height;
  - (13) Children's play yards, trampolines, treehouses, and swing sets placed on lots containing dwellings;
  - (14) Stormwater management facilities;
  - (15) Traffic control devices located within a public right-of-way or governmental easement;
  - (16) Utility structures not exceeding seven (7) feet in height, including emergency call stations, except that wireless communication facilities and lighting poles for recreational uses shall require permitting;
  - (17) Railroad sidings;
  - (18) Public transit stops involving surface improvements only;
  - (19) Signs specifically exempted from permit; and
  - (20) Temporary construction buildings or trailers as permitted in Section 5.19, Subsection A.
- (c) A zoning permit shall only be issued when it is deemed that the proposed use or improvement is in conformity with:
- (1) All applicable regulations of this Ordinance;

- (2) Any conditions imposed upon the site by the Dunmore Borough Zoning Hearing Board or the Dunmore Borough Council; and
  - (3) Any recorded subdivision or land development plan, when specifically required by the adopted subdivision and land development regulations of Dunmore Borough.
- (d) Application Procedures.
- (1) Applications for zoning permits shall be submitted by the applicant to the Zoning Officer.
  - (2) An application for a zoning permit shall be made by the owner of any building or structure or the agent thereof; provided, however, that if the application is made by a person other than the owner or agent, it shall be accompanied by a written authorization of the owner or agent that the proposed work is authorized by the owner or agent. The full name and address of the owner or agent shall be stated in the application.
  - (3) The Zoning Officer may consult with or call upon other Borough staff and/or Borough-appointed consultants in the review of submitted materials for applications.
  - (4) Upon receiving the application, the Zoning Officer shall examine the application and grant or deny such application, in whole or in part, within 30 business days of the filing date. If the application or plans do not conform to the provisions of all pertinent ordinances and laws, the Zoning Officer shall deny such application in writing, stating the reasons therefor, and inform the applicant of his or her right to appeal the Zoning Officer's decision to the Borough Zoning Hearing Board. If satisfied that the proposed work and/or use conforms to the provisions of this Ordinance and all ordinances and laws applicable thereto and that a certificate of use and occupancy as required herein has been applied for, the Zoning Officer shall grant such zoning permit application.
  - (5) The Zoning Officer may revoke a zoning permit or approval issued under the provisions of this Section in the case of any false statement or misrepresentation of fact in the application or on the plans on which the zoning permit or approval was based or for any other cause set forth in this Ordinance.
  - (6) No zoning permit shall be issued until the fee, in an amount as established from time to time by resolution of the Dunmore Borough Council, is paid to the Dunmore Borough. The payment of fees under this Section shall not relieve the applicant or holder of the zoning permit from payment of other fees that may be required by this Ordinance or by any other ordinances or law. Where a zoning permit is required by this Section but the work or the use is commenced or changed prior to obtaining such zoning permit, the fee set by resolution of the Dunmore Borough Council shall be doubled to reflect the additional expense incurred by the Dunmore Borough resulting

from the need to inspect the property, respond to any complaints, issue any enforcement notices, and/or process additional applications. The payment of such increased permit fee shall not relieve any person from the compliance with all requirements of this Ordinance or any other applicable ordinances or laws or from any penalties or enforcement actions authorized by this Ordinance or the Pennsylvania Municipalities Planning Code (MPC).

- (7) In all instances in which the Zoning Officer expresses reasonable doubt as to the ability of a proposed use or improvement to meet all of the requirements of this Section, it will be incumbent upon the applicant to furnish adequate evidence in support of his or her application. If such evidence is not presented, the zoning permit will be denied.
  - (8) An applicant whose request for a zoning permit has been denied by the Zoning Officer may make a later application for a zoning permit, provided that all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to conduct a new review of the application if this condition is not met.
  - (9) The zoning permit shall expire after one (1) year from the date of issuance; provided, however, that the permit may be extended every six (6) months for a period not to exceed an additional two (2) years, upon written request by the applicant that demonstrates good cause to the Zoning Officer. When a zoning permit is issued in conjunction with a building permit, the zoning permit shall remain valid for up to five (5) years so long as the building permit is valid.
  - (10) The zoning permit shall be a license to proceed with work and shall not be construed as authority to violate, cancel, or set aside any provisions of this Ordinance. The issuance of a zoning permit does not indicate that a building permit will be issued nor is it considered a license to begin work where a building permit is also required.
  - (11) All approved zoning permits shall be prominently and continuously displayed on the subject property during construction, renovation, reconstruction, repair, remodeling, or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance or prior to the commencement of actual work on the site, whichever occurs first, and shall remain on display until the site receives its certificate of use and occupancy.
- (e) General Application Requirements.

Applications for zoning permits shall contain a general description of the proposed work, development, use, or occupancy of all parts of the structure or land and shall be accompanied by plans in duplicate drawn to scale and showing the following, where applicable:

- (1) The actual dimensions and shape of the lot to be developed;

- (2) The exact location and dimensions of any structures to be erected, constructed, and/or altered;
  - (3) Existing and proposed uses, including the number of dwelling units, tenant spaces, employees, etc., that all structures are designed to accommodate;
  - (4) The location and number of off-street parking and loading spaces;
  - (5) Utility systems affected and proposed, including the locations of any primary and alternate on-lot sewage disposal systems and the required isolation distances imposed thereupon and any sewer permitting required;
  - (6) Alteration or development of any improved or unimproved real estate;
  - (7) Two (2) copies of any approved highway occupancy or driveway permits;
  - (8) Any supplementary information required as a condition for use or development in the Floodplain Overlay and the Airport Hazard Overlay as detailed in Article 4;
  - (9) Information related to needed conservation plans, nutrient management plans, and erosion and sediment pollution control plans; and
  - (10) Any necessary approvals granted by the Pennsylvania Department of Labor and Industry or any other state agencies.
- (f) Additional Application Requirements for Nonresidential Uses.

Applications for zoning permits for uses of a nonresidential nature shall also contain, where applicable:

- (1) A location plan showing the lot(s) to be developed, zoning district boundaries, adjoining lots, significant natural features, and streets for a distance of 200 feet from all lot boundaries;
- (2) A plot plan of the lot showing the location of all existing and proposed buildings, structures, driveways, parking lots, access drives, circulation patterns, curb cut accesses, screening fences and walls, waste and sewage disposal areas, other construction features, and the location of all topographical features;
- (3) A description of the proposed operations in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or noxious matter or radiation;
- (4) Designation of the manner by which sanitary sewage and stormwater shall be conveyed and water supply obtained;
- (5) The proposed number of shifts to be worked and the maximum number of employees on each shift; and

- (6) Where use by more than one (1) business/firm is anticipated, a list of the businesses/firms which are likely to be located in the development, their floor area, and estimated number of employees for each.

2. Certificates of Use and Occupancy.

- (a) It shall be unlawful to use and/or occupy any building, structure, sign, and/or land or portion thereof for which a zoning permit is required herein until a certificate of use and occupancy for such building, structures, sign, and/or land or portion thereof has been issued by the Zoning Officer. The application for issuance of a certificate of use and occupancy shall be made at the same time as an application for a zoning permit is filed with the Zoning Officer.
- (b) The application for a certificate of use and occupancy shall be in such form as the Zoning Officer prescribes and may accompany the application for a zoning permit.
- (c) The application for a certificate of use and occupancy shall contain the intended use and/or occupancy of any building, structure, sign, and/or land or portion thereof for which a zoning permit is required herein.
- (d) The Zoning Officer or his or her assign shall inspect any building, structure, or sign within 10 days upon notification that the proposed work that was listed under the zoning permit has been completed, and if satisfied that the work is in conformity and compliance with the work listed in the issued zoning permit and with all other pertinent provisions, ordinances, and laws, shall issue a certificate of use and occupancy for the intended use listed in the application.
- (e) Upon request of a holder of a zoning permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a building, structure, sign, and/or land, or portion thereof, before all work covered by the zoning permit has been completed provided that such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life or public welfare. Such temporary certificates shall be valid for a period of time to be determined by the Zoning Officer, however, in no case for a period exceeding six (6) months, unless an extension of the temporary permit has been requested from and granted by the Zoning Officer.
- (f) A certificate of use and occupancy shall not be issued for buildings and structures located in subdivisions or land developments requiring improvement guarantees until the building or structure has access to either a roadway which has been dedicated to and accepted by the Borough or which abuts upon a street which has been paved with a base wearing course.
- (g) The certificate of use and occupancy or a copy thereof shall be kept available for official inspection at all times.
- (h) If a zoning permit and/or building permit is not required, a certificate of use and occupancy will still be required.

3. Building Permits.

- (a) Building permit administration shall be governed by provisions of the current building code adopted by Dunmore Borough; provided, however, that no building permit shall be deemed valid until the Zoning Officer has certified that the proposed building, structure, addition, or alteration thereto or any change of use complies with all of the provisions of this Ordinance and has issued to the applicant a zoning permit.
- (b) The building permit shall be a license to proceed with work and shall not be construed as authority to violate, cancel, or set aside any provisions of this Ordinance. The issuance of a building permit does not indicate that a zoning permit will be issued nor is it considered a license to begin work where a zoning permit is also required.
- (c) The Zoning Officer shall deny any permit authorized by this Ordinance to any applicant to whom a permit may be denied pursuant to the Neighborhood Blight Reclamation and Revitalization Act, Act 90 of 2010, 53 Pa.C.S.A. § 6101 et seq.

### **Section 11.2 – Zoning Officer**

#### **A. Appointment and Powers of the Zoning Officer.**

It shall be the duty of the Zoning Officer to:

1. Examine, record, and file all applications for zoning permits, with any accompanying plans and documents, and to issue such permits only for lots, uses, and structures which are in conformity with the provisions of this Ordinance, or which are permitted nonconformities as regulated by Article 9;
2. Initiate enforcement proceedings;
3. Receive all fees to the Borough as required by this Ordinance and to post a schedule of fees in the Dunmore Municipal Building;
4. Receive complaints and notify persons of violations of the provisions of this Ordinance;
5. Conduct inspections of property for which zoning permits have been issued to ascertain if the construction or use is in conformity with the provisions of the permit;
6. Present to the Dunmore Borough Council, Planning Commission, or Zoning Hearing Board such facts, records, and any similar information required to assist such bodies in their deliberations;
7. Keep records of all applications received, permits and certificates of use and occupancy issued, reports of inspection, and notices and orders issued, and to file and safely keep copies of all plans permitted, which shall be available for the use of the Dunmore Borough Council and other Dunmore Borough officials;
8. Keep current copies of this Ordinance and the Zoning Map for distribution to the public; and

9. To perform other duties in the administration and enforcement of this Ordinance as may be directed by the Dunmore Borough Council.

**Section 11.3 – Fees**

- A. The Dunmore Borough Council shall establish, by resolution, a schedule of fees and a collection procedure for all permits, applications, and appeals.
- B. The schedule of fees shall be available in the Dunmore Municipal Building.
- C. All such fees shall be payable to Dunmore Borough.
- D. No request for any permits, applications, or appeals shall be considered complete, nor shall they be filed or docketed, until all fees have been paid in full.

**Section 11.4 – Violations, Penalties, and Remedies**

- A. 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 Dunmore Borough Council or an officer of the Borough, with the approval of the Dunmore Borough Council, 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 to be instituted by a landowner or tenant, notice of that action shall be served upon Borough at least 30 days prior to the time the action is to be instituted by serving a copy of the complaint on the Dunmore Borough Council. No such action may be instituted until such notice has been given.

- B. Enforcement Notices.

1. If it appears to the Borough that a violation of this Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this Subsection.
2. 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.
3. An enforcement notice shall be in writing and shall state at least the following:
  - (a) The name of the owner of record and any other person against whom the Borough intends to take action;
  - (b) The location of the property in violation;



- (c) The specific violation, with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance, and an outline of remedial action which, if taken, will bring such property compliance with the provisions of this Ordinance;
  - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
  - (e) A statement that the recipient of the notice has the right to appeal to the Zoning Hearing Board; and
  - (f) A statement that failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
4. In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.
  5. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

C. Penalties and Remedies.

1. District Justices shall have initial jurisdiction over proceedings brought under this Ordinance.
2. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied, or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice, in assessing if there has been a further violation, determines that there was a good faith basis for the person, partnership, or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one (1) 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.
3. The Lackawanna County 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.
4. Nothing contained in this Ordinance shall be construed or interpreted to grant to any person or entity other than the Borough the right to commence any action for enforcement pursuant to this Ordinance.

**Section 11.5 – Planning Commission**

The Dunmore Borough Planning Commission has been created in accordance with Article II of the Pennsylvania Municipalities Planning Code (MPC) to fulfill the advisory role to the Dunmore Borough Council in the administration of this Ordinance and the adopted subdivision and land development regulations of Dunmore Borough.

A. Membership.

1. The membership of the Planning Commission shall consist of seven (7) members, all of whom shall be residents of Borough. At least four (4) of the seven (7) members shall be citizen members and shall not be officers or employees of the Borough.
2. The term of office for each member shall be four (4) years, and the terms of no more than two (2) members shall expire in any calendar year.
3. When any vacancies occur, the chairman of the Planning Commission shall promptly notify the Dunmore Borough Council, upon which a member of the Dunmore Borough Council shall fill the vacancy for the unexpired portion of the term until a replacement member is found.

B. Duties.

The Planning Commission shall, at the request of the Dunmore Borough Council, have the power and shall be required to, at the request of the Dunmore Borough Council:

1. Represent the Borough in the development of the Scranton-Abingtons Planning Association Comprehensive Plan and any future comprehensive plan;
2. Maintain and keep records of its actions, which shall be in the possession of the Dunmore Borough Council;
3. Make recommendations to the Dunmore Borough Council concerning adoption or amendment of an official map;
4. Prepare and present to the Dunmore Borough Council a zoning ordinance and make recommendations to the Dunmore Borough Council on proposed amendments to it; and
5. Do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by the Pennsylvania Municipalities Planning Code (MPC) or as prescribed in this Ordinance.

**Section 11.6 – Amendments**

A. Publication, Advertisement, and Availability of Ordinances and Amendments.

Proposed zoning ordinances and amendments shall be published, advertised, and available for review in accordance with the procedures found in Section 610 of the Pennsylvania Municipalities Planning Code (MPC).

B. Zoning Map Amendments (Rezoning).

1. Purpose of Rezoning.

Rezoning can be initiated to protect the safety, capacity, and efficiency of the Borough's existing infrastructure systems; to maintain fiscal responsibility; and to uphold the objectives of the Scranton-Abingtons Planning Association Comprehensive Plan.

2. Rezoning Applications.

Rezoning applications are completed on the official forms provided by the Zoning Officer. All applicants submitting rezoning applications are required to prepare a series of plans, analyses and reports as enumerated by the following, to demonstrate the compatibility of a rezoning proposal:

- (a) Statement of existing and proposed base and overlay zoning districts;
- (b) Conceptual site development plan;
- (c) Topographic survey;
- (d) Site conditions report;
- (e) Estimated infrastructure demands (sanitary sewer and potable water) in gallons per day;
- (f) Off-street parking projections (number of parking spaces) available on site;
- (g) A summary of anticipated impacts on adjoining lots including but not limited to noise, vibration, night-time lighting, service area locations and visibility, and hours of operation;
- (h) Other related studies that the Borough may require, depending upon the location of lot access, infrastructure service/demands, and impacts identified on adjoining lots, such as a:
  - (1) Traffic impact study;
  - (2) Fiscal impact analysis;
  - (3) Density comparison between existing and proposed zoning districts; and/or
  - (4) Geotechnical/stormwater analysis.

3. Review of Rezoning Applications.

(a) The Zoning Officer will:

- (1) Perform a review of the application and packet for completeness. An incomplete or insufficient application and packet will be returned to the

applicant. A completed application and packet will be forwarded to the Borough and Lackawanna County planning commissions for review;

- (2) Provide the applicant written confirmation within seven (7) business days stating that the application has been received with all required information; and
  - (3) Submit a written recommendation to the Planning Commission and the Dunmore Borough Council, either in favor of or not in favor of the rezoning proposal, including a specific statement as to whether or not the proposed rezoning is in accordance with the objectives of the Scranton-Abingtons Planning Association Comprehensive Plan;
- (b) As part of the rezoning approval process, the Dunmore Borough Council and Planning Commission can consider the motivation and implications of each plan, analysis, and report.
  - (c) The Planning Commission will:
    - (1) Consider any projected beneficial and/or detrimental effects on the Borough and hold a public hearing on the application, if deemed applicable; and
    - (2) Forward to the Dunmore Borough Council a recommendation for the nature of action regarding rezoning.
  - (d) The Lackawanna County Planning Commission shall review such requests and provide comments as necessary to the Dunmore Borough Council and Planning Commission.
  - (e) The Dunmore Borough Council will hold a public hearing on the application and may compose a brief summary explanation of its decision and will forward the decision and explanation to the applicant. Upon rezoning approval, the Zoning Officer will update the Zoning Map accordingly.

C. Zoning Ordinance Amendments.

The Dunmore Borough Council may, from time to time, amend, supplement, or repeal any of the regulations and provisions of this Ordinance. The enactment of a zoning amendment shall be in accordance with Section 609 of the Pennsylvania Municipalities Planning Code (MPC).

D. Curative Amendments.

1. Landowner Curative Amendments.

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, shall submit to Dunmore Borough a curative amendment, any fees established by resolution of the Borough, and a written request that his challenge and proposed amendment be heard and

decided as provided in Section 916.1 of the Pennsylvania Municipalities Planning Code (MPC). The Dunmore Borough Council shall commence the associated procedures in accordance with Section 609.1 of the Pennsylvania Municipalities Planning Code (MPC).

2. Municipal Curative Amendments.

If the Dunmore Borough Council determines that this Ordinance, or any portion hereof, is substantially invalid, it shall take actions in accordance with Section 609.2 of the Pennsylvania Municipalities Planning Code (MPC).

# BOROUGH OF DUNMORE



400 South Blakely Street  
Dunmore, PA 18512  
570-343-7611 / FAX 570-343-8107

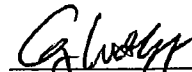
## Ordinance 2023-5 SAPA

THIS ORDINANCE DULY ORDAINED AND ENACTED by the Council of the Borough of Dunmore this 20<sup>th</sup> day of December 2023

In accordance with the 2021 Scranton-Abingtons Planning Association (SAPA) agreement, the effective implementation date of this Ordinance shall be upon the latest date of Zoning Ordinance adoption as conducted by all nine participating SAPA municipalities.

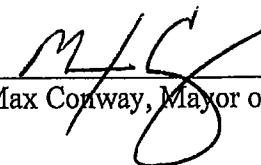
ATTEST:

BOROUGH OF DUNMORE

  
\_\_\_\_\_  
Gregory Wolff Borough Manager

  
\_\_\_\_\_  
Vince Amico Council President

REVIEWED AND APPROVED:

  
\_\_\_\_\_  
Max Conway, Mayor of Dunmore Borough