

**Joint Zoning Ordinance  
Bally & Bechtelsville Boroughs**

May, 2002



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# Article 1

## Background Provisions

### **Section 101      Short Title**

This Ordinance shall be known, and may be cited as, the Bally/Bechtelsville Boroughs Joint Zoning Ordinance of 2002.

### **Section 102      Purpose**

This Ordinance is enacted to promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, property density of population, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements, as well as to prevent overcrowding of land, blight, danger, and congestion in travel and transportation, loss of health, life or property from fire, flood, panic, or other dangers. This Ordinance is also enacted to encourage the maintenance and management of forested or wooded open space, and to promote the conduct of forestry as a sound and economically viable use of forested land. This Ordinance is enacted in accordance with an overall planning program, and, with consideration for the character of the Boroughs, its various parts, and the suitability of the various parts for particular uses and structures.

### **Section 103      Scope**

From, and after, the effective date of this Ordinance, the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height and area, added to, or relocated, and every use within a building or structure or use accessory thereto, in Bally and Bechtelsville Boroughs shall be in conformity with the provisions of this Ordinance. Any existing building or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming buildings, structures or uses.

### **Section 104      Interpretation**

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of the residents of the Boroughs.

In interpreting the language of this Zoning Ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists, as to the

intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

**Section 105 Conflict**

It is not intended by this Ordinance to repeal, abrogate, annul, or interfere with any existing ordinances or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this Ordinance, provided that, where this Ordinance imposes greater restrictions upon the use of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than are required by the provisions of other such ordinance, enactment, rule, regulation or permit, then the provisions of this Ordinance shall control. Furthermore, if a discrepancy exists between any regulations contained within this Ordinance, that regulation which imposes the greater restriction shall apply.

**Section 106 Validity**

Should any sentence, clause, section, or part of this Ordinance, for any reason, be found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Borough Councils that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

**Section 107 Uses Not Provided For**

Whenever, under this Ordinance, a use is neither specifically permitted nor denied, and an application is made by an applicant to the Zoning Officer for such use, the Zoning Officer shall refer the application to the respective Borough Planning Commission and Borough Council to hear and decide such request as a conditional use. The Borough shall have the authority to permit the use or deny the use in accordance with the standards governing conditional use applications. The use may be permitted if it is similar to, and compatible with, the permitted uses in the zone in which the subject property is located, is not permitted in any other zone within the respective Borough under the terms of this Ordinance, and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use meets the foregoing criteria, and would not be detrimental to the public health, safety and welfare of the neighborhood.

**Section 108 Establishment of Zones**

For the purpose of this Ordinance, each Borough is hereby divided into zones which shall be designated as follows:

**Bally Borough Zones**

- Agricultural Zone
- R-1 Residential Zone
- R-2 Residential Zone
- R-3 Residential Zone
- Mixed Use Zone
- General Commercial Zone
- Industrial Zone
- Floodplain Zone
- Main Street Enhancement Zone

**Bechtelsville Borough Zones**

- Conservation Zone
- R-1 Residential Zone
- R-2 Residential Zone
- R-3 Residential Zone
- Town Center Zone
- Industrial Zone
- Floodplain Zone

## Section 109 Zoning Map

The areas within Bally/Bechtelsville Boroughs, as assigned to each zone and the location of the zones established by this Ordinance, are shown upon the Zoning Map of each respective Borough, which, together with all explanatory matter thereon, is attached to, and is declared to be a part of, this Ordinance.

## Section 110 Zone Boundary Lines

The zone boundary lines shall be as shown on the Zoning Map. Zone boundary lines are intended to coincide with lot lines, centerlines of streets and alleys, railroad rights-of-way, and streams at time of passage of this Ordinance, the corporate boundary of the respective Borough or as dimensioned on the Zoning Map. In the event of dispute about the location of the boundary of any zone, the Zoning Officer shall investigate and render a decision on the location of the line. Appeals from this decision shall be made to the respective Zoning Hearing Board.

## Section 111 Community Development Objectives

This Ordinance is enacted in accordance with the Bally/Bechtelsville Boroughs Joint Comprehensive Plan to implement the purpose set forth in Section 102 above. The Ordinance is enacted with regard to the goals listed in Chapter XI of the Bally/Bechtelsville Boroughs Joint Comprehensive Plan.

## Section 112 Definitions

- A. WORD USAGE – Words and phrases shall be presumed to be used in their ordinary context, unless such word or phrase is defined differently within this section.
- B. LANGUAGE INTERPRETATION – In this Ordinance, when not inconsistent with the context:
- a) words in the present tense imply also the future tense.
  - b) the singular includes the plural.
  - c) he male gender includes the female gender.
  - d) the word “person” includes a partnership or corporation, as well as an individual.
  - e) the term “shall” or “must” is always mandatory.
- C. SPECIFIC WORDS AND PHRASES – The following words and phrases shall have the particular meaning assigned by this section in the appropriate sections of this Ordinance.

ACCESS DRIVE – An improved surface designed and constructed to provide for vehicular movement between a public road and the off-street parking and/or loading for any use, other than one (1) single-family dwelling unit or farm.

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

ACT – The latest version of the Pennsylvania Municipalities Planning Code.

ADULT-RELATED USES – A business or club which engages in one (1) or more of the following areas of sales, services or entertainment:

1. Adult Bath House: An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, during which specified anatomical areas are displayed or specified sexual activity occurs. This definition shall not apply to hydrotherapy treatment practiced by, or under the supervision of, a medical practitioner. A medical practitioner, for the purpose of this Ordinance, shall be a medical doctor, physician, chiropractor, or similar professional licensed by the Commonwealth of Pennsylvania.
2. Adult Body Painting, Tattoo and Body Piercing Parlor: Any establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the human body when specified anatomical areas are exposed.
3. Adult Videostore/Bookstore: Any establishment which has a substantial or significant portion of its stock in trade:
  - a) Books, films, videos, magazines or other periodicals, or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas;
  - b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
4. Adult Cabaret: A nightclub, theater, bar, or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
5. Adult Massage Establishment: Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor, professional physical therapist, or massage therapist who is both nationally certified in therapeutic massage by the National Certification Board for Therapeutic Massage and Bodywork, and who is a professional member with active status in good standing of the American Massage Therapy Association. This definition shall not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
6. Adult Motion Picture Theater: An enclosed or unenclosed building used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time, measured on an annual basis, is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
7. Adult Model Studio: Any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art," or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder, to issue and confer a diploma.

8. Adult Motel: A motel or similar establishment offering public accommodations for any consideration, which provides patrons with accommodations for less than an overnight stay.
9. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated, or electronically or mechanically controlled, still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
10. Adult Newsrack: Any machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.
11. Adult Outcall Service Activity: Any establishment or business which provides an out-call service which consists of individuals leaving the premises upon request or by appointment to visit other premises for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.
12. Adult Sexual Encounter Center: Any business, agency or person, who, for any form of consideration or gratuity, provides a place where two (2) or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, including psychosexual workshops, operated by a medical practitioner, as defined in Section 112.C.1., licensed by the Commonwealth, to engage in sexual therapy.
13. Adult Theater: A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
14. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

AGRICULTURE – The tilling of the soil, the raising of crops, forestry, aquaculture, horticulture and gardening, including the keeping or raising of livestock, such as cattle, cows, hogs, horses, sheep, goats, poultry, rabbits, birds, fish, bees, and other similar animals. This definition also includes noncommercial greenhouses and mushroom houses, as well as the processing and retail sale of goods produced on the farm.

ALLEY – A minor right-of-way, privately or publicly owned, primarily for service access to the rear or sides of properties.

ALTERATIONS – Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, joists or rafters, or enclosing walls. Any renovation to a building which would change its use.

AMUSEMENT ARCADE – An establishment or business which provides, as a principal use, amusement devices and/or games of skill or chance (e.g., pinball machines, video games, skee-ball, electronic or water firing ranges and other similar devices). This definition does not include the use of two (2) or less such devices as an accessory use. This use shall not include adult-related uses, as defined herein.

**APPLICATION** – A written submission that is in conformance with forms approved by the respective Borough.

**AREA** – The two-dimensional measurement of space between known lines or boundaries.

**Building Area:** The total area of all buildings (principal and accessory) taken on one or more horizontal planes that are directly between the ground and the sky, exclusive of uncovered porches, awnings, terraces, and steps (i.e., top view).

**Gross Floor Area:** The sum of the floor areas of a building, as measured to the outside surfaces of exterior walls and/or all areas intended for the conduct of a use.

**Habitable Floor Area:** The sum of the floor areas of a dwelling unit as measured to the inside surfaces of interior walls and including all rooms used for habitation, such as living room, dining room, kitchen, basement, bedroom, bathroom, family room, closets, hallways, stairways, and foyers, but not including cellars or attics, service or utility rooms, nor unheated areas, such as enclosed porches.

**Lot Area:** The total surfacial area contained within the property lines of a lot.

**Retail Sales Area:** The total area of use which is devoted to the display of goods and/or services, including aisles, to prospective patrons.

**ATTIC** – That part of a building which is immediately below, and completely or partly within, the roof framing. Within a dwelling unit, an attic shall not be counted as floor area, unless it is constructed as, or modified into, a habitable room by the inclusion of dormer windows, an average ceiling height of five feet (5') or more, and a permanent stationary interior access stairway to a lower building story.

**AUTOMOBILE FILLING STATION** – Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any retail sales of motor vehicle accessories, which shall not include major repairing, body and fender work, painting, vehicular sales, nor rental or automatic car washes.

**AUTOMOBILE SALES** – Any building or land devoted to the retail sales of motor vehicles, including accessory service and repair facilities, if such service and repair are conducted within a completely-enclosed building.

**AUTOMOBILE SERVICE** – The retail repair, servicing, maintenance, and reconstruction of motor vehicles, but not including car washes per se.

**BASE FLOOD** – The flood having a one percent (1%) chance of being equaled or exceeded in any given year (100-year flood).

**BASE FLOOD ELEVATION** – The projected flood height of the base flood.

**BASEMENT** – A space with less than one-half ( $\frac{1}{2}$ ) of its floor-to-ceiling height above the average finished grade of the adjoining ground, and with a floor-to-ceiling height of greater than six and one-half feet ( $6\frac{1}{2}$ ).

**BED AND BREAKFAST** – A single-family, owner-occupied dwelling, where between one (1) and seven (7) sleeping accommodations are rented to overnight guests on a daily basis for periods not exceeding two (2) weeks. Breakfast may be offered only to registered overnight guests.

**BILLBOARD** – A sign upon which advertising matter of any character is printed, posted, or lettered, whether freestanding or attached to a surface of a building or other structure. A billboard is used to advertise products, services or businesses at a location other than the premises on which the sign is placed.

**BOARD** – The Zoning Hearing Board of the respective Borough.

**BOARDER** – An individual other than a member of a family owning or occupying a dwelling unit, or a lodging facility who, for compensation, is furnished sleeping accommodations within such dwelling unit or lodging facility, and may be furnished meals or other services as part of the compensation.

**BOARDING HOUSE** – A building or portion thereof arranged or used for sheltering or feeding, or both, as a gainful business, for five (5), but not more than ten (10), individuals that do not constitute a family.

**BOROUGH** – The respective Borough.

**BUILDING** – Any structure with a roof intended for shelter or enclosure of persons, animals or property. For the purpose of Section 230, this term shall also include gas or liquid storage tanks.

**Detached:** A building which has no party wall.

**Semi-detached:** A building which has only one party wall in common.

**Attached:** A building which has two (2) or more party walls in common.

**BUILDING HEIGHT** – A building's vertical measurement from the mean level of the ground abutting the building to the highest point of the roof.

**BUILDING SETBACK LINE** – The actual line of the closest part of a building to an adjacent street right-of-way line. This shall include sun parlors, covered porches, whether enclosed or unenclosed, any roof overhangs, but does not include steps.

**CARTWAY** – The improved portion of a street upon which vehicles move.

**CELLAR** – A space with less than one-half ( $\frac{1}{2}$ ) of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and one-half feet ( $6\frac{1}{2}'$ ). Within a dwelling unit, a cellar shall not be counted as floor area.

**CEMETERY** – Land used or intended to be used for the burial of the deceased, including columbariums, crematoria, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof.

**CHANNEL** – A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.

**CHANNEL FLOW** – That water which is flowing within the limits of a defined channel.

**CHURCH AND RELATED USES** – A building, structure, or group of buildings or structures, including accessory uses, designed or intended for public worship. This definition shall include rectories, convents, cemeteries, and church-related educational and/or day-care facilities.

**CLUBHOUSE** – An organization catering exclusively to members and their guests, or premises or buildings for social, recreational and administrative purposes which are not

conducted for profit, provided there are not conducted any vending stands, merchandising or commercial activities, except as required for the membership of such club. Clubs shall include, but not be limited to, service and political organizations, labor unions, as well as social and athletic clubs. Private clubs shall not include adult-related uses, as defined herein.

COMMERCIAL RECREATION FACILITY – An activity operated as a business, open to the public, for the purpose of public recreation or entertainment, including, but not limited to, bowling alleys, drive-in motion picture facilities, swimming pools, health clubs, miniature golf courses, museums, etc. This use shall not include adult-related uses or amusement arcades, as defined herein.

COMMERCIAL SCHOOL – A school that may offer a wide range of educational or instructional activities (excluding vocational-mechanical trade schools as defined below) that may, or may not, be operated as a gainful business by some person or organization other than the public school district. Examples include, but are not limited to, ballet, karate, painting, photography, computer training, and dance schools.

COMMUNICATION ANTENNAS, TOWERS AND EQUIPMENT – A principal use that employs a device incorporating a mast or reflective surface design that is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally-based uses, except that this use shall expressly exclude antennas associated with permitted accessory uses that also comply with the height requirements of its respective Zone.

CONDITIONAL USE – A use which may not be appropriate to a particular zoning district as a whole, but which may be suitable in certain localities within the district only when specific conditions and criteria prescribed for such uses have been complied with. Conditional uses are reviewed by the respective Borough Council after recommendations by the Planning Commission, in accordance with Section 704 of this Ordinance.

CONDOMINIUM – A form of property ownership providing for individual ownership of a specific dwelling unit, or other space not necessarily on ground level, together with an undivided interest in the land or other parts of the structure in common with other owners.

CONSERVATION PLAN – A plan including a map(s) and narrative that, at the very least, outlines an erosion and sedimentation control plan for an identified parcel of land.

CONVENIENCE STORE – A business which specializes in the retail sales and/or rental of household products and foods. Convenience stores may also include any of the following, provided that each use has obtained the necessary respective approvals, and it operates as an accessory use to the convenience store:

1. Retail sales or rental of books, magazines, videos, software, and video games, provided that adult-related uses are expressly prohibited;
2. Restaurants, including drive-thru or fast-food operations, subject to the requirements of Section 447 of this Ordinance, and provided that rest rooms are made available to the public;
3. Accessory amusement devices with no more than two (2) such devices;
4. Automatic bank teller machines;
5. Film development drop-off sites;
6. Laundry, dry cleaning and tailoring drop-off sites;
7. Lottery sales counters and machines;
8. Propane fuel sales with no larger than 20 pound tanks, which must be stored outside of the building at all times;

9. Dispensing of motor vehicle fuels, oils, compressed air, kerosene, washer fluid, and other motor vehicle-related items, subject to the requirements of Section 404 of this Ordinance;
10. Car washes, subject to the requirements of Section 411 of this Ordinance; and,
11. Post offices and other parcel delivery drop-off sites.

DAY-CARE – The offering of care or supervision over minors or special needs adults, in-lieu-of care or supervision by family members. This definition does not include the offering of overnight accommodations.

Day-Care, Commercial: A day-care facility that is a primary use and is licensed by the Commonwealth of Pennsylvania.

Day-Care, Family: A day-care facility that is operated as an accessory use to a single-family dwelling, that is registered by the Commonwealth of Pennsylvania, and offers care and supervision to no more than four (4) persons during any calendar day.

DENSITY – The number of dwelling units in relation to the land area actually in use, or proposed to be used, for residential purposes, exclusive of public rights-of-way, streets, sidewalks, parks, playgrounds, common parking lots, common open spaces, floodplains, etc.

DEVELOPMENT – Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DOMESTIC PETS – The noncommercial keeping of no more than four (4) adult nonfarm animals, that are locally available for purchase as pets, as an accessory use to a primary residential use.

DRIVEWAY – An improved surface designed and constructed to provide vehicular movement between a public road and a tract of land serving one (1) single-family dwelling unit or a farm.

DWELLING – Any building or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, boarding, rooming and lodging houses, institutional houses, tourist courts and the like, offering overnight accommodations for guests or patients. All dwellings must be permanently affixed to a completely-enclosed foundation constructed of currently accepted materials that shall be an entire perimeter wall and extend from below the frost line to the first floor of the building. Such foundation shall be constructed to provide sufficient structural integrity to prevent the building from heaving, shifting or settling unevenly, due to frost action. In addition, all dwellings shall be properly connected to approved and permanently-designed sewer, water, electrical, and other utility systems.

1. Single-Family Detached: A freestanding building containing one (1) dwelling unit for one (1) family. Mobile homes can be considered single-family detached dwellings if, in addition to the requirements listed for all dwellings, the mobile home is securely anchored to the permanent foundation, and all of the apparatuses used to transport the unit shall be removed, including the towing hitch. Recreational vehicles shall not be construed as dwellings. Modular homes can be considered single-family detached dwellings, so long as they comply with the general requirements of a dwelling. (Figure 1)

2. Duplex (Two-family; Single-Family Semi-detached): A freestanding building containing two (2) dwelling units for two families, arranged in a side-by-side (Figure 2) or over-and-under (Figure 3) configuration.
3. Multiple Family: A building containing three (3) or more dwelling units, at least one (1) of which must be located above or below the remaining units. (Figure 4)
4. Townhouse: A building containing between three (3) and eight (8) dwelling units, arranged in a side-by-side configuration with two (2) or more common party walls. (Figure 5).

DWELLING UNIT – A building, or portion thereof, arranged or designed for occupancy by not more than one (1) family, and having separate cooking and sanitary facilities.

EARTHMOVING ACTIVITY – Any construction or other activity which disturbs the surface of the land, including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

ECHO Housing – An accessory dwelling unit placed on a property for occupancy by either an elderly, handicapped or disabled person(s) related by blood, marriage or adoption to the occupants of the principal dwelling, and who requires an assisted living arrangement.

FAMILY – An individual or individuals related by blood, marriage, or adoption who maintain one (1) common household and live within one (1) dwelling unit. Additionally, up to four (4) unrelated individuals who maintain a common household and live within one (1) dwelling unit may be considered a family. Finally, a family may also be considered any number of unrelated individuals who are developmentally disabled and occupy a group home that is licensed by the appropriate governmental agencies.

FARMERS, ANTIQUES AND/OR FLEA MARKET – A retail sales use where more than one (1) vendor displays and sells general merchandise that is new or used. Farmers and/or flea markets can include indoor and outdoor display of merchandise.

FELLING – The act of cutting a standing tree so that it falls to the ground.

FILL – Material placed or deposited so as to form an embankment or raise the surface elevation of the land, including, but not limited to, levees, bulkheads, dikes, jetties, embankments, and causeways.

FINANCIAL INSTITUTION – A bank, savings and loan association, credit union, finance or loan company, etc.

500-YEAR FLOOD – A flood that, on the average, is likely to occur once every five hundred (500) years.

500-YEAR FLOOD BOUNDARY – The outer boundary of an area of land that is likely to be flooded once every five hundred (500) years (i.e., which has a one-fifth-of-one-percent (.05%) chance of being flooded each year), as determined by the Flood Insurance Study as may, from time to time, be promulgated by the Federal Emergency Management Association.

500-YEAR FLOOD ELEVATION – The water surface elevations of the five hundred (500) year floodplain.

FLOOD – A general and temporary condition of partial or complete inundation of normally dry land areas from the overland flow of watercourses, or from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION – The projected heights, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), reached by floods of various magnitudes and frequencies in the floodplain areas.

FLOOD OF RECORD – The flood which has reached the highest flood elevation above mean sea level at a particular location.

FLOODPLAIN – An area of land adjacent to the channel of a watercourse which has been, or is likely to be, flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOF – Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to property, structures and their contents.

FLOODWAY – The channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood elevation more than one foot (1').

FORESTRY – The management of forest and timberlands when practiced in accordance with accepted silviculture principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

FORESTRY OPERATOR – An individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors and employees thereof.

FUNERAL HOME – A use which prepares the remains of deceased humans for burial and cremation. This use may also conduct funeral services.

GARAGE, PRIVATE – An accessory building for the storage of one (1) or more motor vehicles and/or other vehicles accessory and incidental to the primary use of the premises; provided, however, that one (1) commercial vehicle of not more than three-quarter (3/4) ton capacity may be stored therein where the use of such vehicle is not incidental to the use of the premises. No business, occupation or service shall be conducted therein, nor shall space therein for more than one (1) vehicle be leased to a non-occupant of the premises. Where a garage is an attached integral part of a dwelling unit, the garage shall not be counted as floor area, unless it is constructed or modified into a habitable room by the removal of all vehicular access doors; and provided adequate off-street parking is still available on the same lot as the dwelling unit.

**GROUP HOME** – A dwelling operated by a responsible individual, family or organization with a program to provide a supportive living arrangement for individuals, where special care is needed by the individuals served due to age, emotional, mental, or physical handicap. Group homes must be licensed where required by all appropriate government agencies, and a copy of any such licenses must be delivered to the Zoning Officer prior to beginning the use. Group homes shall be subject to the same limitations and regulations by each Borough as single-family detached dwellings, except insofar as and where such limitations and regulation would result in a tendency to perpetuate segregation of persons with disabilities in housing patterns, as substantiated by reasonable evidence provided to the respective Borough Council.

**HAZARDOUS MATERIAL** – Materials which have the potential to damage health or impair safety. Hazardous materials include, but are not limited to, inorganic mineral acids or sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts; lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal tar acids, such as phenols and cresols, and their salts; petroleum products; and radioactive materials. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks and large containers.

**HAZARDOUS WASTE** – Any garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant, or air pollution facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities, or any combination of the above, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- 1) Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or
- 2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, exposed of, or otherwise managed.

**HAZARDOUS WASTE FACILITY** – Any structure, group of structures, aboveground or underground storage tanks, or any other area or buildings used for the purpose of permanently housing or temporarily holding hazardous waste, or for the storage or treatment of hazardous waste, for any time span, other than the normal transportation time through the Borough(s).

**HEALTH AND RECREATION CLUB** – An establishment that offers active recreational and/or fitness activities. Such activities are provided only to club members and their guests. Such facilities do not include golf courses, nor adult-related uses, as defined herein.

**HEAVY EQUIPMENT** – Vehicles and machinery that are not normally associated with domestic use (e.g., excavation equipment, commercial trucks and trailers, buses, yachts, farm equipment, mechanized amusement rides, industrial machinery, and other similar items).

**HEIGHT, BUILDING** – A building's vertical measurement from the average ground level at the corners of the building to the highest point of the roof.

**HEIGHT, STRUCTURE** – A structure's vertical measurement from the mean level of the ground abutting the structure to the highest point of the structure.

**HOME OCCUPATION** – A business or commercial activity that is conducted as an accessory use to a principal, single-family dwelling unit. Home occupations are permitted by special exception where noted, and subject to Section 431 of this Ordinance. A limited

business or commercial activity which meets all of the following criteria is not considered a home occupation and is permitted by right in any dwelling unit:

1. No exterior evidence (e.g., noise, light, heat, dust, odor, signs, electromagnetic interference, etc.) of the business shall be permitted that is uncharacteristic of a residential setting;
2. No display of goods for sale, exclusive of telephone solicitation, is permitted;
3. No on-site storage of commercial vehicles shall be permitted, except as may be provided under the definition of "Garage, Private";
4. Only residents of the site may be engaged in the business or commercial activity;
5. The business or commercial activity may be conducted only within the dwelling unit and may not occupy more than fifteen percent (15%) of the habitable floor area;
6. The use shall not require the delivery of materials and goods by trucks larger than standard panel trucks; and,
7. The use shall not involve regular visitation by customers, clients, salespersons, or suppliers.

**HOTEL** – A facility which provides lodging to boarders for compensation, excluding adult-related uses, as defined herein, which contains more than eight (8) rooms, with less than twenty-five percent (25%) of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and which may provide meals and other services as a part of the compensation.

**INTENSIVE LIVESTOCK OPERATION** – An agricultural use involving the commercial keeping and handling of livestock quantities with characteristics in both of the following subsections:

- 100 horses;
- 100 dairy or beef cattle;
- 200 swine;
- 200,000 poultry, excluding turkeys;
- 200 sheet or veal;
- 5,000 turkeys; plus,

the keeping and handling of livestock quantities exceeding an average adult weight for horses, dairy cattle and layer chickens and/or an average market weight of all other livestock of 2,000 pounds per acre, as referenced in the following table:

Livestock	Animal Size (lb.)	Livestock	Animal Size (lb.)
Cattle:		Poultry:	
Dairy	150-1500	Layer	4
Beef	400-1400	Layer, heavy	7
Veal	100-350	Pullet	3
Swine:		Broiler	4
Pigs	35-200	Roaster	7
Gestating sow (limit fed)	275	Turkey	20
Sow and 8 pigs	375	Duck	7
Boar (limit fed)	350	Guinea	3-4
Sheep	100	Pheasant	3
Horse	1000	Chukar	1.5
		Quail	0.5

Sources: PA DEP, *Field Application of Manure*, and *Poultry Manure Management*.

**INTENSIVE PRODUCE OPERATION** – An agricultural use whereby plant materials are principally grown within enclosed buildings, and where such use exceeds a lot coverage of ten percent (10%).

INTERIOR DRIVE – Any on-site vehicular movement lane(s) that are associated with a use other than a single-family dwelling.

JUNK – Used materials, discarded materials, or both, including, but not limited to, waste paper, rags, metal, building materials, house furnishings and appliances, machinery, vehicles or parts thereof, all of which are being stored awaiting potential reuse or ultimate disposal.

JUNKYARD – An area of land, with or without buildings, used for the storage, outside a completely-enclosed building, of used and discarded materials, including, but not limited to, waste paper, rags, metal, building materials, house furnishings and appliances, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. The deposit or storage on a lot of more than one (1) or more unlicensed, wrecked, or disabled vehicles, or the major part thereof, shall be deemed to constitute a "junkyard." (A disabled vehicle is a vehicle intended to be self-propelled that shall not be operable under its own power for any reason, or a vehicle that does not have a valid current registration plate, or that has a certificate of inspection which is more than sixty (60) days beyond the expiration date.)

KENNEL – Any lot on which domestic animals (except relating to a farm) are kept, boarded, raised, bred, treated, or trained for a fee, including, but not limited to, dog or cat kennels.

LANDING – The place where logs, pulpwood or firewood are assembled for transport to processing facilities.

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

LANDSCAPE SCREEN – A completely planted visual barrier composed of evergreen shrubs and trees arranged to form both a low-level and a high-level screen between grade and to a height of six feet (6').

LITTER – Discarded materials scattered about a site that are not normally associated with its use.

LITTER CONTROL PLAN – A written report presenting the responsible parties for, and the methods, timing and frequency of, efforts to recover and properly dispose of litter upon a property.

LOADING SPACE – An off-street space or area suitable for the loading or unloading of goods and having direct usable access to a street or alley.

LOP – The process of cutting tree tops and slash into smaller pieces to allow material to settle close to the ground.

LOT – A parcel of land separately described by a metes and bounds description which is recorded in the Office of the Recorder of Deeds of Berks County by deed description, or is described by an approved subdivision plan recorded in the Office of the Recorder of Deeds of Berks County.

Lot, Corner: A lot at the point of intersection of and abutting two (2) or more intersecting streets, and which has an interior angle of less than 135 degrees at the intersection of

the two street lines. Corner lots shall have two (2) front yards, one (1) side and one (1) rear yard.

Lot, Flag: A lot whose frontage does not satisfy the minimum width requirements for the respective zone, but that does have sufficient lot width away from the lot's frontage.

Lot, Interior: A lot other than a corner lot, the sides of which do not abut a street.

Lot, Through: An interior lot having frontage of two (2) parallel or approximately parallel streets.

LOT COVERAGE – A percentage of the lot area which may be covered with an impervious surface (e.g., buildings, driveways, parking area, sidewalks).

LOT DEPTH – The horizontal distance measured between the street right-of-way line and the closest rear property line. On corner and through lots, the depth shall be measured from the street right-of-way line of the street of address to the directly opposite property line.

MAXIMUM FLOOD ELEVATION – The water surface elevations of a flood which would completely fill the floodplain to the boundaries of the Floodplain Zone.

MEAN SEA LEVEL - The average height of the sea for all stages of the tide, using the National Geodetic Vertical Datum of 1929.

MEDICAL OR DENTAL CLINIC – Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an outpatient basis. This use shall not include adult-related uses, as defined herein.

MINI-WAREHOUSE – A building and/or series of buildings divided into separate storage units for personal property and/or property associated with some business or other organization. These units shall be used solely for dead storage, and no processing, manufacturing, sales, research and development, testing, service and repair, or other non-storage activities shall be permitted.

**MOBILE HOME** – Any structure intended for or capable of permanent human habitation, with or without wheels, and capable of being transported or towed from one place to the next, in one (1) or more pieces, by whatsoever name or title it is colloquially or commercially known, but excluding transport trucks or vans equipped with sleeping space for a driver or drivers, and travel trailers. Mobile homes placed in parks shall meet the requirements for mobile home parks listed in Section 439 of this Ordinance. Mobile homes placed on individual lots shall be considered "dwellings," and be bound by the requirements there-imposed. For the purposes of Section 230 of this Ordinance, any travel trailer, as defined herein, that is contained on the same parcel for more than 180 days in any calendar year shall be considered a mobile home.

**MOBILE HOME LOT** – A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

**MOBILE HOME PARK** – A parcel or contiguous parcels of land which have been so designated and improved to contain two (2) or more mobile home lots for the placement thereon of mobile homes.

**MOTEL** – A facility which provides lodging to boarders for compensation, excluding adult-related uses, as defined herein, which contains more than eight (8) rooms with at least twenty-five percent (25%) of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and which may provide meals and other services as a part of the compensation.

**MUNICIPAL SERVICES** – Those uses and facilities designed to furnish necessary support for the general public health, safety and welfare that are typically the responsibility of local governments and other locally-operated service agencies, and are not operated on a commercial basis. Such uses shall include, but not be limited to:

1. Municipal offices, meeting halls, garages and storage yards;
2. Police, fire and ambulance stations;
3. Indoor community service uses and activities, including meeting rooms, classrooms, theaters, auditoriums, banquet and social halls, scout cabins, libraries, museums and galleries of materials that are not for sale, clubhouses, accessory cafeterias and kitchens, and other similar uses;
4. Outdoor community service facilities and activities, including fair grounds, community bulletin boards and other similar uses; and,
5. Uses accessory to the above permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers, and other similar uses.

**NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after the effective date of this Ordinance.

**NIGHTCLUB** – Any building used for on-site consumption of alcoholic or nonalcoholic beverages where live entertainment is offered on a regular basis. For the purposes of this definition, "live entertainment" is meant to include the use of disc-jockeys for the purposes of supplying musical entertainment. Nightclubs may also provide for the on-site consumption of food. Additionally, nightclubs may offer the retail sale of carry-out beer and wine as an accessory use. This term is meant to include an "under 21" club which features entertainment. This use does not include adult-related uses as defined herein.

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 zone in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE – A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the Zoning Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such Ordinance, or amendment, or prior to the application of such Ordinance or amendment to its location by reason of annexation. Such nonconforming 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 the Zoning Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance, or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

NONCONFORMITY, DIMENSIONAL – Any aspect of a land use that does not comply with any size, height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standard specified by this Ordinance, where such dimensional non-conformity lawfully existed prior to the adoption of this Ordinance or amendment thereto.

NURSING, REST OR RETIREMENT HOMES – Facilities designed for the housing, boarding, and dining associated with some level of nursing care.

OBSTRUCTION – Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone area, (1) which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or (2) which is placed where the flow of the water might carry the same downstream, to the damage of life and property.

OFFICE – A place where the primary use is conducting the affairs of a business, profession, service, or government, including administration, record keeping, clerical work, and similar business functions. An office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods or products; or the sale or delivery of any materials, goods, or products which are physically located on the premises. Office supplies used in the office may be stored as an incidental use.

100-HUNDRED YEAR FLOOD – A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

100-YEAR FLOOD BOUNDARY – The outer boundary of an area of land that is likely to be flooded once every 100 years (i.e., that has a one percent (1%) chance of being flooded each year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed surveyor or professional engineer, registered by the Commonwealth of Pennsylvania is necessary to define this boundary.

100-YEAR FLOOD ELEVATION – The water surface elevations of the 100-year flood.

**PARKING LOT** - An accessory use in which required and additional parking spaces are provided, subject to the requirements listed in Section 311 of this Ordinance.

**PARKING SPACE** – An off-street space available for the parking of one (1) motor vehicle and having usable access to a street or alley.

**PARKS AND PLAYGROUNDS** – Those facilities designed and used for recreation purposes by the general public that are not operated on a commercial basis. This definition is meant to include the widest range of recreational activities, excluding adult-related uses, amusement arcades, amusement or theme parks, golf courses, off-track betting parlors, racetracks, and shooting ranges. Such uses may include:

1. Outdoor park and recreation facilities, including athletic fields, courts, playgrounds, open play areas, stadiums, skating rinks, skateboard, stunt-bicycle or BMX-bicycle courses and other similar uses;
2. Indoor recreation facilities, including community centers, gymnasiums, weight and fitness rooms, tennis courts, gymbores, game rooms, bowling alleys, skating rinks, locker rooms, and other similar uses;
3. Outdoor passive recreation facilities, including picnic pavilions, hiking, biking and fitness trails, park benches, fountains, statues and other memorials, barbecue grills, ponds, natural and cultural exhibits, amphitheaters and other similar uses;
4. Indoor community service uses and activities, including meeting rooms, classrooms, theaters, auditoriums, banquet and social halls, scout cabins, libraries, museums and galleries of materials that are not for sale, clubhouses, accessory cafeterias and kitchens, and other similar uses;
5. Outdoor community service facilities and activities, including fair grounds, community bulletin boards and other similar uses;
6. Indoor and outdoor swimming pools, including related amenities like bathhouse, wading pools, spas, snack bars, and other similar uses; and,
7. Uses accessory to the above permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers and other similar uses.

**PERSON** – An individual, corporation, partnership, incorporator's association, or any other similar entity.

**PESTICIDE** – Any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.

**PETROLEUM PRODUCT** – Oil or petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

**PLANNING COMMISSION** – The Planning Commission of each respective Borough.

**PRE-COMMERCIAL TIMBER STAND IMPROVEMENT** – A forest practice, such as thinning or pruning, which results in better growth, structure, species composition, or health for the residual stand, but which does not yield a net income to the landowner, usually because any trees cut are of poor quality, are too small or are otherwise of limited marketability or value.

**PREMISES** – The property upon which the activity is conducted, as determined by physical facts rather than property lines. It is the land occupied by the buildings or other physical uses that are necessary or customarily incidental to the activity, including such open spaces as are arranged and designed to be used in connection with such buildings or uses.

The following are not considered to be a part of the premises on which the activity is conducted, and any signs located on such land are to be considered off-premise advertising:

1. Any land which is not used as an integral part of the principal activity, including land which is separated from the activity by a roadway, highway or other obstruction, and not used by the activity; and extensive, undeveloped highway frontage contiguous to the land actually used by a commercial facility, even though it might be under the same ownership.
2. Any land which is used for, or devoted to, a separate purpose unrelated to the advertised activity.
3. Any land which is in closer proximity to the highway than to the principal activity, and developed or used only in the area of the sign site or between the sign site and the principal activity, and whose purpose is for advertising purposes only. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted, if the site is located on a narrow strip of land which is nonbuildable land, or is a common or private roadway, or is held by easement or other lesser interest than the premises where the activity is located.

**PRINCIPAL USE** – The main or primary use of property or structures.

**PRIVATE SCHOOL** – A school that offers elementary, secondary, post-secondary, post-graduate, or any combination thereof, education that may, or may not, be operated as a gainful business.

**PUBLIC** – Owned, operated or controlled by a governmental agency (Federal, State, or local, including a corporation created by law for the performance of certain specialized governmental functions, and the Board of Education).

**PUBLIC HEARING** – A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action on zoning-related matters.

**PUBLIC MEETING** – A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act.

**PUBLIC NOTICE** – Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the respective Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven (7) days from the date of the hearing. Public notice for rezoning, special exception, conditional use and/or variance requests shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property; these sign(s) shall be posted at least one (1) week prior to the hearing and will exhibit the nature, date, time, and location of the hearing.

**PUBLIC SCHOOL** – A school licensed by the Department of Education for the purpose of providing elementary, secondary and adult education, and operated by the School District.

**PUBLIC SEWER** – A municipal sanitary sewer or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

**PUBLIC UTILITIES** – Use or extension thereof which is operated, owned or maintained by a municipality or municipal authority or which is privately owned and requires a "Certificate

of Convenience" approved by the Pennsylvania Public Utility Commission for the purpose of providing public sewage disposal and/or treatment; public water supply, storage and/or treatment; or for the purpose of providing the transmission of energy or telephone service.

PUBLIC WATER – A municipal water supply system, or a comparable common water facility, approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

RADIOACTIVE MATERIAL – Any natural or artificially produced substance which emits radiation spontaneously.

REGULATORY FLOOD ELEVATION – An elevation equal to one and one-half feet (1½') higher than the surface water elevation associated with the one hundred year flood, as defined herein.

RENTAL – The temporary transfer of goods for compensation.

RESTAURANT – Any business or establishment that serves prepared food primarily on nondisposable tableware, but can provide for incidental carry-out service so long as the area used for carry-out service does not exceed either ten percent (10%) of the total patron seating area or two hundred (200) square feet (whichever is less). Caterers shall be included in this definition.

RESTAURANT – DRIVE-THRU OR FAST-FOOD – An establishment that serves prepared food generally packaged in paper wrappers and/or disposable plates and containers. Such food can be consumed either on or off the site.

RETAIL STORE/SALES – Retail stores are those businesses whose primary activities involve the display and retail sales and/or rental of goods and products. This term shall not include adult-related facilities as defined herein.

RIGHT-OF-WAY – A corridor of publicly-owned land for purposes of maintaining primary vehicular and pedestrian access to abutting properties, including, but not limited to, roads, streets, highways and sidewalks. Abutting property owners are prohibited from encroaching across the right-of-way line. (See also "Street Line.")

SATELLITE DISH ANTENNA – A device incorporating a reflective surface which is solid, open-mesh or bar-configured, and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally-based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs, and satellite microwave antennas.

SCHOOL – A principal use in which supervised education or instruction is offered according to the following categories:

1. Commercial School: A school that may offer a wide range of educational or instructional activities (excluding vocational-mechanical trade schools as defined below) that may, or may not, be operated as a gainful business by some person or organization other than the public school district. Examples include, but are not limited to, ballet, karate, painting, photography, computer training, and dance schools.
2. Private School: A school that offers elementary, secondary, post-secondary, post-graduate, or any combination thereof, academic education that may, or may not, be operated as a gainful business.

3. Public School: A school licensed by the Department of Education for the purpose of providing elementary, secondary and adult education, and operated by the School District.
4. Vocational-Mechanical Trade School: A school that may, or may not, be operated as a gainful business that principally offers training in any of the following occupations:
  - A. Truck driving;
  - B. Engine repairs;
  - C. Building construction and general contracting;
  - D. Woodworking;
  - E. Masonry;
  - F. Plumbing;
  - G. Electrical contracting; and,
  - H. Other similar trades, as determined by the Zoning Hearing Board pursuant to Sections 107 and 604.5. of this Ordinance.

SCREENING – An assemblage of materials that are arranged so as to block the ground level views between grade and a height of six feet (6'). Suitable screening materials include trees, shrubs, hedges, berms, walls, sight-tight fences, other similar type materials, or any combination thereof. No wall or fence shall be constructed of plywood, corrugated metal or fiberglass, nor sheet metal. Landscape screens must achieve the required visual blockage within two (2) years of installation.

SETBACK – The required horizontal distance between a setback line and a property or street line.

Setback, Front: The distance between the street line and the front setback line, projected the full width of the lot. Commonly called "required front yard."

Setback, Rear: The distance between the rear lot line and the rear setback line, projected the full width of the lot. Commonly called "required rear yard."

Setback, Side: The distance between the side lot line and the side setback line, projected from the front yard to the rear yard. Commonly called "required side yard."

SETBACK LINE – A line within a property and parallel to a property or street line which delineates the required minimum distance between some particular use of property and that property or street line.

SIGN – A device for visual communication that is used to bring the subject to the attention of the public, but not including lettering or symbols that are an integral part of another structure, or flags or other insignia of any government, fraternal or similar organization.

SKIDDING – The dragging of felled trees on the ground from the stump to the landing by any means.

SLASH – Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken uprooted trees and shrubs.

SLDO – The latest version of the Subdivision and Land Development Ordinance of each respective Borough.

SOIL SURVEY – The latest published version of the United States Department of Agriculture's soil survey for Berks County, Pennsylvania.

**SOLID WASTE** – Garbage, refuse and other discarded materials, including, but not limited to, solid and liquid waste materials resulting from municipal, industrial, commercial, agricultural and residential activities. Such wastes shall not include biological excrement nor hazardous waste materials, as defined in the *Code of Federal Regulations*, Title 40, Chapter 1, Part 261, dated July 1, 1984, or as amended.

**SPECIAL EXCEPTION** – A use that is generally compatible with a particular zone once specified criteria have been met. Special exception uses are listed by zone and are to be decided by the Zoning Hearing Board, in accordance with Section 604.3. of this Ordinance.

**SPECIFIED ANATOMICAL AREAS** – Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, female breasts below a point immediately above the top of areolae, and/or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** – For the purposes of this Ordinance, this term shall include any of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
5. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain; or
6. Erotic or lewd touching, fondling or other contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

**STAND** – Any area of forest vegetation whose site conditions, past history and current species composition are sufficiently uniform to be managed as a unit.

**STREAM** – Any natural or man-made channel of conveyance of surface water with an annual or intermittent flow within a defined bed and bank.

**STREET** – Includes street, avenue, boulevard, road, highway, freeway, lane, viaduct, and any other dedicated and adopted public right-of-way used, or intended to be used, by vehicular traffic.

**STREET CENTERLINE** – The horizontal line paralleling the street that bisects the street right-of-way into two (2) equal widths. In those instances where the street right-of-way cannot be determined, the street centerline shall correspond to the center of the cartway.

**STREET LINE (Right-of-Way Line)** – A line defining the edge of a street right-of-way and separating the street from abutting property or lots. The street line shall be the same as the legal right-of-way line currently in existence.

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

**Structure, Accessory:** A structure associated with an accessory use (e.g., swimming pools, patios, antennas, tennis courts, garages, utility sheds, etc.).

**Structure, Principal:** A structure associated with a primary use.

Structures shall not include such things as fences, sandboxes, decorative fountains, swing-sets, birdhouses, birdfeeders, mailboxes, and any other similar nonpermanent improvements.

**SUBDIVISION** – The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines, for the purpose, whether immediate or future, of lease, transfer of ownership of building or lot development.

**SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the fair market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure.

**SWIMMING POOL** – Any pool, not located within a completely-enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half feet (1½'). Farm ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.

**TAVERN** – An establishment which serves primarily alcoholic beverages for mostly on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board. Taverns may also serve food. Live entertainment shall be permitted no more than twice per week and shall expressly exclude adult-related uses, as defined herein.

**TIMBER HARVESTING OR TREE HARVESTING** – A forestry operation that involves cutting down of trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood, wood-related or paper products.

**TRAVEL TRAILER** – A portable structure, primarily designed to provide temporary living quarters for recreation, camping or travel purposes. In addition to the above, any of the following attributes are characteristic of a "travel trailer":

1. The unit is of such size or weight as not to require a special highway movement permit from the Pennsylvania Department of Transportation when self-propelled, or when hauled by a standard motor vehicle on a highway;
2. The unit is mounted, or designed to be mounted, on wheels;
3. The unit is designed to be loaded onto, or affixed to, the bed and/or chassis of a truck;
4. The unit contains, or was designed to contain, temporary storage of water and sewage, and,
5. The unit contains some identification by the manufacturer as a travel trailer.

**TREE TOP** – The upper portion of a felled tree that is not merchantable because of small size, taper or defect.

TWO-FAMILY CONVERSIONS – The conversion of an existing single-family detached dwelling unit to contain two (2) separate dwelling units.

UPPER FLOOR APARTMENTS – A dwelling unit located above a commercial and/or civic use within the Mixed Use and Town Center Zones.

USE – The specific purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.

Use, Accessory: A use customarily incidental and subordinate to the principal use or building, and located on the same lot with this principal use or building.

Use, Principal: The main or primary use of property or structures.

USE AND OCCUPANCY PERMIT – A permit issued by the Zoning Officer certifying a use's compliance with information reflected on the building permit and the Zoning Ordinance.

VARIANCE – A modification of any provision of this Ordinance granted by the respective Zoning Hearing Board, subject to findings specified by the Act and this Ordinance.

VETERINARIAN'S OFFICE – A building used primarily for the treatment, by a veterinarian, of small domestic animals, such as dogs, cats, rabbits, and birds or fowl. No outdoor boarding of animals is permitted.

VOCATIONAL-MECHANICAL TRADE SCHOOL – An educational use that offers training of the following occupations:

1. Truck driving;
2. Engine repairs;
3. Building construction and general contracting;
4. Woodworking;
5. Masonry;
6. Plumbing;
7. Electrical contracting; and,
8. Other similar trades, as determined by the Zoning Hearing Board pursuant to Sections 107 and 604.5. of this Ordinance.

WATERCOURSE – A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water carrying or holding surface water, whether natural or artificial.

WATERSHED – All the land from which water drains into a particular watercourse.

WIND ENERGY CONVERSION SYSTEM (WECS) – Any device which converts wind energy to mechanical or electrical energy.

WECS UNIT – Shall include blades, hubs to which blades are attached, and any device, such as a tower, used to support the hub and/or rotary blades, etc.

YARD – An area between the permitted structures and the property lines.

Yard, Front: The area contained between the street right-of-way line and the principal structure. For flag lots, the front yard shall be that area between the principal structure and that property line which is most parallel to the street that provides access, and is not part of the flagpole.

Yard, Rear: The area contained between the principal structure and the property line directly opposite the street of address. For flag lots, the rear yard shall be that area between the principal structure and that lot line which is directly opposite the above-described front yard.

Yard, Side: The area(s) between a principal structure and any side lot line(s). On corner lots, the side yard shall be considered those areas between the principal structure and the property lines directly opposite the nonaddress street(s). For flag lots, the side yards shall be the area between the principal structure and that one (1) outermost lot line which forms the flag and pole, plus the area on the opposite side of the principal structure.

ZONING – The designation of specified districts, reserving them for certain uses, together with limitations on lot size, heights of structures and other stipulated requirements.

ZONING OFFICER – The duly constituted official from each Borough designated to administer and enforce this Ordinance in accordance with its literal terms.

ZONING PERMIT – A permit stating that the purpose for which a structure or land is to be used is in conformity with the uses permitted and all other requirements under this Ordinance for the zone in which it is to be located.







# Article 2

## Zone Regulations

### Section 200 Agricultural Zone (A)

**200.1.** Purpose. The primary purpose of this Zone is to promote the continuation and preservation of agricultural activities as identified within Bally Borough. This Zone also intends to protect and stabilize the viable agricultural economy by eliminating uses that are incompatible with farming, but permitting limited agricultural support businesses. Consequently, residential uses are limited and any future inhabitants in this Zone must be willing to accept the impacts associated with normal farming practices, and related businesses. Finally, the provisions of this Zone have been specifically formulated to further the objectives of the Pennsylvania Municipalities Planning Code which provides that local zoning ordinances shall be designed "to preserve prime agriculture and farmland considering topography, soil type and classification, and present use."

### **200.2.** Permitted Uses

1. Agricultural and horticultural uses, including one (1) single-family detached dwelling, but *excluding* intensive livestock and intensive produce operations, as defined herein;
2. Forestry uses;
3. Municipal services and public utilities structures;
4. Parks and playgrounds;
5. Single-family detached dwellings;
6. Public and private schools;
7. Churches and related uses;
8. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, the following:
  - A. Manure storage facilities, as an accessory use to a farm, subject to the following regulations:
    - a. All manure storage facilities shall be designed in compliance with the guidelines outlined in the publication *Manure Management for Environmental Protection*, Bureau of Water Quality Management Publication No. 43, and any revisions, supplements and replacements thereof, published by the Pennsylvania Department of Environmental Protection, copies of which are available from the Water Quality Management in the Department of Environmental Protection's regional offices;
    - b. All manure waste storage facilities' designs shall be reviewed by the County Conservation District. The applicant shall furnish

a letter from the Conservation District attesting to approval of the design of the proposed facility; and,

- c. Construction and subsequent operation of the waste storage facility shall be in accordance with the zoning permit and the approved design. Any design changes during construction or subsequent operation will require the acquisition of another review by the County Conservation District.
- B. Roadside stands for the sale of local agricultural products, subject to the following:
    - a. Any structure used to display such goods shall be set back at least thirty feet (30') from the edge of the cartway;
    - b. Any structure used to display such goods shall not exceed two hundred fifty (250) square feet in size;
    - c. Any structure must be located at least fifty feet (50') from any side property line;
    - d. Four (4) off-street parking spaces must be provided; however, more may be required so that no vehicles are required to park on the street at any time;
    - e. Any signs shall be attached to the roadside stand, and shall not exceed ten (10) square feet in total area and a maximum height of five feet (5');
    - f. All structures housing a roadside stand and related signs shall require a zoning permit; and,
    - g. No more than one (1) stand per property shall be permitted.
  - C. Accessory day-care, as defined herein.

**200.3. Special Exception Uses** (Subject to the review procedures of Section 604.3.)

- 1. Bed and breakfasts (see Section 407);
- 2. ECHO housing (see Section 422);
- 3. Farm occupations (see Section 424);
- 4. Home occupations (see Section 431);
- 5. Kennels (see Section 436);
- 6. Noncommercial keeping of livestock (see Section 441);
- 7. Riding schools and horse boarding stables (see Section 448); and,
- 8. Rural occupations (see Section 449).

**200.4. Conditional Uses** (Subject to the review procedures of Section 704.)

- 1. Airports/heliports (see Section 402);
- 2. Intensive livestock operations (see Section 433);
- 3. Intensive produce operations (see Section 434); and,
- 4. Septage and/or spent mushroom compost processing or commercial mushroom operations (see Section 450).

**200.5. Limitations on Subdivision/Land Development**

- 1. In order to preserve the agricultural tracts, it is the express intent of the Agricultural Zone regulations that the subdivision of lots from farms or the

development of nonagricultural uses and structures on existing farms shall be limited. In addition, it is the express intent of these provisions that the maximum size of lots created for any use other than agriculture be limited in order to provide for the retention of tracts of sufficient size to be used for agricultural purposes. It is the intent of the Borough Council to implement the mandate of Section 604(3) of the Pennsylvania Municipalities Planning Code to preserve prime agricultural land through the enactment of these regulations.

2. For each ten (10) acres, or fraction thereof, there may be one lot subdivided or one new principal use established, respectively, within this Zone. The area calculation for this Section shall be based upon all contiguous land within the Agricultural Zone held in single and separate ownership, which was held by the landowner or his/her predecessor(s) in title on the effective date of this Ordinance. If such land was not classified within the Agricultural Zone on the effective date of this Ordinance, the area calculation shall be based upon the contiguous land held in single and separate ownership on the date such land was first rezoned to the Agricultural Zone. For the purposes of this Section, land held in single and separate ownership shall be considered to be contiguous regardless of whether:
  - A. such land is divided into one or more lots, parcels, purparts, or tracts;
  - B. such land was acquired by the landowner at different times or by different deeds or other means; and,
  - C. such land is separated by public or private streets or rights-of-way.
3. It is the purpose and intent of the Agricultural Zone to limit the development of agricultural tracts, regardless of whether such development is accomplished by subdivision or land development, as those terms are defined in the Pennsylvania Municipalities Planning Code. It is the further purpose and intent of this Zone to limit the number of single-family dwellings or other principal nonagricultural buildings which may be erected on any tract within the Agricultural Zone. The condition of the tract on the effective date of this Ordinance, or on the date on which the tract was first zoned Agricultural Zone, shall be the basis from which the maximum development set forth in Section 200.5.2. above, shall be calculated.
4. No subdivision shall be permitted which shall increase the lot size of a lot used for residential purposes in excess of the maximum lot size, except as set forth in Section 200.13. Any lot existing on the effective date of this Ordinance, which is one (1) or fewer acre in size, shall be presumed to be used for residential purposes and the size of such lot shall not be increased to more than one (1) acre.
5. A subdivision that merely transfers land from one farm to another farm shall not be counted against the permitted number of lots to be subdivided in Section 200.5.2. above;
6. A subdivision to create a lot which will be transferred to the Borough, or a municipal authority created by the Borough, shall not be included when computing the permissible number of lots to be subdivided from a tract as set forth in Section 200.5.2. above.
7. Any subdivision or land development plan hereafter filed shall specify which lot or lots shall carry a right of further subdivision or development, as provided for in Section 200.5.2. Such information shall also be included in the

deed for any new lots. If this information is not included on a subdivision or land development plan, it shall be presumed that the largest lot remaining after the subdivision shall carry the right of further subdivision or land development under Section 200.5.2. of this Ordinance;

8. The number of lots which may be created, or other principal nonagricultural uses which may be established, shall be fixed according to the size of the parent tract as of the effective date of this Ordinance. This number shall not be increased by the subdivision of such parent tract. Any subsequent owner of a parent tract, land remaining in the parent tract after subdivision, or land which was formerly part of a parent tract shall be bound by the actions of his predecessor.

**200.6. Driveways and Access Drives.** All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 505 of the SLDO. All lanes exclusively serving agriculture, horticulture and/or forestry-related uses shall be exempt from driveway and access drive requirements.

**200.7. Agricultural Nuisance Disclaimer.** All lands within the Agricultural Zone are located within an area where land is used for commercial agricultural production. Owners, residents and other users of this property may be subjected to inconvenience, discomfort and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including, but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides, and pesticides. Owners, occupants and users of this property should be prepared to accept such inconveniences, discomfort and possibility of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of Pennsylvania Act 133 of 1982, "The Right to Farm Law," may bar them from obtaining a legal judgment against such normal agricultural operations.

**200.8 Vegetation Setback Requirement.** On any separate nonfarm parcel, no shrub nor tree shall be planted within ten feet (10') and twenty feet (20'), respectively, of any land used for agricultural purposes.

**200.9. Required Conservation Plan.** Any agricultural, horticultural or forestry-related uses which involve earthmoving activities, or the commercial harvesting or timbering of vegetation shall require the acquisition of an approved conservation plan by the County Conservation District pursuant to Chapter 102, Erosion Control of Title 25, Rules and Regulations, Department of Environmental Protection. All on-site activities shall then be in compliance with the approved conservation plan.

**200.10.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

**200.11. Area and Design Requirements** (see following page)

Use	Minimum Required Lot Area	Maximum Permitted Lot Area	Minimum Required Lot Width		Required Minimum Yard Setbacks				Maximum Permitted Impervious Lot Coverage	Maximum Permitted Building Height
			At Building Setback	At Lot Frontage	Front	One Side	Both Sides	Rear		
Agricultural, horticultural and forestry-related uses	10 acres	N/A	200 ft.	N/A	50 ft. <sup>1</sup>	50 ft. on each side <sup>1</sup>	50 ft. <sup>1</sup>	10%	150 ft., provided each structure is set back a distance at least equal to its height from each property line.	
Single-family detached dwellings	10,000 sq. ft. <sup>3</sup>	1 acre <sup>2</sup>	80 ft.	60 ft. <sup>3</sup>	40 ft.	10 ft.	20 ft.	30%	35 ft.	
Other principal uses	1 acre	N/A	150 ft.	120 ft.	50 ft.	50 ft.	100 ft.	20%	35 ft.	
Residential accessory buildings	N/A	N/A	N/A	N/A	Not permitted in front yard, unless a minimum 100 ft. setback is provided.	3 ft.	6 ft.	3 ft.	Same as above.	20 ft.

<sup>1</sup>Special setback requirements – Except as provided for in the following paragraph, no new slaughter area, area for the storage or processing of manure, garbage or spent mushroom compost, structures for the cultivation of mushrooms or the raising of livestock, or any building housing livestock shall be permitted within three hundred feet (300') of any adjoining property. The Zoning Hearing Board may, as a special exception, however, reduce the above special setback requirements where it is shown that, because of prevailing winds, unusual obstructions, topography, or other conditions, a lesser distance would protect adjoining lands from odor, dust or other hazards. In no case, however, shall the Zoning Hearing Board reduce the special setback requirement to less than one hundred feet (100'). The burden shall be upon the applicant to prove that a lesser distance would not be detrimental to the health, safety and general welfare of the community.

<sup>2</sup>The maximum lot area shall not apply if the applicant can demonstrate by credible evidence that the area proposed for the dwelling lot (1) does not predominantly consist of Class I, II and/or III soils, as identified in the soil survey, or (2) is generally unsuitable for agricultural purposes; or, Where an applicant desires to subdivide an existing dwelling from the parent tract, the applicant may opt to impose the maximum lot area requirements of this Section upon such existing dwelling, rather than on a proposed dwelling located on the remainder of the parent tract.

<sup>3</sup>Single-family detached dwellings may be located upon flag lots subject to the requirements of Section 201.12. of this Ordinance.

## Section 201 Conservation Zone (C)

**201.1. Purpose.** The purpose of the Conservation Zone is to preserve and protect sensitive environmental features, as well as to protect life and property by limiting development in areas with severe development constraints. Areas zoned are limited to Bechtelsville Borough, and are characterized by steep slopes, woodlands, wildlife habitats, stream valleys, and floodplains.

### 201.2. Permitted Uses

1. Agricultural, horticultural and forestry uses, subject to the standards listed in Section 200;
2. Aquaculture and fisheries;
3. Fire observation towers, provided such towers are set back a horizontal distance at least equal to their height from each property line;
4. Natural areas or wildlife refuges;
5. Municipal services and public utilities structures;
6. Parks and playgrounds;
7. Single-family detached dwellings and seasonal residences;
8. Communication antennas, towers and buildings, subject to the following:
  - A. The applicant shall be required to demonstrate that it is licensed by the Federal Communications Commission to operate the proposed use;
  - B. The applicant shall demonstrate that the proposed use will comply with the applicable standards governing human exposure to electromagnetic radiation by the Federal Communications Commission;
  - C. The applicant shall demonstrate that the proposed use will comply with all Federal Aviation Administration, Commonwealth Bureau of Aviation, and applicable Airport Zoning Regulations;
  - D. The applicant shall furnish a sealed statement from a registered engineer that the construction methods or other measures used will prevent the toppling of any communication tower onto adjoining properties and/or roads, and prevent the windborne scattering of ice onto adjoining properties and/or roads;
  - E. Any new antenna must be co-located upon an existing structure (e.g., utility tower, observation tower, communication tower, silo, steeple, smokestack, water tower, flagpole, and other similar structures); and,
  - F. Any new buildings shall comply with the design standards imposed upon uses within this Zone; and,
9. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, accessory day-care, as defined herein.

### 201.3. Special Exception Uses (Subject to the review procedures of Section 604.3.)

1. Bed and breakfasts (see Section 407);
2. Campgrounds (see Section 410);
3. Communication antennas, towers and equipment (see Section 418);
4. ECHO housing (see Section 422);
5. Family day-care facilities (see Section 423);

6. Home occupations (see Section 431);
7. Noncommercial keeping of livestock (see Section 441);
8. Riding schools and/or horse boarding stables (see Section 448); and,
9. Rural occupations (see Section 449).

**201.4. Conditional Uses** (Subject to the review procedures of Section 704.)

1. Cluster developments (see Section 413); and,
2. Shooting ranges, provided that there is no discharge of firearms outside a completely-enclosed building (see Section 451).

**201.5. Maximum Number of Permitted New Dwellings or Lots**

1. For each three (3) acres, or fraction thereof, there may be one lot subdivided or one new principal use established, respectively, within this Zone. The area calculation for this Section shall be based upon all contiguous land within the Conservation Zone held in single and separate ownership, which was held by the landowner or his/her predecessor(s) in title on the effective date of this Ordinance. If such land was not classified within the Conservation Zone on the effective date of this Ordinance, the area calculation shall be based upon the contiguous land held in single and separate ownership on the date such land was first rezoned to the Conservation Zone. For the purposes of this Section, land held in single and separate ownership shall be considered to be contiguous regardless of whether:
  - A. such land is divided into one or more lots, parcels, purparts, or tracts,
  - B. such land was acquired by the landowner at different times or by different deeds or other means; and,
  - C. such land is separated by public or private streets or rights-of-way;
2. A subdivision that merely transfers land from one parcel to another shall not be counted against the permitted number of lots to be subdivided in Section 201.5.1. above;
3. A subdivision to create a lot which will be transferred to the Borough, or a municipal authority created by the Borough shall not be included when computing the permissible number of lots to be subdivided from a tract, as set forth in Section 201.5.1. above.
4. Any subdivision or land development plan hereafter filed shall specify which lot or lots shall carry a right of further subdivision or development, as provided for in Section 201.5.1. Such information shall also be included in the deed for any new lots. If this information is not included on a subdivision or land development plan, it shall be presumed that the largest lot remaining after the subdivision shall carry the right of further subdivision or land development under Section 201.5.1. of this Ordinance;
5. The number of lots which may be created, or new principal uses established, shall be fixed according to the size of the parent tract. This number shall not be increased by the subdivision of such parent tract. Any subsequent owner of a parent tract, land remaining in the parent tract after subdivision, or land which was formerly part of a parent tract, shall be bound by the actions of his predecessor.

- 201.6. Lot Area Requirements.** Unless otherwise specified, all uses within this Zone shall contain a minimum lot area of one (1) acre. Uses may employ a flag lot design subject to the requirements of Section 201.12. of this Ordinance.
- 201.7. Minimum Lot Width.** One hundred fifty feet (150') at the building setback line and the street right-of-way line; however, the minimum lot width at the street right-of-way may be reduced to one hundred five feet (105') if the lot fronts on a cul-de-sac turnaround.
- 201.8. Maximum Lot Coverage.** Twenty percent (20%), unless otherwise specified in Article 4 of this Ordinance.
- 201.9. Minimum Setback Requirements**
1. **Principal Uses:**
    - A. Front Yard - Fifty feet (50') from the street right-of-way line;
    - B. Side yards - Twenty-five feet (25') each side; and,
    - C. Rear yard - Fifty feet (50').
  2. **Accessory Uses:**
    - A. Front yard - Not permitted in front yard unless a minimum one hundred foot (100') setback is provided;
    - B. Side yards - Three feet (3') each side; and,
    - C. Rear yard - Three feet (3').
- 201.10. Maximum Permitted Height**
1. **Principal structures** -Thirty-five feet (35'); and,
  2. **Accessory structures** -Twenty feet (20').
- 201.11. Driveways and Access Drives.** All driveways serving single-family dwellings shall be in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 505 of the SLDO.
- 201.12. Flag Lots and Joint-Use Drive-ways.** A flag lot shall only be permitted when it will enable the preservation of some important natural or cultural feature (including productive farmland), which would otherwise be disturbed by conventional lotting techniques. For the purposes of this section, a flag lot shall be described as containing two parts:
- A. The "flag" shall include that portion of the lot that is the location of the principal and accessory buildings.

- B. The "pole" shall be considered that portion of the site that is used for vehicular access between the site and its adjoining road.
- C. Requirements for the Flag:
1. The minimum lot area and lot width requirements shall be measured exclusively upon the flag.
  2. For purposes of determining required yards and setbacks, the following shall apply:
    - a. Front Yard. The area between the principal structure and that lot line of the flag which is most parallel to the street providing vehicular access to the site. Additionally, all areas of the pole shall be considered to be within the front yard.
    - b. Rear Yard. The area between the principal structure and that lot line of the flag that is directly opposite the front yard, as described above.
    - c. Side Yards. The area between the principal structure and that one outermost lot line which forms the flag and pole, plus, the area on the opposite side of the principal structure. (See the preceding flag lot diagram for a graphic depiction of the yard locations.)
    - d. The flag lot shall contain adequate driveway dimension for vehicular backup so that ingress to, and egress from, the lot is in the forward direction.
- D. Requirements for the Pole:
1. The pole shall maintain a minimum width of twenty-five feet (25').
  2. The pole shall not exceed six hundred feet (600') in length, unless additional length is needed to avoid the disturbance of productive farmlands or some other significant natural or cultural feature.
  3. No part of the pole shall be used for any portion of an on-lot sewage disposal system, nor any other improvement, except a driveway and other permitted improvements, such as landscaping, fencing, utility connections to off-site facilities, mailboxes, and signs.
  4. The cartway contained on the pole shall be located at least six feet (6') from any adjoining property line and twenty feet (20') from any existing structures on the site or any adjoining property.
  5. No pole shall be located within two hundred feet (200') of another on the same side of the street, unless an adjoining pole utilizes a joint-use driveway, regulated as follows.

E. Joint Use Driveways:

1. When one or more flag lots are proposed, such lots may rely upon a joint-use driveway for vehicular access.
2. A joint-use driveway must serve at least one flag lot but may also serve conventional lots, up to a maximum of four total lots.
3. All joint-use driveways shall have a minimum cartway width of sixteen feet (16') and sufficient undeveloped area to accommodate a future fifty foot (50') wide street right-of-way.
4. Cross access easements shall be required to ensure common use of, access to, and maintenance of, joint-use driveways; such easements shall be recorded in language acceptable to the Borough Solicitor, and depicted on the subdivision plan.

**201.13.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 202 R-1 Residential Zone (R-1)

**202.1.** **Purpose.** This Zone acknowledges neighborhoods within both Boroughs that are characterized by single-family detached dwellings. These lots tend to be the largest and widest within the Boroughs and also include front yard driveways that are deep enough to accommodate two vehicles. The provisions of this Zone reflect these conditions and allow for future growth with similar traits.

### **202.2.** **Permitted Uses**

1. Single-family detached dwellings and seasonal residences;
2. Forestry uses;
3. Municipal services and public utilities structures;
4. Parks and playgrounds;
5. Within Bally Borough, communication antennas, towers and buildings, subject to the following:
  - A. The applicant shall be required to demonstrate that it is licensed by the Federal Communications Commission to operate the proposed use;
  - B. The applicant shall demonstrate that the proposed use will comply with the applicable standards governing human exposure to electromagnetic radiation by the Federal Communications Commission;
  - C. The applicant shall demonstrate that the proposed use will comply with all Federal Aviation Administration, Commonwealth Bureau of Aviation, and applicable Airport Zoning Regulations;
  - D. The applicant shall furnish a sealed statement from a registered engineer that the construction methods or other measures used will prevent the toppling of any communication tower onto adjoining properties and/or roads, and prevent the wind-borne scattering of ice onto adjoining properties and/or roads;
  - E. Any new antenna must be co-located upon a tower that existed on the effective date of this Ordinance. In the alternative, a new tower can be built as a replacement to any tower that existed on the effective date of this Ordinance; and,
  - F. Any new buildings shall comply with the design standards imposed upon uses within this Zone; and,
6. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, accessory day-care, as defined herein.

### **202.3.** **Special Exception Uses** (Subject to the review procedures of Section 604.3.)

1. Bed and breakfasts (see Section 407);
2. Churches and related uses (see Section 412);
3. Family day-care facilities (see Section 423);
4. Home occupations (see Section 431); and,
5. Parking lots/garages for nonresidential uses contained on adjoining properties (see Section 444).

**202.4. Area and Design Requirements** - See the table below:

Minimum Required Lot Area	Minimum Required Lot Width	Minimum Required Setbacks			Maximum Permitted Lot Coverage	Maximum Permitted Height
		Front	Side	Rear		
8,000 sq. ft.	80 ft.*	40 ft.*	10 ft. each side	30 ft.	45%	35ft.
<p>*Where a property is located on the same side of the street and between two built-up lots, the minimum required front yard setback is reduced to the lesser of the actual setbacks of the two adjoining buildings; except that, in no case shall the front yard be less than twenty feet (20') deep.</p>						

**202.5. Accessory Use Design Standards**

1. Maximum permitted height – Twenty feet (20');
2. Minimum setback requirements:
  - A. Front yard – No accessory structure shall be located within the front yard, unless a minimum one hundred foot (100') setback is provided.
  - B. Side yards – Three feet (3') on each side [six feet (6') total]; and,
  - C. Rear yard – Three feet (3').

**202.6.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 203 R-2 Residential Zone (R-2)

**203.1.** **Purpose.** This Zone acknowledges the older neighborhoods within both Boroughs. These areas include a mix of detached, duplex and conversion apartment dwelling units that are typically located on narrow, yet deep lots that run perpendicular from the street. Here, front yard setbacks vary and off-street parking can be located in the front, side or rear yards. In some cases, off-street residential parking has been provided on adjoining lots or across rear yard alleys; this, too, has been accommodated by this Zone.

### **203.2.** **Permitted Uses**

1. Duplexes;
2. Forestry uses;
3. Municipal services and public utilities structures;
4. Parks and playgrounds;
5. Off-street parking spaces/garages on an adjoining lot, or located directly across an alley, from a single-family detached or a duplex dwelling, subject to the following:
  - A. No more than three (3) off-street parking spaces shall be provided per unit;
  - B. No new garage shall be located closer to an adjoining street than the dwelling that it serves, nor closer than five feet (5') of an adjoining alley;
  - C. No off-street parking space nor garage shall be located closer than twenty feet (20') from the intersection of any street and/or alley rights-of-way;
  - D. No garage shall exceed twenty feet (20') in height;
  - E. All off-street parking spaces and garages must be located within thirty feet (30') of the property upon which the dwelling is located; and,
  - F. Common garages that serve more than one dwelling unit and are located along rear alleys shall have no side yard setbacks, but must be set back at least five feet (5") from any rear lot line;
6. Single-family detached dwellings; and,
7. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, accessory day-care, as defined herein.

### **203.3.** **Special Exception Uses** (Subject to the review procedures of Section 604.3.)

1. Boarding houses (see Section 409);
2. Churches and related uses (see Section 412);
3. Conversion apartments (see Section 420);
4. Family day-care facilities (see Section 423);
5. Home occupations (see Section 431); and,
6. Parking lots/garages for nonresidential uses contained on adjoining properties (see Section 444).

**203.4. Required Design Standards.** The following tabulates required design standards:

Use	Minimum Required Lot Area	Minimum Required Lot Width	Minimum Required Setbacks				Maximum Permitted Lot Coverage	Maximum Permitted Height
			Front Build-to Line	Sides		Rear		
				One	(Both)			
Single-Family Detached Dwellings	6,000 sq. ft.	40 ft.	5-25 ft.	5 ft.	(10 ft.)	50 ft.	50%	35 ft.
Duplex Dwellings	3,000 sq. ft./unit	20 ft.	5-25 ft.	5 ft.	N/A	50 ft.	60%	35 ft.
Off-street residential parking spaces or garages on adjoining lots or across alleys.	N/A	N/A	See Section 203.2.5.				75%	20 ft.
Other Uses	10,000 sq. ft.	80 ft.	5-25 ft.	10 ft.	(20 ft.)	50 ft.	50%	35 ft.
Accessory Uses	N/A	N/A	Not permitted.	3 ft.	(6 ft.)	3 ft.	Same as above.	20 ft.

**203.5 Main Street Enhancement Overlay Zone.** Properties within Bally Borough that are located within the Main Street Enhancement Overlay Zone can attain development density bonuses by applying the design guidelines listed in Section 231 of this Ordinance.

**203.6.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 204 R-3 Residential Zone (R-3)

**204.1.** **Purpose.** This Zone corresponds with the planned residential neighborhoods within both Boroughs. Design standards for detached and duplex dwelling units reflect the historic pattern of development for these uses, except that front yard setbacks will enable off-street parking in driveways. More contemporary townhouses and multiple-family dwellings require the use of both public sewer and public water and will have slightly different, but similar, designs. A wide range of dwelling unit types are permitted. Finally, other special-needs residential uses and related uses are also allowed in this Zone.

**204.2.** **Permitted Uses**

1. Duplexes;
2. Forestry uses;
3. Multiple-family dwellings with both public sewer and public water;
4. Municipal services and public utilities structures;
5. Parks and playgrounds;
6. Single-family detached dwellings;
7. Townhouses with both public sewer and public water; and,
8. Accessory uses customarily incidental to the above permitted uses.

**204.3.** **Special Exception Uses** (Subject to the review procedures of Section 604.3.)

1. Churches and related uses (see Section 412);
2. Family day-care facilities (see Section 423);
3. Home occupations (see Section 431); and,
4. Nursing, rest or retirement homes (see Section 442).

**204.4.** **Conditional Uses** (Subject to the review procedures of Section 704.)

1. Mobile home parks (see Section 439).

**204.5. Required Design Standards.** The following tabulates required design standards:

Permitted Use	Minimum Required Lot Area	Minimum Required Lot Width	Minimum Front Yard	Minimum Side Yard		Rear Yard	Maximum Permitted Height
				One Side	(Both Sides)		
Single-Family Detached Dwellings	6,000 sq. ft.	40 ft.	25 ft.	10 ft.	(20 ft.)	35 ft.	35 ft.
Duplex Dwellings	3,000 sq. ft./unit	20 ft./unit	25 ft.	5 ft.	N/A	35 ft.	35 ft.
Townhouses <sup>1, 2</sup>	2,000 sq. ft./unit	20 ft./unit	25 ft.	15 ft.	(End Units)	35 ft.	35 ft.
Multiple-Family Dwellings <sup>2</sup>	10,000 sq. ft.	80 ft.	25 ft.	20 ft.	(40 ft.)	35 ft.	35 ft.
Other Principal Uses	10,000 sq. ft.	80 ft.	25 ft.	20 ft.	(40 ft.)	35 ft.	35 ft.
Residential Accessory Uses	Same as above	N/A	Not permitted	3 ft.	(6 ft.)	3 ft.	20 ft.

<sup>1</sup>No townhouse grouping shall contain more than six (6) units. For each townhouse grouping containing more than four (4) units, no more than sixty percent (60%) of such units shall have the same front yard setback; the minimum variation of setback shall be two feet (2'). All townhouse buildings shall be set back a minimum of fifteen feet (15') from any parking facilities contained on commonly-held lands. All townhouse buildings shall be set back at least thirty feet (30') from any perimeter boundary of the development site. In those instances where several townhouse groupings are contained upon the same lot, the standards listed in the following shall apply:

In those instances where several townhouse groupings are located on the same lot, the following separation distances will be provided between each building:

- a. Front to front, rear to rear, or front to rear, parallel buildings shall have at least fifty feet (50') between the faces of the building.
- b. A minimum yard space of thirty feet (30') is required between end walls of buildings.
- c. A minimum yard space of thirty feet (30') is required between end walls and front or rear faces of buildings.

<sup>2</sup>The maximum permitted density for townhouses and multiple-family dwellings is seven (7) dwelling units per acre.

**204.6.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 210 Mixed Use Zone (MU)

**210.1. Purpose.** This Zone accommodates a mixture of land uses that have evolved along Main Street within Bally Borough. Limited businesses have been selected that can take advantage of the daily traffic passing through, while at the same time assure compatibility with the numerous dwellings that remain. Aside from permitted residential and public uses, all uses are evaluated via the conditional use process so that opportunities to integrate vehicular access and parking are provided during site plan review. Strict design requirements have been imposed to preserve the "small town" character, and bonus incentives are available for uses that employ "high-quality" site design features. Overall retail size has been restricted as a means of encouraging adaptive reuse of converted dwellings, rather than the construction of new commercial buildings.

### 210.2. Permitted Uses

1. Duplexes and related accessory structures, subject to the design standards of the R-2 Residential Zone;
2. Forestry uses;
3. Municipal services and public utilities structures;
4. Parks and playgrounds;
5. Single-family detached dwellings and related accessory structures, subject to the design standards of the R-2 Residential Zone; and,
6. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, accessory day-care, as defined herein.

### 210.3. Conditional Uses (Subject to the review procedures of Section 704.)

1. Bakeries;
2. Banks and similar financial uses, including no more than one drive-thru lane (see Section 406);
3. Bed and breakfasts (see Section 407);
4. Boarding houses (see Section 409);
5. Caterers;
6. Churches and related uses (see Section 412);
7. Commercial day-care facilities (see Section 415);
8. Commercial and private schools (see Section 414);
9. Conversion apartments (see Section 420);
10. Funeral homes (see Section 426);
11. Home occupations (see Section 431);
12. Medical or dental clinics;
13. Nursing, rest or retirement homes (see Section 442);
14. Offices;
15. Parking lots/garages for nonresidential uses contained on adjoining properties (see Section 444);
16. Personal services, including: barber and beauty or tanning salons; dry cleaning and laundry pick-up/drop-off facilities;
17. Restaurants and taverns (not including drive-thru or fast-food restaurants nor nightclubs) (see Section 447);
18. Retail sale of goods provided the total sales and/or display area is less than 3,600 square feet;

19. Studios of art, dance, music, and photography (excluding adult-related uses as defined herein);
20. Tailors and shoe repair services; and,
21. Veterinarian offices, provided no outdoor keeping of animals is permitted.

**210.4. Number of Uses.** Any number of the uses allowed in this Zone are permitted within each existing building, provided the building size and floor area remain the same as it was on the effective date of this Ordinance. For new buildings, only one principal use is permitted. For existing buildings that are enlarged, the number of uses permitted per building shall be the same number (at least one) that occupied the building on the effective date of this Ordinance.

**210.5. Lot Area Requirements.** Unless otherwise specified, all lots shall have a minimum of ten thousand (10,000) square feet.

**210.6. Maximum Lot Coverage.** Sixty percent (60%).

**210.7. Minimum Lot Width.** Fifty feet (50').

**210.8. Minimum Setback Requirements** (Principal and Accessory Uses).

1. Front Yard Setback. All buildings and structures (except permitted signs) shall have no less than fifty percent (50%) of their front facade built within twenty to twenty-five feet (20-25') from the street line. Any facade located outside of this area shall be set back at least twenty-five feet (25') from the street line. No off-street parking nor off-street loading is permitted within the front yard.
2. Side Yard Setback. All buildings and structures shall be set back at least ten feet (10') from the side lot lines. Off-street parking lots, and loading areas, shall be set back at least five feet (5') from the side lot lines.
3. Rear Yard Setback. All buildings, structures, off-street parking lots, and loading areas shall be set back at least ten feet (10') from the rear lot line.
4. Residential Buffer Strip. Any lot adjoining land within a residential zone shall maintain a fifteen foot (15') setback for buildings and structures, off-street parking lots, and loading areas from the residentially-zoned parcels. Such area shall be used for a landscape strip.
5. Residential Accessory Structure Setbacks. The following lists required setbacks imposed upon residential accessory structures:

Minimum Required Front Yard Setback	Minimum Required Side Yard Setback (One Side)	Minimum Required Side Yard Setback (Both Sides)	Minimum Required Rear Yard Setback
Not Permitted	3 feet	6 feet	3 feet

- 210.9. Maximum Permitted Height.** Thirty-five feet (35') for principal structures and twenty feet (20') for accessory residential structures, respectively.
- 210.10. Outdoor Storage and Display.** No outdoor storage is permitted. One sidewalk display bin for retail merchandise shall be permitted per commercial use between the main facade of the building and the adjoining sidewalk. Such bin shall be located against the facade and shall not extend more than three feet (3') perpendicular from it. Sidewalk display bins shall not exceed an overall length of fifteen feet (15'), nor an overall height of four feet (4'). Sidewalk bins shall only be exhibited during the use's business hours.
- 210.11. Off-Street Loading.** Off-street loading shall be provided as specified in Section 312 of this Ordinance.
- 210.12. Off-Street Parking.** Off-street parking shall be provided as specified in Section 311 of this Ordinance.
- 210.13. Signs.** Signs shall be permitted as specified in Section 314 of this Ordinance.
- 210.14. Driveways and Access Drives.** All driveways serving single-family dwellings shall be provided in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 505 of the SLDO.
- 210.15. Screening.** A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially-zoned parcel is developed. (See Section 313 of this Ordinance.)
- 210.16. Landscaping.** Any portion of the site not used for buildings, structures, parking lots, loading areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See Section 313 of this Ordinance.)
- 210.17. Waste Products.** Dumpsters may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. All dumpsters shall be set back a minimum of fifteen feet (15') from any adjoining residentially-zoned properties. All waste receptacles shall be completely enclosed.
- 210.18. Commercial Operations Standards.** All commercial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies.

- 210.19. Main Street Enhancement Overlay Zone.** Properties within Bally Borough that are located within the Main Street Enhancement Overlay Zone can attain development density bonuses by applying the design guidelines listed in Section 231 of this Ordinance.
- 210.20. Modifications of Design Standards.** The Borough Council may, by conditional use approval, permit the modification of the design standards in order to encourage the use of innovative design. A developer desiring to obtain such conditional use approval shall, when making application for conditional use approval for any use listed in Section 210.3., also make application for conditional use approval under this Section. The Borough Council shall consider both conditional use approval requests simultaneously. Any conditional use to permit a modification of the design standards shall be subject to the following standards:
- A. Such modifications of design standards better serve the intended purposes of this Zone, as expressed in Section 210.1.;
  - B. Such modifications of design standards would not result in adverse impact to adjoining properties, nor inhabitants within the Mixed Use Zone development;
  - C. Such modifications will not result in an increase in residential densities permitted for the site; and,
  - D. The extent of modification provides the minimum amount of relief necessary to ensure compliance with the preceding criteria of Section 210.21.A.-C.
- 210.21.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 211 Town Center (TC)

**211.1. Purpose.** This Zone accommodates a mixture of land uses that have evolved along Main Street within Bechtelsville Borough. Limited businesses have been selected that can offer goods and services to Borough residents and industries, yet assure compatibility with adjoining dwellings that remain. Liberal design standards reflect the “built” character of existing uses within this Zone.

### 211.2. Permitted Uses

1. Bakeries and caterers;
2. Banks and similar financial uses;
3. Clubhouses;
4. Communication antennas, towers and buildings, subject to the following:
  - A. The applicant shall be required to demonstrate that it is licensed by the Federal Communications Commission to operate the proposed use;
  - B. The applicant shall demonstrate that the proposed use will comply with the applicable standards governing human exposure to electromagnetic radiation by the Federal Communications Commission;
  - C. The applicant shall demonstrate that the proposed use will comply with all Federal Aviation Administration, Commonwealth Bureau of Aviation, and applicable Airport Zoning Regulations;
  - D. The applicant shall furnish a sealed statement from a registered engineer that the construction methods or other measures used will prevent the toppling of any communication tower onto adjoining properties and/or roads, and prevent the wind-borne scattering of ice onto adjoining properties and/or roads;
  - E. Any new antenna must be co-located upon an existing structure (e.g., utility tower, observation tower, communication tower, silo, steeple, smokestack, water tower, flagpole, and other similar structures); and,
  - F. Any new buildings shall comply with the design standards imposed upon uses within this Zone;
5. Dry cleaners, laundries and laundromats;
6. Duplexes and related accessory structures, subject to the design standards of the R-2 Residential Zone;
7. Forestry uses;
8. Hotels, motels and similar lodging facilities;
9. Medical or dental clinics;
10. Municipal services and public utilities structures;
11. Offices;
12. Parks and playgrounds;
13. Personal services, including: barber and beauty or tanning salons; dry cleaning and laundry pick-up/drop-off facilities and repair of clocks and small appliances;
14. Private clubhouses and fraternal organizations;
15. Restaurants and taverns (not including drive-thru or fast-food restaurants, nor nightclubs);
16. Retail sale of goods, excluding adult-related uses;
17. Single-family detached dwellings and related accessory structures, subject to the design standards of the R-2 Residential Zone;

18. Studios of art, dance, music, and photography, excluding adult-related uses;
19. Tailors and shoe repair services;
20. Veterinarian offices, provided no outdoor keeping of animals is permitted; and,
21. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, accessory day-care, as defined herein.

**211.3. Special Exception Uses** (Subject to the review procedures of Section 604.3.)

1. Amusement arcades (see Section 403);
2. Automobile filling stations (see Section 404);
3. Automobile service and repair facilities (see Section 405);
4. Bed and breakfasts (see Section 407);
5. Boarding houses (see Section 409);
6. Car washes (see Section 411);
7. Churches and related uses, excluding cemeteries (see Section 412);
8. Commercial and private schools (see Section 414);
9. Commercial day-care facilities (see Section 415);
10. Commercial recreation facilities, excluding adult-related uses (see Section 416);
11. Convenience stores (see Section 419);
12. Conversion apartments (see Section 420);
13. Drive-thru and/or fast-food restaurants (see Section 421);
14. Funeral homes (see Section 426);
15. Health and recreation clubs (see Section 427);
16. Home occupations (see Section 431);
17. Nursing, rest or retirement homes (see Section 442); and,
18. Parking lots/garages for nonresidential uses contained on adjoining properties (see Section 444).

**211.4. Conditional Uses** (Subject to the review procedures of Section 704.)

1. Shopping centers (see Section 452).

**211.5. Lot Area Requirements.** Unless otherwise specified, all lots shall have a minimum of ten thousand (10,000) square feet.

**211.6. Maximum Lot Coverage.** Ninety percent (90%).

**211.7. Minimum Lot Width.** Thirty feet (30').

**211.8. Minimum Setback Requirements** (Principal and Accessory Uses).

1. Front Yard Setback. All buildings and structures (except permitted signs) shall be set back no less than five feet (5') from the street line.

2. Side Yard Setback. There shall be no required side yard setbacks for buildings and structures. Off-street parking lots, and loading areas shall be set back at least five feet (5') from the side lot lines, unless joint facilities are shared by adjoining uses, in which case no side yard setbacks shall be required.
3. Rear Yard Setback. All buildings, structures, off-street parking lots, and loading areas shall be set back at least ten feet (10') from the rear lot line.
4. Residential Buffer Strip. Any lot adjoining land within a residential zone shall maintain a ten foot (10') setback for buildings and structures, off-street parking lots, and loading areas from the residentially-zoned parcels. Such area shall be used for a landscape strip.

**211.9. Maximum Permitted Height.** Thirty-five feet (35') for principal structures and twenty feet (20') for accessory residential structures, respectively.

**211.10. Outdoor Storage and Display.** No outdoor storage is permitted. One sidewalk display bin for retail merchandise shall be permitted per commercial use between the main facade of the building and the adjoining sidewalk. Such bin shall be located against the facade and shall not extend more than three feet (3') perpendicular from it. Sidewalk display bins shall not exceed an overall length of fifteen feet (15'), nor an overall height of four (4'). Sidewalk bins shall only be exhibited during the use's business hours.

**211.11. Off-Street Loading** – Off-street loading shall be provided as specified in Section 312 of this Ordinance.

**211.12. Off-Street Parking.** Off-street parking shall be provided as specified in Section 311 of this Ordinance.

**211.13. Signs.** Signs shall be permitted as specified in Section 314 of this Ordinance.

**211.14. Driveways and Access Drives.** All driveways serving single-family dwellings shall be provided in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 505 of the SLDO.

**211.15. Screening.** A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially-zoned parcel is developed. (See Section 313 of this Ordinance.)

**211.16. Landscaping.** Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See Section 313 of this Ordinance.)

- 211.17.** **Waste Products.** Dumpsters may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or properties. All dumpsters shall be set back a minimum of fifteen feet (15') from any adjoining residentially-zoned properties. All waste receptacles shall be completely enclosed.
- 211.18.** **Commercial Operations Standards.** All commercial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies.
- 211.19.** All uses permitted within this Zone shall also comply with the General Provisions in Article 3 of this Ordinance.

## Section 212 General Commercial Zone (C-1)

**212.1. Purpose.** This Zone provides suitable locations for highway-oriented retail, service and entertainment businesses. The uses may involve outdoor activities and/or storage areas like automobile, boat and trailer sales, and service establishments. The uses provided in this Zone are meant to serve local residents, as well as those motorists passing through Bally Borough. Access to these areas is provided by adjoining major roads. Because of the high volumes of traffic on these adjoining roads, careful vehicular access is required. Specific setbacks are imposed upon outdoor storage areas to protect adjoining properties.

### 212.2. Permitted Uses

1. Automobile, boat, farm machinery and trailer sales (including service or repair facilities as an accessory use and if conducted within a completely-enclosed building);
2. Banks and similar financial institutions;
3. Churches and related uses;
4. Clubhouses;
5. Dry cleaners, laundries and laundromats;
6. Forestry uses;
7. Hotels, motels and similar lodging facilities;
8. Laboratories;
9. Medical, dental and veterinary clinics and offices;
10. Municipal services and public utilities structures;
11. Offices;
12. Parks and playgrounds;
13. Recycling collection facilities as an accessory use, provided such facilities are sufficiently enclosed to prevent the scattering of debris, the materials collected are removed at regular intervals, the facility is posted to prohibit the disposal of any material, good or furnishing that cannot be placed within the actual recycling bin, and the total size of the facility is less than three hundred (300 square feet);
14. Restaurants and taverns (but not including drive-thru or fast-food restaurants nor nightclubs);
15. Retail sale and/or rental of goods and services, when conducted within a completely-enclosed building (including auto parts stores, without installation);
16. Shops for contractors of plumbing, heating, air conditioning, electrical, roofing, flooring, glass and windows, insulation, carpentry and cabinet-making, and other structural components of buildings;
17. Theaters and auditoriums; and,
18. Accessory uses customarily incidental to the above permitted uses.

### 212.3. Special Exception Uses (Subject to the review procedures of Section 604.3.)

1. Amusement arcades, excluding adult-related uses (see Section 403);
2. Automobile filling stations (including minor incidental repair) (see Section 404);

3. Automobile service and repair facilities, including, but not limited to, auto mechanics, drive-thru lubrication services and tire, auto paint, brake, muffler, transmission, windshield, auto body, car radio, and upholstery shops (see Section 405);
4. Car washes (see Section 411);
5. Commercial and private schools (see Section 414);
6. Commercial day-care facilities (see Section 415);
7. Commercial recreation facilities, excluding adult-related uses (see Section 416);
8. Convenience stores (see Section 419);
9. Conversion apartments (see Section 420);
10. Drive-thru and/or fast-food restaurants (see Section 421);
11. Farmers, antiques and/or flea markets (see Section 425);
12. Funeral homes (see Section 426);
13. Health and recreation clubs (see Section 427);
14. Home improvement and building supply stores (see Section 430); and,
15. Public transportation depots (see Section 445).

**212.4. Conditional Uses** (Subject to the review procedures of Section 704.)

1. Adult-related uses (see Section 401);
2. Hospitals (see Section 432);
3. Mini-warehouses (see Section 437);
4. Nightclubs (see Section 440);
5. Off-track betting parlors (see Section 443); and,
6. Shopping centers (see Section 452).

**212.5. Lot Area, Lot Width and Lot Coverage Requirements** – See the following table:

Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage
15,000 square feet	100 feet	70%

**212.6. Minimum Setback Requirements** (Principal and Accessory Uses).

1. Front Yard Setback. All buildings, structures (except permitted signs), and outdoor loading areas shall be set back at least thirty-five feet (35') from the street right-of-way; off-street parking lots and outdoor storage areas shall be set back a minimum of twenty feet (20') from the street right-of-way.
2. Side Yard Setback. All buildings and structures (except permitted signs) shall be set back at least fifteen feet (15') from the side lot lines. Off-street parking lots, loading areas and outdoor storage areas shall be set back at least ten feet (10') from the side lot lines, unless joint parking facilities are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities.
3. Rear Yard Setback. All buildings, structures, off-street parking lots, loading areas, and outdoor storage areas shall be set back at least fifteen feet (15') from the rear lot line.

4. Residential Buffer Strip. Any lot adjoining land within a residential zone shall maintain a twenty-five foot (25') setback for nonresidential buildings, structures, off-street parking lots, loading areas, and outdoor storage areas from the residentially-zoned parcels. Such area shall be used for a landscape strip and screen.

- 212.7. Maximum Permitted Height.** Thirty-five feet (35').
- 212.8. Outdoor Storage.** Within this Zone, only the outdoor storage of vehicles, heavy equipment trailers, recreational vehicles, mobile homes, nursery and garden stock, sheds, playground equipment, pet houses and other similar outdoor appurtenances is permitted, provided all outdoor storage areas comply with the setbacks imposed within this Section.
- 212.9. Off-Street Loading.** Off-street loading shall be provided as specified in Section 312 of this Ordinance. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone, nor any side of a building facing an adjoining street.
- 212.10. Off-Street Parking.** Off-street parking shall be provided as specified in Section 311 of this Ordinance.
- 212.11. Signs.** Signs shall be permitted as specified in Section 314 of this Ordinance.
- 212.12. Driveways and Access Drives.** All driveways serving single-family dwellings shall be provided in accordance with Section 309 of this Ordinance. All access drives serving other uses shall be in accordance with Section 505 of the SLDO.
- 212.13. Screening.** A visual screen must be provided along any existing residential use and any adjoining lands within a residential zone, regardless of whether or not the residentially-zoned parcel is developed. (See Section 313 of this Ordinance.)
- 212.14. Landscaping.** Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See Section 313 of this Ordinance.)
- A minimum ten foot (10') wide landscape strip shall be provided along all property lines. Such landscape strip can be waived for that portion of the site occupied by a joint parking lot and/or loading area shared by adjoining uses.
- 212.15. Waste Products.** Dumpsters may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads and/or

properties. All dumpsters shall be set back a minimum of twenty-five feet (25') from any adjoining residentially-zoned properties. All waste receptacles shall be completely enclosed within a fenced or masonry enclosure, equipped with a self-latching door or gate.

**212.16. Commercial Operations Standards.** All commercial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies.

**212.17.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 220 Industrial Zone (I)

**220.1. Purpose.** This Zone provides for a wide range of industrial activities that contribute to the well-being of both Boroughs by diversifying their economies and providing valuable employment opportunities. The required lot sizes have been kept small to accommodate start-up industries; however, larger and heavier industries have also been permitted. This Zone provides for light industrial uses as permitted by right, but requires acquisition of a conditional use for heavier and potentially more-objectionable types of industrial uses. These areas have been located around existing industries and along major roads. Design standards have been imposed to gradually improve site designs and moderate the objectionable impacts associated with industrial uses. Setbacks and screens are used to protect adjoining residences.

### 220.2. Permitted Uses

1. Agricultural support businesses, including:
  - A. Facilities for the commercial processing and warehousing of agricultural products;
  - B. Facilities for the warehousing, sales and service of agricultural equipment, vehicles, feed, or supplies; and,
  - C. Veterinary offices, animal hospitals or kennels;
2. Automobile sales and/or service facilities;
3. Churches and related uses;
4. Forestry uses;
5. Laboratories for medical, scientific or industrial research and development;
6. Machine shops;
7. Manufacturing, packaging, storage and/or wholesaling of the following:
  - A. Brushes, brooms and combs;
  - B. Cosmetics, toiletries and pharmaceuticals;
  - C. Finished textile products, notions and ribbons;
  - D. Furniture, cabinets, fixtures, office supplies, floor and ceiling materials, and other household appointments;
  - E. Hardware and software for audio-video components, computers, vending machines, electronic equipment, and video games;
  - F. Hot tubs, spas, saunas, and swimming pools;
  - G. Jewelry and other precious metals;
  - H. Musical instruments and sporting equipment;
  - I. Optical, dental and medical supplies and equipment;
  - J. Packaging products and containers made of paper, wood, plastic, styrofoam, and other synthetic materials;
  - K. Photographic, lighting and timekeeping equipment;
  - L. Scientific, specialized and technical instruments and equipment;
  - M. Small household appliances, excluding major appliances; and,
  - N. Small or novelty products from prepared materials (excluding the use of sheet metals);
8. Municipal services and public utilities;
9. Offices;
10. Parks and playgrounds;
11. Photocopying, bookbinding, printing, and publishing operations;
12. Processing, packaging, storage and/or wholesaling of food products **excluding:**

- A. Breweries and distilleries;
  - B. Pickling processes;
  - C. Rendering or slaughtering operations; and,
  - D. Sugar refineries.
13. Repair shops for products permitted to be manufactured within this Zone;
  14. Sales, storage and/or wholesaling of the following:
    - A. Contractor supplies;
    - B. Home and auto-related fuels;
    - C. Nursery and garden materials, and stock;
    - D. Plumbing, heating, air conditioning, electrical, and other structural components of buildings.
  15. Signmakers;
  16. Small engine repair shops;
  17. Vocational and mechanical trade schools;
  18. Welding shops; and,
  19. Accessory uses customarily incidental to the above permitted uses, including accessory retail sales of products produced on-site so long as the sales area is no more than ten percent (10%) of the total building area or three thousand (3,000) square feet, whichever is less.

**220.3. Conditional Uses** (Subject to the review procedures of Section 704.)

1. Commercial stockyards, feedlots and/or wholesale livestock auctions (see Section 417);
2. Heavy equipment sales, service and/or repair facilities, such as excavation machinery, commercial trucks, buses, farm equipment, mobile homes, trailers, and other similar machinery (see Section 428);
3. Heavy industrial uses involving processing, packaging, production, repair or testing of materials, goods and products, including those industries performing conversion, assembly, or non-toxic chemical operations (see Section 429);
4. Junkyards (see Section 435);
5. Mini-warehouses (see Section 437);
6. Off-track betting parlors (see Section 443);
7. Recycling facilities for paper, plastic, glass, and metal products (see Section 446);
8. Septage and/or spent mushroom compost processing, and commercial mushroom operations (see Section 450);
9. Slaughtering, processing, rendering, and packaging of food products and their by-products (see Section 453);
10. Solid waste disposal and processing facilities (see Section 454);
11. Truck or motor freight terminals (see Section 455);
12. Truck stops (see Section 456);
13. Warehousing and wholesale trade establishments (see Section 457); and,
14. Wholesale produce and tobacco auctions (see Section 458).

**220.4. Lot Design Requirements.** Unless otherwise specified, all uses shall comply with the lot design requirements contained within the following table:

Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Maximum Permitted Height
15,000 square feet	100 feet	75%	35 feet

- 220.5. Minimum Setback Requirements** (Principal and Accessory Uses).
1. Front Yard Setback. All buildings, structures (except permitted signs), and outdoor loading areas shall be set back at least twenty feet (20') from the street right-of-way; off-street parking lots and outdoor storage areas shall be set back a minimum of ten feet (10') from the street right-of-way.
  2. Side Yard Setback. All buildings and structures (except permitted signs), off-street parking lots, loading areas and outdoor storage areas shall be set back at least ten feet (10') from the side lot lines, unless joint parking facilities are shared by adjoining uses. In such instances, the side yard setbacks can be waived solely for parking and/or loading facilities.
  3. Rear Yard Setback. All buildings, structures, off-street parking lots, loading areas, and outdoor storage areas shall be set back at least ten feet (10') from the rear lot line.
  4. Residential Buffer Strip. Any lot adjoining land within a residential zone shall maintain a twenty-five foot (25') setback for nonresidential buildings, structures, off-street parking lots, loading areas, and outdoor storage areas from the residentially-zoned parcels. Such areas shall be used for a landscape strip and screen.
- 220.6. Outdoor Storage**. All outdoor storage areas shall be completely enclosed by a fence and screened from adjoining roads and parcels.
- 220.7. Off-Street Loading**. Off-street loading shall be provided as specified in Section 312 of this Ordinance. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone, nor any side of a building facing an adjoining street.
- 220.8. Off-Street Parking**. Off-street parking shall be provided as specified in Section 311 of this Ordinance.
- 220.9. Signs**. Signs shall be permitted as specified in Section 314 of this Ordinance.
- 220.10. Access Drive Requirements**. All access drives shall be in accordance with Section 505 of the SLDO.
- 220.11. Screening**. A visual screen must be provided along any existing residential use and any adjoining lands within a residential zone, regardless of whether or not the residentially-zoned parcel is developed. (See Section 313 of this Ordinance.)
- 220.12. Landscaping**. Any portion of the site not used for buildings, structures, off-street parking, loading areas, outdoor storage areas, and sidewalks shall be

maintained with a vegetative ground cover and other ornamental plantings. (See Section 313 of this Ordinance.)

- 220.13. Waste Products.** Storage of industrial waste materials shall not be permitted, except in an enclosed building. Dumpsters used for domestic garbage may be permitted within the side or rear yard, provided such dumpsters are screened from any adjoining roads or properties. Such dumpsters shall not be used for industrial wastes, and shall be set back at least twenty-five feet (25') from all property lines.
- 220.14. Industrial Operations Standards.** All industrial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies.
- 220.15.** All uses permitted within this Zone shall also comply with the applicable General Provisions in Article 3 of this Ordinance.

## Section 230 Floodplain Zone (F)

### 230.1. Purpose and Intent

1. The Floodplain Zone includes the areas of Bally and Bechtelsville Boroughs which are subject to periodic inundation by floodwaters. This inundation results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, impairment of the tax base, and other adverse effects on the public health, safety, and general welfare.
2. In the interest of public health, safety and welfare, the regulations of the Floodplain Zone are designed and intended to protect floodplain areas subject to, and necessary for, floodwaters, to permit and encourage the retention of open land uses so located and utilized and to guide incompatible development into more appropriate zones.
3. In advancing these principles and the general purposes of this Zoning Ordinance and the Comprehensive Plan, and as a supplement to Section 111 of this Zoning Ordinance, the specific intent of this Zone includes the following:
  - A. To regulate uses, activities and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies;
  - B. To restrict or prohibit certain uses, activities and development from locating within areas subject to flooding;
  - C. To require all those uses, activities and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage;
  - D. To protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

### 230.2. Lands in District Defined. The Floodplain Zone is hereby defined to include all of the following lands within Bally and Bechtelsville Boroughs:

1. Those areas subject to inundation by the waters of the base flood (100-year flood), as identified in the Bally Borough Flood Insurance Study dated December 5, 1997, and accompanying maps, or the latest revision thereof, as prepared for the Borough by the Federal Emergency Management Agency and/or its successors;
2. Those areas subject to inundation by the waters of the base flood (100-year flood), as identified in the Bechtelsville Borough Flood Insurance Study dated December 5, 1997, and accompanying maps, or the latest revision thereof, as prepared for the Borough by the Federal Emergency Management Agency and/or its successors; and,
3. For all other streams and/or waterways not depicted upon the above-described Flood Boundary and Floodway Maps, the Floodplain Zone shall be deemed to include:

- A. An area measuring fifty feet (50') horizontally perpendicular from the top bank of the watercourse; or
- B. The area inundated by the base flood as determined through qualified hydrologic and hydraulic study. Such study shall be signed, sealed and certified by a registered professional of the Commonwealth of Pennsylvania. Such certification shall acknowledge the accuracy of the study or survey and the qualification of the individual to perform such study or survey. Copies of such studies and surveys shall be submitted by the Zoning Officer to the Borough Engineer and the Federal Emergency Management Agency, who shall have thirty (30) days to comment. Any property owner whose property is so studied shall pay all costs of these studies and surveys, except for work done under retainer to, or on behalf of, the Borough.

**230.3. Boundary Disputes – Changes**

1. Should any person dispute the initial boundary determination of the Floodplain Zone made by the Zoning Officer, an appeal will lie to the Zoning Hearing Board. The burden of proof in such an appeal shall be on the property owner. The property owner shall pay all those costs associated with the hearing according to Section 603.1.2. of this Ordinance.
2. All changes to the boundaries of the Floodplain Zone which affect areas identified in Section 230.2. of this Ordinance are subject to the review and approval of the Federal Insurance Administrator for compliance with the Rules and Regulations of the National Flood Insurance Program.

**230.4. Relationship to Other Sections.** The provisions of this Section create an overlay zone which is applicable within floodplains in all other zones established by this Zoning Ordinance. To the extent the provisions of this Section are applicable and more restrictive, they shall supersede conflicting provisions within all other sections of this Zoning Ordinance, and all other ordinances of either Borough. However, all other provisions of all other sections of this Zoning Ordinance and all other ordinances of both Boroughs shall remain in full force.

**230.5. Permitted Uses.** The following uses and no others are permitted in the Floodplain Zone, and they are permitted only if done under and in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 394 of 1937, as amended, the Rules and Regulations of the Pennsylvania Department of Environmental Protection, and all other provisions of this Section and other applicable provisions of the Zoning Ordinance.

1. Agriculture, horticulture, and forestry, all excluding any fill or structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
2. Erosion and sedimentation control measures, facilities, and structures, provided no unhealthful ponding or other unsanitary conditions shall occur.
3. Public and private recreational uses, such as parks, swimming areas (excluding swimming pools), play areas, day camps, campgrounds (excluding

- camp sites), picnic groves, lawns, gardens, golf courses, driving ranges, archery ranges, game farms, areas or clubs for hunting, fishing, and/or boating (including marker or anchor buoys), paved bicycle paths, and hiking and horseback riding trails, all excluding any fill or structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.
4. Harvesting of any wild crop, such as marsh hay, ferns, moss, berries, tree fruits and seeds, or wild rice.
  5. Activities related to the preservation of natural amenities, including wildlife sanctuaries, nature preserves, woodland preserves, botanical gardens, or arboretums, excluding any fill or structures and excluding any grading or filling which would cause any increase in flood heights or frequency.
  6. Open space and front, side or rear yard required by other Sections of this Ordinance. Floodplain land may be used to meet minimum open space, yard and lot area requirements, provided that the purpose and intent of this Zone, as set forth in Section 230.1. of this Ordinance, together with the requirements of any other pertinent municipal regulations, are complied with.
  7. Stream improvements whose sole purpose is to improve aquatic life habitat, and which are approved by the Pennsylvania Fish Commission and reviewed by the Conservation District, and subject to the provisions of Section 230.10.2.C. of this Zone.
  8. One or two-strand fences.
  9. Picnic tables, park benches, fireplaces and grills, and playground equipment, all if anchored to prevent flotation.
  10. Blinds for the shooting or observation of wildlife, provided that such blinds may only be placed, erected and maintained during the open season established by the Pennsylvania Game Commission for the taking of migratory waterfowl and the three weeks immediately preceding, and three weeks immediately following, that open season. Blinds must be removed during all other times of the year.
  11. Circuses, carnivals and similar transient enterprises, provided that natural vegetative ground cover is not destroyed, removed or covered in such a way as to create erosion or sedimentation.
  12. Farm ponds which are constructed in accordance with a Conservation Plan reviewed by the Conservation District and which do not create any increase in flooding, and subject to the provisions of Section 230.10.2.C. of this Zone.
  13. Floodproofing and flood hazard reduction structures to protect only lawfully existing nonconforming structures and lawfully existing nonconforming uses within structures.
  14. Public utility facilities (except buildings) under the exclusive jurisdiction of the Pennsylvania Public Utility Commission and specifically exempted from control by municipal zoning ordinances, subject to the provisions of Section 230.10.7. of this Zone.
  15. Marker buoys.

**230.6. Special Exception Uses**

1. The following uses in the Floodplain Zone are permitted only when special exceptions are granted by the Zoning Hearing Board, as provided for herein and in Section 604.3., when permitted by the underlying zone as permitted uses or special exception uses, and when done under and in accordance with the provisions of the Clean Streams Law of Pennsylvania, Act 394 of 1937, as amended, the Rules and Regulations of the Pennsylvania Department of Environmental Protection, and all other provisions of this Zoning Ordinance:
  - A. One-story tool or implement sheds, not exceeding eight hundred (800) square feet in size, provided that the same are anchored to a permanent foundation, that the shed, together with attendant utility and sanitary facilities, are floodproofed to the elevation of the 100-year flood elevation, and provided that no such sheds are permitted in the floodway.
  - B. Parking lots, loading areas, driveways, and aircraft landing strips and taxiways, if they are water-permeably surfaced, and if they are consistent with the provisions of Section 230.8.16. of this Ordinance, except that parking lots designed or used for storage, and parking lots for hotels, motels and other transient lodgings are prohibited.
  - C. Water-oriented uses such as docks, piers, wharves, marinas, boat liveries, and boat launching ramps.
  - D. Public utility facilities not under the exclusive jurisdiction of the Pennsylvania Public Utility Commission, subject to the following conditions:
    - a. Facilities, such as pipelines, gas lines, storm sewers, sanitary sewers, water lines, outlet installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities, shall, together with associated structures, but excepting necessary vents, be designed and installed underground so as to be at or below the existing natural surface grade within the floodplain, and in such a manner as will prevent flotation, minimize or eliminate flood damage, and not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities shall be designed to minimize or eliminate infiltration of floodwaters into the facilities and discharges from the facilities into floodwater. All gas lines shall have a system of shut-off valves for service to the Floodplain Zone to allow positive control during flood emergencies.
    - b. Electrical transmission lines and supporting structures shall be installed so as to minimize or eliminate flood damage, and all lines of less than 15 kilovolts shall be installed underground, below the existing natural surface grade within the floodplain. Above-ground electrical transmission lines of 15 kilovolts or more may be allowed above ground as a special exception, provided they are certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania as meeting all of the following standards:
      - (1) Above-ground lines and supporting structures shall enter the Floodplain Zone only to cross a watercourse, water-

course and the Floodplain Zone using the most direct and shortest route possible consistent with the goals, objectives, purposes, and intents of this Section, shall make minimum number of crossings necessary, and shall be designed and installed so as to minimize or eliminate flood damage.

- (2) Above-ground lines shall be elevated so that their lowest portions are a minimum of ten feet (10') above the maximum flood elevation.
- (3) Supporting structures for above-ground lines within the Floodplain Zone shall be the minimum number necessary to carry the lines across the Floodplain Zone. Supporting structures shall be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point where they are located.
- (4) Facilities and service in the Floodplain Zone shall be designed so that flood damage within the Zone does not disrupt service outside the Zone.
- c. Fish hatcheries, including uncovered ponds and raceways, which are approved by the Pennsylvania Fish Commission, but excluding other structures.
- d. Water monitoring devices.
- e. Culverts, bridges, and approaches to public and private culverts and bridges, provided the same meet all of the following conditions:
  - (1) Review and/or approval of the Berks County Planning Commission, if required.
  - (2) Approval by the Delaware Valley River Basin Commission, if required.
  - (3) Approval by the Pennsylvania Department of Environmental Protection, if required.
  - (4) Approval by the Pennsylvania Department of Transportation (PennDOT), if required.
  - (5) If approval by PennDOT is not required, the proposed use must still meet all of the appropriate maximum design standards of PennDOT.
  - (6) Approval by the United State Corps of Engineers, if required.
  - (7) The proposed structure must be designed in such a way as to have the capacity to allow the unrestricted passage of waters of maximum flood elevation below and through it without any upstream or downstream increase in water surface elevation.
- f. Other uses similar to the above, provided the use will not reduce the cross-sectional area of the floodplain.

2. Standards and Criteria for Special Exceptions. In addition to the provisions of Articles 4 and 6, in hearing and deciding upon special exceptions to be granted or denied under the provisions of this Zone, the Zoning Hearing Board shall also determine that the following standards and criteria have been complied with:

- A. That danger to life and property due to increased flood heights, velocities, or frequencies caused by encroachments is minimized.

- B. That no, or a minimum of, floodwaters or materials will be swept onto other lands or downstream to cause injury to others.
  - C. That the possibility of disease, contamination and unsanitary conditions is minimized.
  - D. The proposed facility needs a waterfront or floodplain location.
  - E. That available alternative locations not subject to flooding for the proposed use do not exist.
  - F. That the proposed use is compatible with existing and anticipated development.
  - G. That the proposed use is consistent with the *Official Bally/Bechtelsville Boroughs Joint Comprehensive Plan* and any floodplain management program for the area.
  - H. The safety of access to the property in times of flood for ordinary and emergency vehicles will be assured.
  - I. That the expected area, height, depth, velocity, pressure, frequency, duration, rate of rise, seasonality, and sediment, debris, and pollutant load of floodwaters expected at the site are not inconsistent with the proposed use.
  - J. That the proposed activity will not unduly alter natural water flow or water temperature.
  - K. That archeological or historic sites and structures, endangered or threatened species of animals or plants, high quality wildlife habitats, scarce vegetation types, and other irreplaceable land uses will not be degraded or destroyed.
  - L. That the natural, scenic, and aesthetic values at the proposed site will be conserved.
  - M. That a minimal amount of danger, damage and injury to all adjoining properties on both sides of any watercourse, regardless of municipality, will occur. In this regard, any proposal affecting an adjacent municipality shall be submitted to that municipality's planning commission and governing body for review and comment.
  - N. That the grant of the special exception shall not cause:
    - a. Increases in flood heights.
    - b. Additional threats to public safety.
    - c. Extraordinary public expense.
    - d. Creation of nuisances.
    - e. Conflict with local laws or ordinance.
3. In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Zone, the burden of proof shall be on the applicant. The Zoning Hearing Board may require the applicant to submit such plans, specifications and other information as it may deem necessary to assist it in arriving at a fair and impartial determination. Such required information may include, but is not limited to, the following:

- A. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.
  - B. A typical valley cross-section showing the channel of the watercourse, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - C. A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply facilities and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
  - D. A profile showing the slope of the bottom of the channel or flow line of the watercourse.
  - E. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply facilities, and sanitary facilities.
4. In hearing and deciding upon special exceptions to be granted or denied under the provisions of this Zone, the Zoning Hearing Board may call upon any experts or authorities it may deem necessary to assist it in arriving at a fair and impartial determination.
  5. In granting any special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Zoning Ordinance, as it may deem necessary to implement the purposes of this Zoning Ordinance.
  6. Fees for Special Exceptions: Any fees assessed an applicant for a special exception, whether for a hearing or any other purpose, shall not exceed those costs directly associated with the particular application.

### **230.7. Variances Within the Floodplain Zone**

1. Variances from the provisions of this Zone are discouraged. Where, however, a variance is essential, the following requirements of the National Flood Insurance Program must be complied with, in addition to all other variance provisions of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended. In all variance proceedings, the burden of proof shall be on the applicant.
2. No variance shall be granted for any development, structure, use, or activity within the Floodplain Zone which would cause any increase in flood levels during the 100-year flood, as defined by Section 230.2. of this Ordinance.
3. Variance shall only be granted upon:
  - A. A showing of good and sufficient cause;

- B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with any other application laws, ordinances or regulations;
  - D. That the granting of a variance will not jeopardize the flood insurance program of Bally or Bechtelsville Boroughs.
4. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  5. Whenever a variance is granted, the Board shall notify the applicant in writing that:
    - A. The granting of the variance may result in increased premium rates for flood insurance.
    - B. Such variance may increase the risks to life and property.
  6. A complete record of all variance requests and actions, including justifications for granted variances, shall be maintained by the Board.

**230.8. Prohibited Uses.** The following uses are prohibited in the Floodplain Zone:

1. All uses not permitted within the underlying Zone.
2. All structures, with the exception of those specifically allowed in Sections 230.5. and 230.6. of this Zone.
3. Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and/or materials.
4. Placing, depositing, and dumping of any spoil, fill or solid waste, except such grading, filling or depositing necessary to accomplish and carry out the permitted uses, and uses by special exception in Sections 230.5. and 230.6. of this Ordinance; provided, however, that no grading or filling is permitted which would cause any increase in flood heights or frequency.
5. Removal of topsoil, excluding sod production and nursery activities as allowed in Sections 230.5. and 230.6. of this Ordinance, and except such removal of topsoil as is necessary to accomplish and carry out the permitted uses and uses by special exception specified in Sections 230.5. and 230.6. of this Ordinance; provided, however, that no grading or filling is permitted which would cause any increase in flood heights or frequency.
6. Damming or relocation of any watercourse, except as provided for in Sections 230.5. and 230.6. of this Ordinance.
7. Any parts of any on-site sewage disposal systems.
8. Swimming pools.

9. Stockpiling, storage or disposal of buoyant materials, logging slash, herbicides, pesticides, domestic or industrial waste, radioactive materials, petroleum or other flammable materials, explosives, poisonous materials, hazardous materials, or other materials which, if flooded, would pollute the watercourse or be injurious to human, animal or plant life.
10. Any new or substantially improved structure which will be used for the production or storage of any of the following materials or substances, or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume, or any amount of radioactive substances) of any of the following materials or substances on the premises: acetone, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, hydrochloric acid, hydrocyanic acid, magnesium, nitric acid, and oxides of nitrogen, petroleum products (gasoline, fuel oil, etc.) phosphorus, potassium, sodium, sulfur and sulfur products, pesticides (including insecticides, fungicides and rodenticides, radioactive substances, insofar as such substances are not otherwise regulated, and other substances defined as hazardous waste under Section 75.261, Chapter 75, Title 25 of the Pennsylvania Code (DEP's Hazardous Waste Management Regulations);
11. Mobile home parks;
12. Hospitals, nursing homes and jails;
13. Cemeteries for humans or animals.
14. Zoo, menagerie, wild animal farm, or domestic or farm animal enclosures which will not allow all animals to escape floodwaters of maximum flood elevation without human intervention while remaining safely confined.
15. The floodproofing of new residential structures, as an exception from the elevation requirement.
16. Any development, structure, or use which may, whether alone or in combination with others:
  - A. Endanger human life;
  - B. Obstruct, impede, retard, change, or increase the velocity, direction, or flow of floodwaters;
  - C. Increase the surface elevation of floods, or the frequency of floods;
  - D. Catch or collect debris carried by floodwaters;
  - E. Be placed where the natural flow of the stream or floodwaters would carry it downstream to the damage or detriment of property within or adjacent to the Floodplain Zone;
  - F. Degrade the water-carrying capacity of any watercourse, channel or floodplain;
  - G. Degrade the quality of surface water or the quality or quantity of ground water;
  - H. Be susceptible to flotation and subsequent movement which would cause damage to other property;
  - I. Not be in harmony with the intent and purpose of this Zone, as set forth in Section 230.1. of this Ordinance.
17. Feedlots.

**230.9. Nonconforming Uses and Structures in the Floodplain Zone**

1. Continuation. All uses or structures in the Floodplain Zone lawfully existing on the effective date of this Ordinance, which are not in conformity with the provisions of this Ordinance, shall be deemed nonconforming uses or structures. Such nonconforming uses or structures may be continued, maintained, repaired, and floodproofed, except as otherwise provided for in this Section. However, such nonconforming uses or structures may, at any time, be improved to comply with existing Pennsylvania or Bally or Bechtelsville Boroughs sanitary, or safety code specifications which are solely necessary to assure safe living conditions.
2. Abandonment. Nonconforming uses or structures which have been discontinued or vacated for twelve (12) consecutive months shall be considered abandoned. Vacation of land or structures or the nonoperative status of the use normally carried on by the property shall be evidence of discontinuance. No abandoned use or structure may be reestablished, repaired or reoccupied. The governing bodies may require the removal of any abandoned nonconforming use or structure upon proper notice to the owner of the property on which an abandoned nonconforming use or structure exists. If the owner has not completely removed the abandoned use or structure within a reasonable amount of time, not to exceed nine (9) months, the governing bodies shall have the authority to themselves cause the removal to be accomplished, the costs of such removal to be paid by the property owner.
3. Expansion and Modification. A nonconforming use or structure may not be expanded or modified in any manner which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of this Ordinance. No nonconforming use or structure shall be expanded, enlarged or altered in any way which increases its nonconformity with respect to height, area, yard, and other requirements established in other sections of this Ordinance, nor in any way which causes it to occupy more space within the Floodplain Zone than was occupied by it on the effective date of this Ordinance.
4. Replacement and Rebuilding. A nonconforming use or structure may be replaced, repaired, or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than fifty percent (50%) of its fair market value at the time of its damage or destruction. In such a case, however, the nonconformity of the new use or structure, with respect to requirements as expressed in provisions of this Section, shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this Section.

A nonconforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of fifty percent (50%) of its fair market value at the time of its damage or destruction may not be replaced, restored, repaired, reconstructed, improved, or rebuilt in any way other than in complete conformity and full compliance with the provisions of this Section, all other sections of this Ordinance, and all other ordinances of either Bally or Bechtelsville Boroughs, respectively. The Zoning Hearing Board may waive, as a special exception, the requirements of this paragraph where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to appellant in the efficient operation of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least

modification possible of the provisions of this Section, while respecting and maintaining the purposes and intents of this Section.

5. The Zoning Officer shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use of structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.
6. Historic Structures. The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of this Section and Section 230.10. for any structure listed on the National Register of Historic Places or the Pennsylvania Register of Historic Sites and Landmarks, and the provisions of Sections 230.6.2., 230.6.3., 230.6.4., 230.6.5., and 230.6.6. of this Ordinance shall be applied in such a case.

## **230.10. Design and Performance Standards**

1. Applicability. Unless otherwise specified in this Ordinance, the standards and criteria included in this Section are to be used, together with the provisions of all other sections and all other ordinances in force in Bally and Bechtelsville Boroughs, respectively, by the Zoning Officer and Zoning Hearing Board in their administration of this section.
2. Regulations and Reviews by Other Agencies:
  - A. Where applicable and where possible, all necessary permits or other written approvals must be obtained from all other agencies, including State and Federal Agencies, before any approvals of plans, special exceptions, variances, or permits may be granted by either Bally or Bechtelsville Boroughs or their agencies, officials or employees.
  - B. Where necessary permits or written approvals from other agencies cannot be obtained prior to action by the Boroughs, any approval of plans, special exceptions, variances, or permits by the Boroughs or their agencies, officials, or employees shall be conditioned upon receiving such other agencies' permits or written approvals.
  - C. No regulations of the Commonwealth governing watercourses are amended or repealed by this Ordinance. Prior to any proposed alteration or relocation of any watercourse, a permit shall be obtained from the Pennsylvania Department of Environmental Protection, Dams, Safety Obstructions, and Storm Water Management Division, and notification of any such proposal shall be given to all affected adjacent municipalities. Copies of such permit, application and municipality notifications shall be forwarded to the Federal Insurance Administration and to the Pennsylvania Department of Community and Economic Development.
3. Placement and Construction of Authorized Uses and Structures:
  - A. All uses and structures shall be designed, constructed and placed so as to offer the minimum obstruction possible to the flow of water and shall be designed to have a minimum effect upon the flow, velocity,

- or height of floodwaters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, so far as is practicable, structures shall be placed approximately on the same flood flow lines as those of nearby structures.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, and shall be constructed by methods and practices that minimize flood damage.
  - C. All new or replacement drains, water supply facilities, or sanitary sewage facilities shall be designed to preclude infiltration or back-up of sewage or floodwaters into the facilities or structures and discharges from the facilities into floodwaters.
  - D. All new construction and substantial improvements of permanent non-residential structures shall either (1) have the lowest floor (including basement) elevated to one foot (1') above the 100-year flood elevation, as defined by Section 230.2. of this Ordinance, or (2) together with attendant utility and sanitary facilities, be floodproofed so that below one foot (1') above the 100-year flood elevation, as defined by Section 230.2. of this Ordinance, the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - E. All authorized improvements or additions to existing residential structures shall, to the greatest extent possible, be elevated. Any portion of the structures not elevated to one foot (1') above the 100-year flood elevation, as defined by Section 230.2. of this Ordinance, shall be floodproofed.
  - F. All authorized, new residential structures shall have the lowest flood (including basement) elevated to one foot (1') above the 100-year flood elevation, as defined by Section 230.2. of this Ordinance.
4. Floodproofing. Where floodproofing is authorized by this Ordinance, it shall be done according to the standards and provisions for floodproofing classes W-1, W-2, W-3, or W-4, as contained in *Flood-proofing Regulations* published by the office of the Chief of Engineers, U.S. Army, Publication EP 1165 2 314 (June, 1972, and as subsequently amended) where such standards and provisions do not conflict with other provisions of this Zone. Where reference is made in *Flood-proofing Regulations* to the "RFD" (Regulator Flood Datum) it shall be interpreted to mean the 100-year flood elevation as defined by this Ordinance. The floodproofing of new residential structures is specifically prohibited.
5. Anchoring. All structures, including buildings, air ducts, large pipes, and storage tanks within the Floodplain Zone shall be firmly anchored to prevent flotation, movement or collapse, thus reducing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
6. Surface Drainage. Adequate drainage shall be provided for all new development to reduce exposure to flood hazards.

7. Public Utility Facilities and Structures. Public utility facilities and structures (except buildings), subject to the jurisdiction of the Pennsylvania Public Utility Commission, are requested to comply with the following standards in the interest of achieving the purposes and intent of this Zone.
- A. Public utility facilities and associated structures, such as pipelines, gas lines, storm sewers, sanitary sewers, water lines, outlet installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities should, except for necessary vents, be designed and installed underground so as to be at, or below, the existing natural surface grade within the floodplain, and in such a manner as will prevent flotation, minimize or eliminate flood damage, and not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities should be designed to minimize or eliminate infiltration of floodwaters into the facilities and discharges from the facilities into floodwaters. All gas lines should have a system of shut-off valves for service to the Floodplain Zone to allow positive control during flood emergencies.
  - B. Public utility electrical transmission lines and supporting structures should be installed so as to minimize or eliminate flood damage and be installed underground below the existing natural surface grade within the floodplain. Above-ground electrical transmission lines should be designed to meet the following standards:
    - a. Above-ground lines and supporting structures should enter the Floodplain Zone only to cross a watercourse, should cross the watercourse and the Floodplain Zone using the most direct and shortest route possible consistent with the goals, objectives, purposes, and intents of this Zone, should make the minimum number of crossings necessary, and should be designed and installed so as to minimize or eliminate flood damage.
    - b. Above-ground lines should be elevated so that their lowest portions are a minimum of ten feet (10') above the maximum flood elevation.
    - c. Supporting structures for above-ground lines within the Floodplain Zone should be the minimum number necessary to carry the lines across the Floodplain Zone. Supporting structures should be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point were they are located.
    - d. Facilities and service to the Floodplain Zone should be designed so that flood damage within the Zone does not disrupt service outside the Zone.
8. Agricultural Standards.
- A. A filter strip is required between any watercourse and any tilled land. Such strip shall be a minimum of fifteen feet (15') in width, measured from the bank of the watercourse channel. The filter strip shall be planted and maintained in grass.

- B. Within the Floodplain Zone, a cover crop, such as annual rye grass, is required whenever the land is not being tilled for major crops.
- C. Livestock shall not be confined in pastures or other enclosures located entirely within the Floodplain Zone.
- D. Feedlots are prohibited within the Floodplain Zone.

9. Special Requirements for Mobile Homes:

- A. All replacements for existing nonconforming mobile homes, and any additions thereto, shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards Institute and National Fire Protection Association Standards, as specified in the Standards for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974)(ANSI A119.3-1975), as amended for Mobile Homes in Hurricane Zones or other appropriate standards, such as the following:
  - a. Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations for units fifty feet (50') or more in length, and one (1) additional tie per side for units less than fifty feet (50') in length.
  - b. Frame ties shall be provided at each corner of the mobile home, with five (5) additional ties per side at intermediate locations for units fifty feet (50') or more in length, and four (4) additional ties per side for units less than fifty feet (50') in length.
  - c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- B. All replacements for existing nonconforming mobile homes and any additions thereto shall also be elevated in accordance with the following requirements:
  - a. The stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be at or above the elevation of the 100-year flood elevation.
  - b. Adequate surface drainage is provided.
  - c. Adequate access for a hauler is provided.
  - d. Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten feet (10') apart; reinforcement shall be provided for pilings that will extend for six feet (6') or more above the ground level.
- C. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Borough for mobile home parks and mobile home subdivisions where appropriate.

**230.11. Zoning Permits**

1. Irrespective of the provisions of Section 701 of this Ordinance, within the Floodplain Zone, zoning permits shall be required for all proposed development, construction, reconstruction, placement, replacement, expansion, renovation, extension, repair, or other improvement of uses or structures, regardless of value, including the placement of mobile homes and activities, such as mining, dredging, filling, grading, logging, paving, excavation, or drilling operations. Zoning permits shall not be required for normal maintenance.
2. Every zoning permit application for work or uses within the Floodplain Zone shall include or be accompanied by all information necessary for the Zoning Officer to determine that the proposal meets all the provisions of this Ordinance and other ordinances of the Borough.
3. A plan of the entire site, clearly and legibly drawn at a scale of one inch (1") being equal to fifty feet (50') or less, showing the following:
  - A. North arrow, scale and date;
  - B. Topographic control lines at a minimum of two feet (2") intervals, if available;
  - C. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
  - D. The location of all existing and proposed buildings, structures and other improvements, including the location of any existing or proposed subdivision and land development;
  - E. The location of all existing streets, drives, and other access ways; and,
  - F. The location of any existing bodies of water and watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
4. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
  - A. The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
  - B. The elevation of the one hundred (100) year flood;
  - C. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and,
  - D. Detailed information concerning any proposed floodproofing measures.
5. The following data and documentation:
  - A. Documentation, certified by a registered professional engineer, to show that the cumulative effect of any proposed development within the Floodplain Zone in the Flood Insurance Study, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one foot (1') at any point;
  - B. Where floodproofing is proposed to be utilized for a particular structure, the zoning permit application shall be accompanied by a

document certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania, or a licensed professional architect registered by the Commonwealth of Pennsylvania, certifying that the floodproofing methods used meet the provisions of Section 230.10.4. of this Ordinance and are adequate to withstand the flood depths, pressures, velocities, impact, uplift forces, and other factors associated with the 100-year flood, as defined by Section 230.2.1. of this Ordinance, and indicating the specific elevation (in relation to mean sea level) to which such structure is floodproofed;

- C. Detailed information needed to determine compliance with Section 230.8.10. pertaining to structures used for the production or storage of certain environmentally sensitive substances, including:
    - a. the amount, location and purpose of any materials or substances referred to in Section 230.8.10. which are intended to be used, produced, stored, or otherwise maintained on site;
    - b. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 230.8.10. during a one hundred (100) year flood.
  - D. The appropriate component of the Department of Environmental Protection's *Planning Module for Land Development*;
  - E. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
6. A copy of all plans and applications for proposed construction or other improvements within the Floodplain Zone to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals for review and comment.
  7. A copy of all applications and plans for any proposed construction or development in any Floodplain Zone to be considered for approval shall be submitted by the Zoning Officer to the Berks County Conservation District for review and comment prior to the issuance of a building permit pursuant to a Memorandum of Understanding between the Boroughs and the Berks County Conservation District. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

**230.12. Municipal Liability.** The lawful granting of a permit or the making of any other administrative decision under this Section shall not constitute a representation, guarantee or warranty of any kind by Bally or Bechtelsville Boroughs, or by any official, agent or employee thereof, of the practicability or safety of any structure, use or other plan proposed with respect to damage from flood or otherwise, and shall create no liability upon, or a cause of action against, such public body, official, agent, or employee for any flood damage that may result pursuant thereto, or as a result of reliance on this Ordinance. There is no assurance that lands not included in the Floodplain Zone are now or ever will be free from flooding or flood damage.

## Section 231 Main Street Enhancement Overlay Zone

- 231.1. Purpose.** In accordance with the recommendations of the *Official Bally/Bechtelsville Boroughs Joint Comprehensive Plan*, this Zone presents design guidelines that are aimed at streetscape enhancement and traffic congestion reduction along the Main Street corridor within Bally Borough. The following lists design guidelines that, when applied to properties within this Zone, can result in prescribed development density bonuses. These bonus incentives are awarded solely at the discretion of the Borough Council, during the conditional use review procedure.
- 231.2. Review Procedures.** The Borough Council may, by conditional use approval, award the development density bonuses listed in Section 231.5. of this Ordinance when an applicant incorporates development features in accordance with those design guidelines listed in Section 231.4. of this Ordinance. Applications must comply with the requirements of Section 704 of this Ordinance.
- 231.3. Relationship to Other Regulations.** The Main Street Enhancement Overlay Zone is an overlay zone that only regulates those design features listed in Sections 231.4. and 231.5. of this Ordinance. All other aspects of the land use shall be governed by the regulations of the underlying zone and other sections of this Ordinance. Where a conflict between regulations occurs regarding any of those design features listed in this Zone and those regulations contained elsewhere within this Ordinance, the regulations of this Zone shall apply.
- 231.4. Design Guidelines**
1. Coordinated vehicular access between two or more adjoining land uses, that make use of only one shared driveway or access drive onto Main Street;
  2. Coordinated off-street parking between two or more adjoining land uses that share a single driveway or access drive. Such parking lots shall be arranged to provide ready access to all properties;
  3. Coordinated off-street loading between two adjoining land uses sharing a single access drive that provides ready access to one or more loading spaces serving both uses;
  4. Coordinated signage with two or more uses sharing only one sign;
  5. Storefronts should be principally oriented towards pedestrian customers. Buildings should present a uniform pattern of front setbacks (except in the case of cafes) that abut the sidewalk.
  6. Sidewalks should incorporate handicapped aprons, lamp posts, trash receptacles, native shade trees, pedestrian benches, transit stops, and other similar amenities;

7. Buildings, fences, retaining walls and other improvements should incorporate architectural treatments and styles that complement the Borough's historic resources. All applications under this design guideline shall include the preparation of textual and (typical) graphic descriptions of proposed architectural features and styles, by a Commonwealth-registered architect.

## **231.5. Density Bonuses**

1. Properties that incorporate at least four of the preceding design features are entitled to the following density bonuses:
  - A. A ten percent (10%) increase in the maximum permitted lot coverage;
  - B. Uses that incorporate coordinated off-street parking spaces, waiver of one side yard setback requirement as it applies to the off-street parking lot, and a ten percent (10%) reduction in the total number of parking spaces required for all nonresidential uses;
  - C. Uses that incorporate coordinated off-street loading spaces, waiver of the off-street loading space requirement for that use that would otherwise require the least number of loading spaces, provided a cross property use easement is recorded that assures both uses may use the shared loading space(s). In addition, one side yard setback may also be waived, as it applies to off-street loading; and,
  - D. Uses that incorporate coordinated signage among at least two (2) adjoining properties, a ten percent (10%) increase in the maximum permitted size of permitted signs.
2. Properties that incorporate at least six of the preceding design features are entitled to the following density bonuses:
  - A. A twenty percent (20%) increase in the maximum permitted lot coverage;
  - B. Uses that incorporate coordinated off-street parking spaces, waiver of one side yard setback requirement as it applies to the off-street parking lot, and a ten percent (10%) reduction in the total number of parking spaces required for all nonresidential uses;
  - C. Uses that incorporate coordinated off-street loading spaces, waiver of the off-street loading space requirement for that use that would otherwise require the least number of loading spaces, provided a cross property use easement is recorded that assures both uses may use the shared loading space(s). In addition, one side yard setback may also be waived, as it applies to off-street loading; and,
  - D. Uses that incorporate coordinated signage among at least two (2) adjoining properties, a ten percent (10%) increase in the maximum permitted size of permitted signs.

# Article 3

## General Provisions

### Section 300 General Provisions

The regulations contained within Article 3 shall apply to all uses within the Boroughs. In some cases, the regulations contained within this Article reference regulations contained within the respective Subdivision and Land Development Ordinances adopted by each Borough. In such cases, any relief to be granted to such applicable standards shall be obtained according to the appropriate procedures within the respective SLDO, and will **not** require approval of a variance under the terms of this Zoning Ordinance.

### Section 301 Accessory Uses and Structures

- 301.1. Fences and Walls – No fence or wall (except as expressly required under the terms of this Ordinance) shall be erected to a height of more than four feet (4') in any front yard and six feet (6') within any side or rear yard within the A, C, R-1, R-2, R-3, MU, and TC Zones. Within the GC and I Zones, no fence nor wall shall be erected to a height of more than ten feet (10') in any yard. No fence shall block motorist view of vehicles entering or exiting the property. All fences constructed within the front yard must include a point of access between the lot and the street;
- 301.2. Swimming Pools – No swimming pool shall be permitted without an operable infiltration system utilizing chlorine, bromine or some other antibacterial agent. All swimming pools shall be completely enclosed by a minimum four foot (4') high fence or wall not more than two inches (2") off the ground, with a self-closing and lockable gate; however, this does not apply to above-ground pools having a wall measuring four feet (4') in height and having a retractable ladder. Such fence or wall shall be erected before any pool is filled with water. All pools must be set back at least five feet (5') from all lot lines. No water from a pool shall be discharged onto any public street or alley. These requirements shall not apply to man-made ponds, lakes or other impoundments, unless the primary purpose for their construction is swimming;
- 301.3. Tennis Courts – All tennis courts shall include an open mesh permanent fence ten feet (10') in height behind each baseline. Such fence shall extend parallel to said baseline at least ten feet (10') beyond the court's playing surface, unless the entire court is enclosed. Any lighting fixtures shall be arranged to prevent objectionable glare on adjoining property;
- 301.4. Satellite Dish Antennas – Except as noted below, satellite dish antennas are subject to all accessory use standards. Furthermore, no satellite dish antenna

exceeding one (1) meter (39.37 inches) in diameter located within the A, C, R-1, R-2, R-3, MU, and TC Zones shall be used to transmit video format data.

All satellite dish antennas that are used to transmit video format data shall require installation by a professional installer who can locate and design such antenna to minimize the human exposure to the transmit signal at close proximity and/or for an extended period of time. The applicant shall be required to submit written proof of such "safe" installation prior to the issuance of a zoning permit for the satellite dish antenna. In addition, any ground-mounted antenna exceeding one (1) meter (39.37 inches) that is used to transmit video format data shall be completely enclosed by an eight foot (8') high, nonclimbable fence that includes signage warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended. Satellite dish antennas within the GC and I Zones shall comply with all principal use standards;

301.5. Ornamental Ponds and Wading Pools:

1. Such structures shall comply with all accessory use setbacks;
2. No such impoundment shall contain more than 675 cubic feet of water (5,062 gallons). All ponds, pools or other impoundments exceeding the requirements of this section shall be considered as "Man-Made Lakes, Dams and Impoundments" and are subject to the criteria listed in Section 301.6. of this Ordinance;
3. No such impoundment shall have a length or diameter exceeding fifteen feet (15') nor a maximum depth exceeding three feet (3');
4. All such ponds or pools shall be maintained so as to not pose a nuisance by reason of odor, or the harboring of insects; and,
5. No such pond(s) shall be used for the commercial hatching of fish or other species.

301.6. Man-Made Lakes, Dams, Ponds, and Impoundments – All lakes, dams, ponds, and impoundments may be permitted in any zone, subject to the following:

1. All lakes, dams, ponds, and impoundments located along and connected to a stream that involve any of the following, require the procurement of a permit prior to construction from the PA DEP, Bureau of Dams and Waterways, Division of Dam Safety;
  - A. The lake, dam, pond, or impoundment shall contain a volume of at least fifty (50) acre feet;
  - B. The dam shall reach a height of fifteen feet (15'); and,
  - C. The lake, dam, pond, or impoundment shall be used to impound the water from a watershed of at least one hundred (100) acres.
2. All lakes, dams, ponds, and impoundments not contiguous to a stream that have an intake, outlet, or both, and/or have an embankment within fifty feet (50') of a stream shall require the obtainment of a permit from the PA DEP, Bureau of Dams and Waterways, Division of Waterways, and Stormwater Management;

3. All lakes, dams, ponds, and impoundments shall be located at least forty feet (40') from adjoining lot lines, and any subsurface sewage disposal system or well;
  4. All other lakes, dams, ponds, and impoundments require the submission of a statement by a qualified engineer that the proposed use is properly constructed and will not pose a threat to the public safety nor the environment during normal flow conditions and those associated with the base flood. All dams shall be constructed to a height of one foot (1') above the water surface elevation occurring during the base flood;
  5. Requirements for Fencing – All ponds constructed within areas subject to livestock shall be enclosed by fencing that prevents livestock from trampling the pond's shores and polluting the waters; and,
  6. Maintenance – All ponds shall be regularly maintained and floating debris shall be removed from all pipes and spillways. All ground cover shall be trimmed. Weeds, brush and trees shall not be permitted to grow on the dam or spillway;
- 301.7. Garage/Yard Sales – Within any zone, an owner and/or occupant may conduct up to two (2) garage/yard sales per year. No garage or yard sale shall be conducted for a period longer than three (3) consecutive days. Such sales may offer for sale personal possessions; no import or stocking of inventory shall be permitted. Only one four (4) square foot sign shall be permitted advertising the garage/yard sale; such sign must be located upon the premises where the sale occurs, and shall be removed promptly upon the completion of the sale. In no case shall any aspect of the garage/yard sale be conducted in a street right-of-way. The conduct of garage sales beyond the extent described herein represents a commercial business and requires appropriate zoning authorization; and,
- 301.8. Accessory Repair of Personal Motor Vehicles – Within the R-1, R-2 and R-3 Zones, only the routine maintenance, repair and servicing of personal motor vehicles, owned and/or leased by the person performing such services, is permitted, subject to the following:
1. All vehicles shall be maintained with proper licensure;
  2. All work shall be performed on the vehicle owner's (leasee's) property of residence;
  3. All by-product or waste fuels, lubricants, chemicals, and other products shall be properly disposed of;
  4. All such activities conducted outside shall occur only during daylight hours; and,
  5. Compressed air-driven tools shall only be used within a completely-enclosed structure, with all windows and door closed.

## Section 302 Unenclosed Storage

- 302.1. Recreational Vehicles, Boats, Campers, Trailers, and Trucks – Within any A, C, R-1, R-2, R-3, and MU Zones, the storage of recreational vehicles, travel trailers, trucks, boats, and trailers used solely for the transport of the residents' recreational vehicle(s) is permitted only according to the following requirements:
1. The parking of such vehicles during seasons of use is permitted in any yard, so long as the vehicle is set back no less than ten feet (10') from any street right-of-way or alley, and five feet (5') from adjoining property lines;
  2. The storage of one (1) vehicle during seasons of nonuse shall be permitted per lot behind the building setback line, so long as the unit is set back no less than five feet (5') from any adjoining lot line. All areas used for the storage of vehicles shall be maintained so as to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and prevent the leakage of fuels and/or lubricants into the ground; and,
  3. The storage or parking of any commercial truck upon any residentially-zoned lot, or lot used principally for residential purposes, is prohibited. For purposes of this section, commercial trucks shall include those that exceed a gross vehicle weight (truck plus rated payload) of ten thousand (10,000) pounds. In addition, the parking or storage of any trailer other than those accessory to a principal residential use is expressly prohibited on any residentially-zoned lot, or a lot used principally for residential purposes;
- 302.2. Outdoor Stockpiling – In all zones, no outdoor stockpiling of any material or outdoor storage of trash is permitted in the front yard. In any residential zone or upon any residential lot, the outdoor stockpiling of materials (except firewood) for more than one (1) year is prohibited; and,
- 302.3. Trash, Garbage, Refuse, or Junk – Except as provided in Sections 434 and 454 of this Ordinance, the outdoor accumulation of trash, garbage, refuse, or junk for a period exceeding fifteen (15) days is considered a nuisance and is prohibited.

## Section 303 Setback Modifications

- 303.1. Front Setback of Buildings on Built-Up Streets – Where at least two (2) adjacent buildings within one hundred feet (100') of a property are set back a lesser distance than required, the lesser distance becomes the required minimum front yard setback for the property; and,
- 303.2. Accessory or Appurtenant Structures – The setback regulations do not apply to:
1. Bus shelters; telephone booths; and cornices, eaves, chimneys, steps, canopies, and similar extensions, but do apply to porches and patios, whether covered or not;
  2. Open fire escapes;
  3. Minor public utility structures, articles of ornamentation or decoration;
  4. Fences, hedges and retaining walls; and,
  5. Driveways and access drives are exempt from front yard setbacks.

## Section 304 Height Limit Exceptions

- 304.1. The height regulations do not apply to the following structures or projections, provided such structures or projections are set back a horizontal distance at least equal to their height from any property line:
1. Water towers, utility poles, smokestacks, chimneys, farm silos, windmills, steeples, flagpoles, or other similar structures;
  2. Roof-top structures for the housing of elevators, stairways, water storage tanks, ventilating fans, and other mechanical appurtenances; and,
  3. Parapet walls or cornices used solely for ornamental purposes, if not in excess of five feet (5') above the roof line.
- 304.2. In no case shall any freestanding or roof-top structure above the maximum permitted height be used for the purpose of providing additional floor space for residential, commercial or industrial purposes.

## Section 305 Clear Sight Triangle

On corner lots, there shall be provided and maintained a clear sight triangle, **as required by Section 502.12.6. of the respective SLDO.**

## Section 306 Minimum Habitable Floor Area

All dwelling units must conform to the minimum habitable floor area as follows:

- 306.1. Single-family, duplex and townhouse dwelling units: seven hundred (700) square feet per dwelling unit;
- 306.2. Multi-family dwellings and conversion dwellings: four hundred (400) square feet per dwelling unit.

## Section 307 Establishment of More Than One Principal Use On a Lot

More than one (1) principal use may be established on a single lot, provided that all lot and yard requirements, standards, and other requirements of this Ordinance shall be met for each principal use, as though it were on an individual lot; this shall expressly apply to uses within existing structures. In addition, such proposals shall require the approval of a land development plan.

## Section 308 Required Vehicular Access

Each lot to be created and each principal structure erected or moved shall be on a lot which directly abuts a public street, a street proposed to be dedicated to the Borough by the subdivision plan which created or creates such lot, or a private street which meets all of the requirements of the SLDO. Access to lots containing single-family dwellings shall be via driveways (see Section 309); access to lots containing other uses shall be via access drives (see Section 310).

## Section 309 Driveway Requirements (Single-Family Dwelling)

- 309.1. Number Per Lot - No more than two (2) driveway connections per lot shall be permitted;
- 309.2. Setbacks - Driveways shall not connect with a public street within twenty feet (20') of the right-of-way lines of any intersecting streets, nor within five feet (5') of a fire hydrant. Furthermore, no part of a driveway shall be located within three (3) feet from any adjoining side lot line, except as permitted in Sections 309.9, 309.10, 309.11., and 309.12. of this Ordinance;
- 309.3. Clear-Sight Triangle - Driveways shall be located and constructed so that a clear-sight triangle of seventy-five feet (75'), as measured along the street centerline, and five feet (5') along the driveway centerline, is maintained; no permanent obstructions and/or plant materials over thirty inches (30') high shall be placed within this area;
- 309.4. Slope - A driveway shall not exceed a slope of eight percent (8%) within twenty-five feet (25') of the street right-of-way lines;
- 309.5. Road Classification - Driveway access shall be provided to the street of lesser classification when there is more than one (1) street classification involved.
- 309.6. Driveway Width - No driveway shall provide a curb cut exceeding twenty-four feet (24') in width;
- 309.7. Required Permit - Any driveway intersecting with a State-owned road shall require the obtainment of a driveway permit from the Pennsylvania Department of Transportation. Any driveway intersecting with a Borough-owned road shall require the obtainment of a driveway permit from the respective Borough;
- 309.8. Drainage - Driveways shall not be constructed in a manner to be inconsistent with the design, maintenance and drainage of the street;
- 309.9. For townhouse driveway regulations refer to the next four pages.

309.10. Townhouses on Individual Lots – Driveway and Garage Requirements in the Front Yard –

Townhouses on individual lots are permitted to utilize driveways and garages, if such driveways only connect with local roads as depicted and described below:

Lots with a driveway and/or garage located within the front yard must comply with the following:

- A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse (see Lots 2-7 on Diagram 1), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) freestanding driveway (see Lot 1 on Diagram 1);
- B. Such driveways must be set back at least:
  - a. ten feet (10') from any lot line of an adjoining townhouse that does not share the joint-use driveway (see Lots 1 & 2 on Diagram 1);
  - b. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see Lot 1 on Diagram 1);
  - c. twenty feet (20') from any other driveway or access drive (see Lots 1 & 2 on Diagram 1);
  - d. twenty feet (20') from the lot line of an end unit that abuts another end unit or a nontownhouse use (see Lot 7 on Diagram 1); and,
  - e. five feet (5') from the closest point of any building other than a garage (see Lot 1 on Diagram 1);
- C. No individual driveway shall be narrower than ten feet (10') nor wider than twelve feet (12') (see Lots 1, 2 & 3 on Diagram 1);
- D. Garages must be attached to, and rely upon, a driveway as permitted above;
- E. Garages must be set back at least:
  - a. twenty-five feet (25') from the street right-of-way (see Lot 5 on Diagram 1);
  - b. eight feet (8') from any lot line of an adjoining townhouse that does not share a joint-use driveway (see Lot 4 on Diagram 1);
  - c. five feet (5') when detached from any building on the site (see Lot 6 on Diagram 1); and,
  - d. eighteen feet (18') from the lot line of an end unit that abuts another end unit or a nontownhouse use (see Lot 7 on Diagram 1).

309.11. Townhouses on Individual Lots – Driveway and Garage Requirements in the Rear Yard –

Townhouses on individual lots are permitted to utilize driveways and garages, if such driveways only connect with alleys as depicted and described below:

Lots with a driveway and/or garage located within the rear yard must comply with the following:

- A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse (see Lots 2-7 on Diagram 2), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) freestanding driveway (see Lot 1 on Diagram 2);
- B. Such driveways must be set back at least:
  - a. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see Lot 1 on Diagram 2);
  - b. ten feet (10') from the lot line of an end unit that abuts another end unit or a nontownhouse use (see Lot 7 on Diagram 2); and,
  - c. five feet (5') from the closest point of any building other than a garage (see Lot 1 on Diagram 2).
- C. No individual driveway shall be narrower than ten feet (10') (see Lot 1 on Diagram 2);
- D. Garages must be attached to, and rely upon, a driveway as permitted above;
- E. Garages must be set back at least:
  - a. twenty feet (20') from the alley right-of-way (see Lot 5 on Diagram 2);
  - b. eight feet (8') from any lot line of an adjoining townhouse that does not share a joint-use driveway (see Lots 4 & 6 on Diagram 2);
  - c. five feet (5') when detached from any building on the site (see Lot 4 on Diagram 2); and,
  - d. eighteen feet (18') from the lot line of an end unit that abuts another end unit or a nontownhouse use (see Lot 7 on Diagram 2).

309.12. Townhouses on Common Property – Driveway and Garage Requirements in the Front

Yard – Townhouses on common property are permitted to utilize driveways and garages, if such driveways only connect with local roads as depicted and described below:

A driveway and/or garage located within the front yard must comply with the following:

- A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse (see Units 2-7 on Diagram 3), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) freestanding driveway (see Unit 1 on Diagram 3);
- B. Such driveways must be set back at least:
  - a. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see Unit 1 on Diagram 3);
  - b. twenty feet (20') from any other driveway or access drive (see Units 3 & 4 on Diagram 3);
  - c. twenty feet (20') from any outside boundary of the development site or a nontownhouse use (see Unit 7 on Diagram 3);
  - d. forty feet (40') between two (2) different driveways serving end units; and,
  - e. five feet (5') from the closest point of any building, other than a garage (see Unit 1 on Diagram 3).
- C. No individual driveway shall be narrower than ten feet (10') nor wider than twenty-four feet (24') (see Units 1, 2 & 3 on Diagram 3);
- D. Garages must be attached to, and rely upon, a driveway as permitted above;
- E. Garages must be set back at least:
  - a. twenty-five feet (25') from the street right-of-way (see Unit 5 on Diagram 3);
  - b. eight feet (8') from any adjoining townhouse that does not share a joint-use driveway (see Unit 6 on Diagram 3);
  - c. five feet (5') when detached from any building on the site (see Unit 6 on Diagram 3);
  - d. eighteen feet (18') from any outside boundary of the development site or a nontownhouse use (see Unit 7 on Diagram 3); and,
  - e. thirty-six feet (36') between two (2) different garages serving end units.

309.13. Townhouses on Common Property – Driveway and Garage Requirements in the Rear Yard – Townhouses on common property are permitted to utilize driveways and garages, if such driveways only connect with alleys as depicted and described below:

A driveway and/or garage located within the rear yard must comply with the following:

- A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse (see Units 2-7 on Diagram 4), except that one (1) end unit within a townhouse grouping containing three (3), five (5) or seven (7) units may use one (1) freestanding driveway (see Unit 1 on Diagram 4);
- B. Such driveways must be set back at least:
  - a. forty feet (40') from the right-of-way of any street or alley which does not connect with the driveway (see Unit 1 on Diagram 4);
  - b. ten feet (10') from any outside boundary of the development site or a nontownhouse use (see Unit 7 on Diagram 4);
  - c. twenty feet (20') between two (2) different driveways serving end units; and,
  - d. five feet (5') from the closest point of any building, other than a garage (see Unit 1 on Diagram 4).
- C. No individual driveway shall be narrower than ten feet (10') (see Unit 1 on Diagram 4);
- D. Garages must be attached to, and rely upon, a driveway as permitted above;
- E. Garages must be set back at least:
  - a. twenty feet (20') from the alley right-of-way (see Unit 5 on Diagram 4);
  - b. eight feet (8') from any adjoining townhouse that does not share a joint-use driveway (see Units 5 & 6 on Diagram 4);
  - c. five feet (5') when detached from any building on the site (see Unit 4 on Diagram 4);
  - d. eighteen feet (18') from any outside boundary of the development site or a nontownhouse use (see Unit 7 on Diagram 4); and,
  - e. thirty-six feet (36') between two (2) different garages serving end units.

## Section 310 Access Drive Requirements (Non-Single-Family Dwelling)

- 310.1. Access drives shall be provided in accordance with Section 505 of the respective SLDO.

## Section 311 Off-Street Parking Requirements

- 311.1. Except as permitted by Sections 203.2.5., 203.3.6. and 210.3.15., off-street parking shall be located upon the same lot as the use requiring such spaces in accordance with the provisions of this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall be provided whenever:

1. A building is constructed or a new use is established;
2. The use of an existing building is changed to a use requiring more parking facilities; and,
3. An existing building or use is altered or enlarged, so as to increase the amount of parking space required;

- 311.2. Parking for Single-Family Dwellings – Each single-family dwelling unit must provide for at least two (2) off-street parking spaces. The remaining regulations contained in this section do not apply to off-street parking facilities serving one (1) single-family dwelling;

- 311.3. Site Plan Approval:

1. Each application for a zoning permit (for a use for which parking spaces are required) shall include a drawing (site plan) showing the proposed layout of the lot. The drawing shall clearly indicate all of the design elements required by Section 507 of the respective SLDO;
2. No zoning permit shall be issued for any use for which parking spaces are required, unless the site plan has been approved or necessary variances have been obtained;

- 311.4. Joint Parking Lots – In shopping centers over two (2) acres in size, joint parking lots may be permitted. These joint facilities can reduce the total number of parking spaces required by a maximum of twenty percent (20%). Therefore, the resulting joint parking lot will be required to provide at least eighty percent (80%) of the total number of spaces required by the sum of all of the shopping center's tenants. Such reduced parking spaces must be appropriately distributed upon the lot to provide convenient walking distance between vehicles and each of the shopping center's stores;

- 311.5. Prohibited and Temporary Uses of Parking Lot – Off-street parking lots are for the sole purposes of accommodating the motor vehicles of persons associated with the use which requires them. Parking lots shall not be used for the following and/or loading purposes:

1. The sale, display or storage of motor vehicles or other merchandise;
2. Parking vehicles accessory to the use;
3. Performing services (including services to vehicles); and,

4. Required off-street parking space shall not be used for loading and unloading purposes, except during hours when business operations are suspended;

**311.6.**

Schedule of Required Parking Spaces – The following lists required numbers of parking spaces by use type. Any use involving a combination of several uses shall provide the total number of spaces required for each individual use:

<b>Type of Use</b>	<b>Minimum of One (1) Parking Space for Each</b>
<b>Commercial</b>	
Carpeting, drapery, floor covering, & wall covering sales	500 sq. ft. of gross floor area
Convenience stores	100 sq. ft. of gross floor area
Drive-thru &/or fast-food restaurants	Two (2) seats & one (1) per each two (2) employees
Food markets & grocery stores	100 sq. ft. of floor area for public use & one (1) per employee on two (2) largest shifts
Funeral homes	100 sq. ft. of gross floor area, one (1) per each employee, & one (1) per each piece mobile equipment, such as hearses & ambulances
Furniture sales	500 sq. ft. gross floor area
Hotels, motels, tourist homes	Guest sleeping room & one (1) per each employee on two (2) largest shifts. (Restaurants & other accessory uses shall be viewed separately.)
Mini-warehouses	25 units plus one (1) per 250 sq. ft. of office space, plus two (2) per any resident manager
Motor vehicle repair, filling & washing facilities	400 sq. ft. of gross floor & ground area devoted to repair & service facilities in addition to areas normally devoted to motor vehicle storage & one (1) per employee on largest shift
Motor vehicle, boat & trailer sales	500 sq. ft. of gross floor area
Office buildings	300 sq. ft. gross floor area
Professional offices of veterinarians, physicians, dentists, etc.	Six (6) spaces per each physician or dentist, etc.
Retail stores or shops (except those listed above)	200 sq. ft. of gross floor area of display area or sales area & one (1) per each employee on two (2) largest shifts
Restaurants	Four (4) seats plus one (1) per each employee on largest shift
Shopping centers or malls	200 sq. ft. of gross leasable floor area
Other commercial buildings	400 sq. ft. of gross floor area
<b>Industrial</b>	
Industrial & heavy commercial establishments	Two (2) employees on the two (2) largest shifts, but at least one (1) space per each 1,000 sq. ft. of gross floor area
Warehousing	Employee on the two (2) largest shifts
<b>Recreational, Educational and Institutional</b>	
Amusement arcades	50 sq. ft. plus one (1) per employee
Auditorium, church, theater, & other such places of public assembly	200 sq. ft., but not less than one (1) space per each four (4) seats
Baseball, soccer, field hockey, rugby, football, & other athletic fields without spectator seating	1/12 field (12 per field)
Baseball, soccer, field hockey, rugby, football, & other athletic fields with spectator seating	1/12 field (12 per field) plus one (1) per each four (4) seats of spectator seating
Basketball & volleyball courts without spectator seating	1/8 court (8 per court)
Basketball & volleyball courts with spectator seating	1/8 court (8 per court) plus one (1) per each four (4) seats of spectator seating
Bowling alleys, game rooms	1/4 lane/table & one (1) per each two (2) employees
Campgrounds	Campsite, plus one (1) per employee, plus 50% of the spaces normally required for accessory uses.
Clubs, lodges & other similar places	Two (2) seats, but not less than 100 sq. ft. & one (1) per each employee on two largest shifts
Convalescent homes	Three (3) accommodations (beds), in addition to those needed for doctors & support staff
Golf courses	1/8 hole, plus one (1) per employee, plus 50% of the spaces normally required for accessory uses

Type of Use	Minimum of One (1) Parking Space for Each
<b>Recreational, Educational and Institutional (Continued)</b>	
Golf driving ranges	Tee & one (1) per employee
Gymnasiums without spectator seating	1/8 court (8 per court)
Gymnasiums with spectator seating	1/8 court (8 per court) plus one (1) per each four (4) seats of spectator seating
Hospitals, sanitariums	1-1/2 accommodations (beds). Such spaces shall be in addition to those necessary for doctors & other personnel
Miniature golf courses	1/2 hole and one (1) per employee
Museums, art galleries, cultural centers, libraries	400 sq. ft.
Picnic areas	Table
Rehabilitation centers (without overnight accommodations)	One (1) per each employee & per each three (3) people anticipated to be handled through the facility
Riding schools or horse stables	Two (2) stalls plus one (1) per every four (4) seats of spectator seating
Schools below grade ten, including commercial day-care & kindergarten	Six (6) students enrolled
Schools, tenth grade & above, including colleges	Three (3) students enrolled
Skating rinks	Four (4) persons of legal occupancy
Swimming pools (other than one accessory to a residential development)	Four (4) persons of legal occupancy
Tennis or racquetball courts	1/4 court plus one (1) per employee
Vocational training & adult education facilities	1-1/2 students enrolled
<b>Residential</b>	
Multiple-family & conversion dwellings	1/2 dwelling unit (i.e., 2 spaces per dwelling unit)
Rooming houses, group homes, & bed and breakfasts	Rental bedrooms

## Section 312 Off-Street Loading Requirements

312.1. Off-street loading shall be required in accordance with this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall be provided whenever:

1. A new use is established;
2. The use of a property or building is changed and thereby requiring more loading space; and,
3. An existing use is enlarged, thereby requiring an increase in loading space.

312.2. Site Plan Approval:

1. Each application for a zoning permit (for use for which off-street loading spaces are required) shall include a drawing (site plan) showing the proposed layout of the loading area. The drawing shall clearly indicate the design elements required in Section 508 of the respective SLDO; and,
2. No zoning permit shall be issued for any use for which a loading area is required, unless the site plan has been approved or necessary variances have been approved;

**312.3.** Schedule of Off-Street Loading Spaces Required:

Type of Use	No. Spaces Per	Unit of Measurement
Hospital or other institution	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 sq. ft. (or fraction)
Hotel	None	First 10,000 sq. ft.
	1.0	10,000 to 100,000 sq. ft.
	+1.0	Each additional 100,000 sq. ft. (or fraction)
Industry or manufacturing	None	First 2,000 sq. ft.
	1.0	2,000 to 25,000 sq. ft.
	+1.0	Each additional 40,000 sq. ft. (or fraction)
Multi-family dwelling	None	Less than 100 dwelling units
	1.0	100 to 300 dwelling units
	+1.0	Each additional 200 dwelling units (or fraction)
Office building, including banks	None	First 10,000 sq. ft.
	1.0	10,000 to 100,000 sq. ft.
	+1.0	Each additional 100,000 sq. ft. (or fraction)
Retail sales & services, per store	None	First 2,000 sq. ft.
	1.0	2,000 to 10,000 sq. ft.
	2.0	10,000 to 40,000 sq. ft.
	+1.0	Each additional 100,000 sq. ft. (or fraction)
Shopping centers (integrated shopping centers, malls & plazas) having at least 25,000 sq. ft. of GLA	3.0	First 100,000 sq. ft. of GLA
	+1.0	Each additional 100,000 sq. ft. of GLA
Theater, auditorium, bowling alley, or other recreational establishment	None	First 10,000 sq. ft.
	1.0	10,000 to 100,000 sq. ft.
	+1.0	Each additional 100,000 sq. ft. (or fraction)
Undertaking establishment or funeral parlor	None	First 3,000 sq. ft.
	1.0	3,000 to 5,000 sq. ft.
	+1.0	Each additional 10,000 sq. ft. (or fraction)
Wholesale or warehousing (except mini-warehousing)	None	First 1,500 sq. ft.
	1.0	1,500 to 10,000 sq. ft.
	+1.0	Each additional 40,000 sq. ft. (or fraction)

**Section 313 Screening and Landscaping Requirements**

**313.1.** Yard Ground Cover – Any part of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks, and designated storage areas shall be planted with an all-season ground cover approved by each Borough Council (e.g., grass, ivy, vetch, pachysandra, etc.). In addition, gravel can be substituted if done in a manner to complement other vegetative materials. It shall be maintained to provide an attractive appearance, and all non-surviving plants shall be replaced promptly;

- 313.2. Landscaping Requirements - Any required landscaping (landscape strips and interior landscaping) shall include a combination of the following elements: deciduous trees, ground covers, evergreens, shrubs, vines, flowers, rocks, gravel, earth mounds, berms, walls, fences, screens, sculptures, fountains, sidewalk furniture, or other approved materials. Artificial plants, trees and shrubs may not be used to satisfy any requirement for landscaping or screening. No less than eighty percent (80%) of the required landscape area shall be vegetative in composition, and no outdoor storage shall be permitted within required landscape areas;

For each seven hundred fifty (750) square feet of required area for landscape strips, one (1) shade/ornamental tree shall be provided. For every three hundred (300) square feet of interior landscaping required (parking lots), one (1) shade tree shall be provided. If deciduous, these trees shall have a clear trunk at least five feet (5') above finished grade; if evergreen, these trees shall have a minimum height of six feet (6'). All required landscape strips shall have landscaping materials distributed along the entire length of the lot line abutting the yard;

- 313.3. Screening Requirements – The following materials may be used: evergreens (trees, hedges or shrubs), walls, fences, earth berms, or other approved similar materials. Any wall or fence shall not be constructed of corrugated metal, corrugated fiberglass or sheet metal. Screening shall be arranged so as to block at least eighty percent (80%) of the ground level views between grade, and a height of six feet (6') throughout the year. Landscape screens must achieve this visual blockage within two (2) years of installation; and,

- 313.4. Selection of Plant Materials – Trees and shrubs shall be typical of their species and variety; have normal growth habits, well-developed branches, dense foliage, vigorous and fibrous root systems. They shall have been grown under climatic conditions similar to those in the locality of the project, or properly acclimated to conditions of the locality of the project. Any tree or shrub which appears dead within **twelve (12)** months of planting shall be replaced. All landscaping and screening treatments shall be properly maintained. Approved landscape materials are found in Appendix No. 11 of the respective SLDO.

## Section 314 Outdoor Signs

- 314.1. General Regulations for All Signs:

1. Signs must be constructed of durable material and maintained in good condition;
2. No sign shall be maintained within the Boroughs in such a state of disrepair so as to have the appearance of complete neglect, which is rotting or falling down, which is illegible, or has loose parts separated from original fastenings;
3. Whenever a sign becomes structurally unsafe, or endangers the safety of the building or premise, or endangers the public safety, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that such sign be made safe or removed within five (5) days;
4. Advertising painted upon or displayed upon a barn or other building or structure shall be regarded as a flat wall sign and the regulations pertaining thereto shall apply;

5. Each sign shall be removed when the circumstances leading to its erection no longer apply;
6. Signs may be interior lighted with non-glaring lights, or may be illuminated by floodlights or spotlights that are shielded, so there shall be no direct light transmitted to other properties or public rights-of-way;
7. No sign shall be of the intermittent flashing or rotating type;
8. No sign located within three hundred feet (300') of any traffic light shall be illuminated with red, green or yellow lights or neon tubing;
9. All electrically illuminated signs shall be constructed to the standards of the National Board of Fire Underwriters;
10. Signs must be positioned so that they shall not interfere with any clear sight triangle, as required by this Ordinance;
11. Determination of Size – The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, including any border framing or decorative attachments, but not including any supporting framework or bracing incidental to the display itself. Where the sign consists of individual letters or symbols attached to a building, wall or window, the area of the sign shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign; provided, however, for a doubleface sign if the interior angle formed by the two (2) faces of the double-face sign is less than forty-five (45) degrees, and the two (2) faces are at no point more than three feet (3') from one another, the area of only the larger face shall be included;
12. No loud, vulgar, indecent, or obscene advertising matter shall be displayed in any manner nor any other graphic illustration pertaining to specified sexual activities and/or specified anatomical areas;
13. No sign shall be erected or located so as to prevent free ingress or egress from any window, door or fire escape;
14. No sign shall be placed in such a position that it will obscure light or air from a building, or which would create a traffic danger;

15. No sign shall be permitted which is permanently attached to public utility poles or trees within the right-of-way of any street;
16. No sign located within the Floodplain Zone shall exceed six (6) square feet of area per side; and,
17. In the event that a symbol, trademark or other such figure is used as a sign post or standard which could be construed to indicate or identify a particular use or business, that symbol, trademark or figure is to be computed as part of the total allowable sign area.

314.2. Specific Sign Requirements – The tables on the following pages tabulate requirements imposed upon permanent and temporary signs, as permitted within the Boroughs:

**PERMANENT SIGN REQUIREMENTS**

Sign Type	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height/and Minimum Required Setback from Nearest Property Line for Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
<b>Signs owned and associated with uses operated by the Borough.</b> Official traffic signs.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	All		No
<b>Signs identifying public and semi-public uses</b> (e.g., schools, churches, utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses).	1 per road frontage	20 sq. ft. per sign <sup>1,2</sup>	10 ft. <sup>2</sup>	Height of wall to which sign is attached.	Height of wall to which sign is attached.	10 ft., but no closer than 10 feet from any lot line.	All		Yes
<b>Residential nameplates identifying name of home, its occupant, or both,</b> not including name listing on mailbox.	1 per dwelling unit	2 sq. ft. <sup>1</sup>	5 ft.	10 ft.	Not Permitted	Not Permitted	All		No
<b>Property control signs</b> (e.g., "No Trespassing," "Private Property," "No Hunting or Fishing," "Posted," "Private Drive," or similar type signs).	1 per 25 lineal feet of property line	2 sq. ft. per sign <sup>1</sup>	5 ft.	Not Permitted	Not Permitted	Not Permitted	All	Spacing at no less than 25 ft. intervals.	No
<b>Residential development/neighborhood signs.</b> Such signs shall only list the name of the neighborhood/development and shall <u>not</u> list any names of contractors, realtors, or both.	1 per street entrance, but no more than 2 total	1 sq. ft. per dwelling, not to exceed 20 sq. ft. per sign <sup>1,2</sup>	15 ft. <sup>2</sup>	Height of wall to which sign is attached.	Height of wall to which sign is attached.	10 ft., but no closer than 10 ft. from any lot line.	All	The applicant shall submit a written description of the maintenance responsibilities in a form satisfactory to the Borough Solicitor.	Yes

continued on next page

## PERMANENT SIGN REQUIREMENTS

Sign Type	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height/and Minimum Required Setback from Nearest Property Line for Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
<b>Individual business signs</b> identifying the name and type of business, any trademark of the business conducted on the premises, or any combination thereof. This does not include businesses contained within planned centers, as defined herein.	1 per principal use	Within Bechtelsville Borough, 16 sq. ft.; within Bally Borough, 20 sq. ft. plus 1 sq. ft. per 5 lineal ft. of lot frontage, not to exceed 60 sq. ft. & 180 sq. ft. per sign for commercial and industrial uses, respectively. <sup>1,2</sup>	15 ft. <sup>2</sup>	Height of wall to which sign is attached.	Height of wall to which sign is attached.	20 ft., but not closer than 10 ft. from any lot line.	All	No flat wall sign, nor wall projecting sign shall be larger than 15% of the wall area to which the sign is attached.	Yes
<b>Off-premise individual business signs</b> identifying the name and/or trademark of any business conducted within the Borough when located upon a park or playground that is owned and/or operated by the Borough or the School District.	Unlimited	60 sq. ft. per sign	15 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	20 ft., but no closer than 10 ft. from any adjoining lot line.	All	This sign shall be arranged to be generally visible to users of the park or playground, and not be directed toward adjoining lots or streets.	Yes
<b>On-site directional, entrance, exit, rest room, and other informational signs.</b>	4 per use	2 sq. ft. per sign <sup>1</sup>	5 ft.	10 ft.	Height of wall to which sign is attached.	2 ft.	All		No
<b>Billboards</b>	See Section 408 of this Ordinance.								
<sup>1</sup> In no case shall the size of a flat wall sign exceed fifteen percent (15%) of the wall area on which the sign is placed. <sup>2</sup> Within the Main Street Overlay Zone, no sign area shall exceed ten (10) square feet, and no sign height shall exceed six feet (6'), including support structure.									

## TEMPORARY SIGN REQUIREMENTS

Sign Type	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height/and Minimum Required Setback from Nearest Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
Temporary signs of contractors, architects, mechanics, landscapers, and artisans, displayed only while actual on-site work is in progress.	1 per firm whose work is in progress	6 sq. ft. <sup>1</sup>	5 ft.	Not Permitted	Height of wall to which sign is attached.	5 ft., but no closer than 5 ft. from any lot line.	All	Should a sign be left on-site beyond allowable time period, the Borough may impound it and recover a fee from owner equal to cost of impoundment and storage.	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing less than 3 acres.	1 per street frontage, maximum of 2 signs	6 sq. ft. per sign <sup>1</sup>	5 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	5 ft., but no closer than 5 ft. from any lot line.	All	All such signs shall be removed within 5 days of final sales transaction or upon rental occupancy, or be subject to Borough impoundment and a recovery fee.	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing more than 3 acres.	1 per street frontage, maximum of 2 signs	32 sq. ft. per sign <sup>1</sup>	10 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	5 ft., but no closer than 5 ft. from any lot line.	All	Same as above.	No
Proposed development signs for residential or office complexes.	1 per street frontage, maximum of 2 signs	1 sq. ft. per unit of occupancy, not to exceed 32 sq. ft. <sup>1</sup>	10 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	5 ft., but no closer than 5 ft. from any lot line.	All, but only after final plan is approved.	Such signs shall be removed upon completion of construction of final unit.	Yes
Proposed development signs for commercial uses, industrial uses, other nonresidential uses, or any combination thereof.	1 per street frontage, maximum of 2 signs	20 sq. ft. plus 1 sq. ft. of gross leasable floor area not to exceed 32 sq. ft. <sup>1</sup>	10 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	5 ft., but no closer than 5 ft. from any lot line.	A, MU, TC, GC, and I, but only after final plan approval.	All such signs shall be removed upon completion of building construction.	Yes

continued on next page

### TEMPORARY SIGN REQUIREMENTS

Sign Type	Maximum Permitted Number	Maximum Permitted Sign Area	Maximum Height/and Minimum Setback from Nearest Property Line for Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
<b>Special event signs</b> for businesses (e.g., grand openings, change of use or ownership, close-out sale, clearance sale, holiday sale, etc.).	1 per business per event	20 sq. ft. <sup>1</sup>	10 ft.	Height of wall to which sign is attached.	Height of wall to which sign is attached.	5 ft., but no closer than 5 ft. from any lot line.	MU, TC, GC, and I	Such signs may only be used during two consecutive periods per calendar year, not exceeding 30 days total.	Yes
<b>Garage/yard sale signs</b> upon properties conducting such sales.	1	4 sq. ft. per sign <sup>1</sup>	5 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All	See Section 301.7. for additional requirements.	No
<b>Political signs.</b>	Unlimited	12 sq.ft. <sup>1</sup>	5 ft.	Height of wall to which sign is attached.	Not Permitted	Not Permitted	All	Such signs may only be displayed between 30 days prior to and 5 days after an election.	No

<sup>1</sup>In no case shall the size of a flat wall sign exceed fifteen percent (15%) of the wall area on which the sign is placed.

- 314.3. Permits – All signs requiring permits as per the tables of Section 314.2., shall require the procurement of a permit prior to the erection or installation of the sign.
1. Application for permit shall be made in writing to the Zoning Officer and shall contain all information necessary for such Officer to determine whether the proposed sign, or the proposed alterations, conform to all the requirements of this Ordinance. All applications for sign permits shall be accompanied by scaled plans or diagrams showing the following:
    - A. Exact dimensions of the lot, including any right-of-way lines or building upon which the sign is proposed to be erected;
    - B. Exact size, dimensions and location of the said sign on the lot or building, together with its type, construction, materials to be used, and the manner of installation; and,
    - C. Any other lawful information which may be required of the applicant by the Zoning Officer.
  2. No sign permit shall be issued, except in conformity with the regulations of this Ordinance, except upon order of the Zoning Hearing Board, granted pursuant to the procedures established for the issuance of a variance; and,
  3. Permits shall be granted or refused within fifteen (15) days from date of application, or within fifteen (15) days from the date of the Zoning Hearing Board's decision, or any appeal thereto.

### **Section 315 Operations and Performance Standards**

All uses proposed within the Boroughs shall operate in compliance with applicable State and Federal regulations, as they are periodically amended.

### **Section 316 Roadway Classifications**

For the purposes of this Ordinance, the Boroughs' roads shall be classified in the following categories:

<b>Road Type</b>	<b>Bally Borough</b>	<b>Bechtelsville Borough</b>
Arterial	Main Street (Route 100)	None
Collector	Barto Road (Old Route 100) North Church Street Second Street Seventh Street	Chestnut Street Franklin Street Limekiln Road Main Street Mill Street Race Street
Local	All others not listed above.	All others not listed above.

## Section 317 Outdoor Storage and Display Requirements

317.1. General Regulations for All Shopping Carts – For grocery stores, other stores containing grocery departments, variety stores, home improvement and building supply stores, or other uses that provide for the use of shopping carts, the outdoor storage and collection of shopping carts is permitted under the following conditions:

1. Shopping carts may be collected and stored immediately in front of the storefront (upon sidewalks, or under a canopy) and/or within the parking lot;
2. In no case shall such designed shopping cart storage and collected areas be located upon any facilities used for vehicle circulation, required parking, and loading, nor emergency vehicle access (e.g., fire lanes);
3. Such shopping cart storage and collection areas shall be situated so as to provide clear pedestrian access (sidewalk or other area) at least eight feet (8') wide adjoining the storefront; and,
4. Signage for such shopping cart storage and collection areas shall be governed by those regulations pertaining to on-site directional and informational signs as regulated by Section 314 of this Ordinance.

317.2. Sidewalk Merchandise Displays – For retail sales uses, the following shall apply:

1. Any materials or merchandise must be removed from the sidewalk prior to close of business each day;
2. The location of such outdoor displays shall be limited to sidewalks, under canopies, or other areas immediately in front of the building's storefront. The stacking and/or display of such items shall be arranged to provide clear pedestrian access (sidewalk or other area) at least three feet (3') wide;
3. In no case shall the location of such sidewalk display areas occur within any area used for vehicular circulation, required parking, and loading, nor emergency vehicle access (e.g., fire lanes);
4. No signage, except as authorized by Section 314 of the Ordinance, shall be permitted; and,
5. The applicant shall submit a working plan to the Borough for the cleanup of litter and debris which may result from such outdoor display. Also, the applicant shall depict intended sidewalk display areas upon any permits and/or plans required by the Borough. No additional permits shall be required, unless such area is to change location or size.

## Section 318 Required Traffic Impact Report Standards

All uses requiring a Traffic Impact Report shall provide a study prepared by a professional traffic engineer in accordance with Section 302.5.4. of the respective SLDO.

## Section 319 Litter

- 319.1. No property shall be developed, used or maintained in a state that creates litter on the property or upon any adjoining properties and/or roads;
- 319.2. Any property containing litter on the effective date of this Ordinance shall be considered nonconforming. Such litter may continue for a period not to exceed ten (10) days from the effective date of this Ordinance. After then ten (10) day period, such litter shall be removed by the owner; and,
- 319.3. Should any property or use be conducted or maintained in a condition that causes repeated litter complaints or violations, the owner shall be required, upon the instruction of the Zoning Officer, to prepare and implement a working plan for the cleanup of such litter as a condition of zoning compliance.

## Section 320 Forestry Uses

- 320.1. In accordance with State law, forestry (as defined herein) uses are permitted, by right, in every zone, subject to the following standards:
- 320.2. Logging Plan Requirements – Every landowner on whose land timber harvesting is to occur shall obtain a building permit, as required by this Ordinance. In addition to the building permit requirements listed in Section 701 of this Ordinance, the applicant shall prepare and submit a written logging plan in the form specified below. No timber harvesting shall occur until a building permit has been issued. The provisions of the permit shall be followed throughout the operation. The logging plan shall be available at the harvest site at all times during the operation, and shall be provided to the Zoning Officer upon request. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan and the building permit.
1. Minimum Requirements – At a minimum, the logging plan shall include the following:
    - A. Design, construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
    - B. Design, construction and maintenance of water control measures and structures, such as culverts, broad-based dips, filter strips, and water bars;
    - C. Design, construction and maintenance of stream and wetland crossings; and,
    - D. The general location of the proposed operation in relation to municipal and State highways, including any accesses to those highways.
  2. Map - Each logging plan shall include a sketch map or drawing containing the following information:
    - A. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place, and the boundaries of the proposed harvest area within that property;

- B. Significant topographic features related to potential environmental problems;
  - C. Location of all earth disturbance activities, such as roads, landings and water control measures and structures;
  - D. Location of all crossings of waters of the Commonwealth;
  - E. The general location of the proposed operation to municipal and State highways, including any accesses to those highways; and,
  - F. Any land area characterized by any or all of the following:
    - a. Wetlands, as defined by the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*;
    - b. Pennsylvania Natural Diversity Inventory (PNDI) confirmed extant plant and animal species and communities that are listed as Pennsylvania Threatened or Pennsylvania Endangered; and,
    - c. PNDI confirmed extant plant and animal species and communities that have a State Rank of S1 or S2.
3. Compliance With State Law - The logging plan shall address and comply with the requirements of all applicable State regulations, including, but not limited to, the following:
- A. Erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. §691.1. et seq.); and,
  - B. Stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. §693.1 et seq.).
4. Relationships of State Laws, Regulations and Permits to the Logging Plan - Any permits required by State laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified in Sections 320.2.1. and 320.2.2., provided that all information required by these sections is included or attached.
- 320.3. Required Forest Practices - The following requirements shall apply to all timber harvesting operations:
- 1. Felling or skidding on, or across, any public road is prohibited without the express written consent of the Borough, or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare;
  - 2. No tree tops or slash shall be left within twenty-five (25) feet of any public road, or private roadway providing access to adjoining residential property;
  - 3. All tree tops and slash between twenty-five (25) and fifty (50) feet from a public roadway, or private roadway providing access to adjoining residential property, or within fifty (50) feet of adjoining residential property, shall be lopped to a maximum height of four (4) feet above the ground;

4. No tree tops or slash shall be left on, or across, the boundary of any property adjoining the operation without the consent of the owner thereof; and,
5. Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

320.4. Responsibility for Road Maintenance and Repair; Road Bonding – Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the landowner and the operator shall be responsible for repairing any damage to Borough roads caused by traffic associated with the timber harvesting operation, to the extent the damage is in excess of that caused by normal traffic, and shall be required to furnish a bond to guarantee the repair of such potential damages, as calculated by the Borough Engineer.

## **Section 321 Common Open Space Requirements**

In those instances where open space is required elsewhere in this Ordinance, or when an applicant proposes the use of open space, such open space shall comply with the following:

321.1. Required open space shall be designed and arranged to achieve at least one of the following objectives, and the applicant shall demonstrate those specific measures employed to achieve these objectives:

1. Protection of important natural resources (e.g., streams, ponds, wetlands, steep slopes, woodlands, unique geologic features, wildlife habitats, aquifer recharge areas, etc.);
2. Protection of important historical and/or archaeological sites;
3. Provision of usable play and recreation areas that are conveniently accessible to residents within the development and the Borough; and,
4. Integration of greenbelts throughout the development that link residences with on-site or adjoining parks, schools or other similar features.

321.2. An essential element of the provision of open space is a written description regarding its ownership and/or disposition. Such ownership and/or disposition shall be accomplished through one of the following:

1. An offer of dedication to the Borough. The Borough shall not be obligated to accept dedication of the common open space;
2. With permission of the Borough, and with appropriate deed restrictions in favor of the Borough, and in language acceptable to the Borough Solicitor, the developer may transfer ownership of the common open space or a portion thereof to a private, nonprofit organization among whose purposes is the preservation of open space land and/or natural resources. The organization shall be a bona fide conservation organization with a perpetual existence, the conveyance must contain appropriate provision for reverter or re-transfer if the organization is unable to maintain the land, and the organization must enter into a maintenance agreement with the Borough;
3. The developer shall provide for and establish an organization for the ownership and maintenance of the common open space which shall be generally

consistent with the requirements for unit owners; associations found in the Pennsylvania Uniform Condominium Act, 68 Pa. C.S. § 3101 et seq. If such an organization is created, the agreements of sale and deeds for all lots shall contain the following requirements in language acceptable to the Borough Solicitor:

- A. Such organization shall not dispose of the common open space by sale or otherwise, except to the Borough, unless the Borough has given prior written approval. Such transfer shall be made only to another organization which shall maintain the common open space in accordance with this Ordinance;
- B. The organization and all lot owners shall enter into a maintenance agreement with the Borough and shall agree to be bound by the provisions of Article VII of the Pennsylvania Municipalities Planning Code relating to the maintenance of deteriorating common open space by municipalities; and,
- C. The Borough may require the establishment of a reserve fund to provide for maintenance of, or capital improvements to, the common open space.



# Article 4

## Specific Criteria

### Section 400      **Specific Standards for Special Exception and Conditional Uses**

In addition to the general criteria listed in Sections 604.3. and 704.2. the following sets forth standards that shall be applied to each individual special exception or conditional use. These standards must be satisfied prior to approval of any application for a special exception or conditional use. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance. All uses must comply with the standards expressed within the underlying zone, unless those standards expressed for each special exception or conditional use specify different standards; in such cases, the specific special exception or conditional use standards shall apply.

For the purposes of this Article, any required setbacks imposed upon special exceptions or conditional uses shall be measured from the boundary line of the site for which the special exception or conditional use is requested, regardless of whether or not this line corresponds to a property line or a lease line.

### Section 401      **Adult-Related Uses**

- 401.1.      Within the (C-1) Zone, adult-related uses are permitted by conditional use, subject to the following criteria:
- 401.2.      An adult-related use shall not be permitted to be located within one thousand feet (1,000') of any other adult related use. The distance between any two adult-related uses shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each use;
- 401.3.      No adult-related use shall be located within three hundred feet (300') of any residentially-zoned land. This distance shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult-related use to the closest point of the residential zone;
- 401.4.      No adult-related use shall be located within six hundred feet (600') of any parcel of land which contains any one or more of the following specified land uses. The distance between any adult-related use and any other land use shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult-related use to the closest point on the property line of said land use;

1. Amusement park;
  2. Camp (for minors' activity);
  3. Child-care facility;
  4. Church or other similar religious facility;
  5. Community center;
  6. Museum;
  7. Park;
  8. Playground;
  9. School; or
  10. Other lands where minors congregate.
- 401.5. No materials, merchandise, or film offered for sale, rent, lease, loan or for view upon the premises shall be exhibited or displayed outside of a building or structure;
- 401.6. Any building or structure used and occupied as an adult-related use shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, or film are exhibited or displayed and no sale materials, merchandise or film shall be visible from outside of the building or structure;
- 401.7. No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise or film offered therein;
- 401.8. Each entrance to the premises shall be posted with a notice specifying that persons under the age of seventeen (17) years are not permitted to enter therein and warning all other persons that they may be offended upon entry;
- 401.9. No adult-related use may change to another adult-related facility, except upon approval of an additional conditional use;
- 401.10. The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate;
- 401.11. No sexual activity or conduct shall be permitted; and,
- 401.12. No more than one adult-related use may be located within one building or shopping center.

## **Section 402 Airports/Heliports**

- 402.1. Within the (A) Zone, airports/heliports are permitted by conditional use, subject to the following criteria:
- 402.2. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations;
- 402.3. The applicant shall furnish evidence of the acquisition of a license from the Pennsylvania Department of Transportation Bureau of Aviation, and notification of approval from the Federal Aviation Administration, prior to the approval of the conditional use application; and,
- 402.4. No part of the take-off/landing strip and/or pad shall be located nearer than three hundred feet (300') from any property line.

### **Section 403 Amusement Arcades**

- 403.1. Within the (C-1 and TC) Zones, amusement arcades are permitted by special exception, subject to the following criteria:
- 403.2. All activities shall take place within a completely-enclosed building;
- 403.3. The applicant must furnish evidence as to how the use will be controlled as to not constitute a nuisance due to noise or loitering outside the arcade;
- 403.4. A minimum of one parking space for each eighty (80) square feet of gross leasable floor area shall be provided. In addition, any accessory uses (e.g., snack bar) shall also require one (1) parking space per two (2) seats, plus one (1) parking space for each two (2) employees; and,
- 403.5. A working plan for the cleanup of litter shall be furnished and implemented by the applicant.

### **Section 404 Automobile Filling Stations (Including Minor Incidental Repair)**

- 404.1. Within the (C-1 and TC) Zones, automobile filling stations, (including minor incidental repair) are permitted by special exception, subject to the following criteria:
- 404.2. The subject property shall have a minimum width of one hundred twenty-five feet (125');
- 404.3. The subject property shall front on an arterial or collector road as defined herein;
- 404.4. The subject property shall be set back at least three hundred feet (300') from any lot containing a school, day-care facility, playground, library, hospital or nursing, rest or retirement home;
- 404.5. The storage of motor vehicles (whether capable of movement or not) for more than one (1) month is prohibited;
- 404.6. Any parts removed from repaired vehicles shall not remain on the site longer than forty-eight (48) hours;
- 404.7. All structures (including gasoline pump islands but not permitted signs) and machinery shall be set back at least thirty feet (30') from any street right-of-way line;
- 404.8. No outdoor storage of auto parts shall be permitted;
- 404.9. Access driveways shall be a minimum of twenty-eight feet (28') wide and separated by one hundred feet (100') from one another if located along the same frontage as measured from edge to edge;
- 404.10. All ventilation equipment associated with fuel storage tanks shall be set back one hundred feet (100') and oriented away from any adjoining residentially-zoned properties; and,

- 404.11. The applicant shall furnish evidence of how the storage and disposal of materials will be accomplished in a manner that complies with all applicable State and Federal regulations.

**Section 405 Automobile Service and Repair Facilities, Including, But Not Limited To, Auto Mechanics, Drive-Thru Lubrication Services and Tires, Auto Paint, Brake, Muffler, Transmission, Windshield, Auto Body, Car Radio, and Upholstery Shop**

- 405.1. Within the (C-1 and TC) Zones, automobile service and repair facilities, including, but not limited to, auto mechanics, drive-thru lubrication services and tires, auto paint, brake, muffler, transmission, windshield, auto body, car radio and upholstery shop are permitted by special exception, subject to the following criteria:
- 405.2. All service and/or repair activities shall be conducted within a completely-enclosed building;
- 405.3. All uses involving drive-thru service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads;
- 405.4. No outdoor storage of parts, equipment, lubricants, fuel or other materials used or discarded, as part of the service or repair operation, shall be permitted;
- 405.5. All exterior vehicle storage areas shall be screened from adjoining residentially-zoned properties;
- 405.6. The storage of unlicensed vehicles on the property is prohibited;
- 405.7. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directly toward any adjoining residentially-zoned property;
- 405.8. All vehicles shall be repaired and removed from the premises promptly;
- 405.9. The demolition or junking of automobiles is prohibited; and,
- 405.10. The applicant shall furnish evidence of how the storage and disposal of materials will be accomplished in a manner that complies with all applicable State and Federal regulations.

**Section 406 Banks and Similar Financial Institutions**

- 406.1. Within the (MU) Zone, banks and similar financial institutions are permitted by conditional use, subject to the following criteria:
- 406.2. All drive-thru window lanes shall be separated from the parking lot's interior drive-ways;
- 406.3. All automated teller machines shall be located, or contain convenient parking spaces, so that the on-site movement of vehicles will not be hampered by those cars belonging to persons using the automated teller machines;

- 406.4. Sufficient stacking lanes shall be provided associated with drive-thru windows, to prevent vehicle backups on adjoining roads; and,
- 406.5. Any exterior microphone/speaker system shall be arranged and/or screened to prevent objectionable noise impact on adjoining properties.

## **Section 407 Bed and Breakfasts**

- 407.1. Within the (A, C, R-1, and TC) Zones, bed and breakfasts are permitted by special exception, and within the (MU) Zone, bed and breakfasts are permitted by conditional use, subject to the following criteria:
- 407.2. For the purposes of this Ordinance, a bed and breakfast shall be defined as a single-family, owner-occupied dwelling, where between one (1) and seven (7) sleeping accommodations are rented to overnight guests on a daily basis for periods not exceeding two (2) weeks. Breakfast may be offered only to registered overnight guests;
- 407.3. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted;
- 407.4. All floors above and/or below grade shall have a permanently affixed direct means of escape to ground level;
- 407.5. One (1) off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit;
- 407.6. Within the (A, C and R-1) Zones, all parking areas shall be set back a minimum of ten (10') from all property lines; all parking areas shall be screened from adjoining residential properties;
- 407.7. A bed and breakfast may erect one sign no larger than twelve (12) square feet in size. Such sign must be set back ten feet (10') from all lot lines;
- 407.8. Meals shall be offered only to registered overnight guests;
- 407.9. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used; and,
- 407.10. The applicant shall furnish proof of any needed land development approvals and approval from the PA Department of Labor and Industry.

## **Section 408 Billboards**

- 408.1. Within the (I) Zone, billboards are permitted by conditional use, subject to the following criteria:
- 408.2. No billboard shall be located within one thousand feet (1,000') of another billboard;
- 408.3. All billboards shall be a minimum of fifty feet (50') from all side and rear property lines;

- 408.4. All billboards shall be set back at least thirty-five feet (35') from any street right-of-way lines;
- 408.5. All billboards shall be set back at least three hundred feet (300') from any land within a Residential Zone;
- 408.6. No billboard shall obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification; and,
- 408.7. No billboard shall exceed an overall size of three hundred (300) square feet, nor exceed twenty-five feet (25') in height.

## **Section 409 Boarding Houses**

- 409.1. Within the (R-2 and TC) Zones, boarding houses are permitted by special exception, and within the (MU) Zone, boarding houses are permitted by conditional use within detached dwellings that existed on the effective date of this Ordinance, subject to the following criteria:
- 409.2. The applicant shall furnish evidence that approved systems for sewage disposal and water supply shall be used;
- 409.3. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted;
- 409.4. All floors above and/or below grade shall have a permanently affixed direct means of escape to ground level;
- 409.5. One off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit;
- 409.6. All parking areas shall be set back a minimum of five feet (5') from all property lines; all parking areas shall be screened from adjoining residential properties;
- 409.7. Meals shall be offered only to registered tenants; and,
- 409.8. All uses must comply with Pennsylvania Department of Labor and Industry requirements.

## **Section 410 Campgrounds**

- 410.1. Within the (C) Zone, campgrounds are permitted by special exception, subject to the following criteria:
- 410.2. Minimum Lot Area - Ten (10) acres;
- 410.3. Setbacks - All campsites shall be located at least fifty feet (50') from any side or rear property line and at least one hundred feet (100') from any street line;
- 410.4. Each campsite shall be at least three thousand (3,000) square feet in size and shall either provide parking space for one (1) automobile which will not interfere

with the convenient and safe movement of traffic, or equivalent parking shall be provided in a common parking area;

- 410.5. An internal road system shall be provided in accordance with Section 522 of the SLDO;
- 410.6. All outdoor play areas shall be set back one hundred feet (100') from any property line and screened from adjoining residentially-zoned properties. Such outdoor play areas shall be used exclusively by registered guests and their visitors;
- 410.7. All campgrounds shall furnish centralized sanitary and garbage collection facilities that shall be set back a minimum of one hundred feet (100') from any property line. Such facilities shall be screened from adjoining residentially-zoned properties;
- 410.8. Any accessory retail or service commercial uses shall be set back a minimum of one hundred feet (100') from any property line. Such accessory commercial uses shall be solely designed and constructed to serve the campground's registered guests and their visitors. Any parking spaces provided for these commercial uses shall have vehicular access from the campground's internal road rather than the public street. All accessory commercial uses and related parking shall be screened from adjoining residentially-zoned parcels;
- 410.9. All campgrounds containing more than one hundred (100) campsites shall have vehicular access to an arterial or collector street;
- 410.10. A campground may construct one freestanding or attached sign containing no more than thirty-two (32) square feet. Any reference to accessory commercial or recreational facilities shall remain secondary in size to the reference of the principal campground use. Such sign shall be set back at least ten feet (10') from the street right-of-way line, and at least twenty-five feet (25') from adjoining lot lines;
- 410.11. A minimum of twenty percent (20%) of the gross area of the campground shall be devoted to active and passive recreational facilities. Responsibility for maintenance of the recreation area shall be with the landowner. Should the landowner neglect to maintain the recreation area, the Borough shall then maintain the area and shall assess the landowner for any costs incurred;
- 410.12. Every campground shall have an office in which shall be located the office of the person responsible for operation of the campground;
- 410.13. All water facilities, sewage disposal systems, rest rooms, solid waste disposal and vector control shall be approved and maintained in accordance with the requirements of the Pennsylvania Department of Environmental Protection; and,
- 410.14. All lighting shall be arranged and shielded so that no glare or direct illumination shall be cast upon adjacent properties or public streets.

## **Section 411 Car Washes**

- 411.1. Within the (C-1 and TC) Zones, car washes are permitted by special exception, subject to the following criteria:
- 411.2. Public sewer and water facilities shall be utilized and gray water recycling is encouraged;

- 411.3. For automatic and self-service car washes, each washing bay shall provide a minimum one hundred foot (100') long on-site stacking lane which precedes the washing process. For full service car washes, such on-site stacking shall be a minimum of two hundred feet (200') per lane;
- 411.4. For full service car washes, a post-washing drying area shall be provided for no less than six (6) vehicles per washing lane;
- 411.5. All structures housing washing apparatuses shall be set back sixty feet (60') from any street right-of-way line, thirty feet (30') from any rear property line, and ten feet (10') from any side lot line;
- 411.6. Trash receptacles shall be provided and routinely emptied to prevent the scattering of litter, and the applicant shall furnish and implement a working plan for the cleanup of litter and debris;
- 411.7. The subject property shall front on an arterial or collector road; and,
- 411.8. The applicant shall demonstrate adequate provision for the collection and disposal of greases and wastes.

## Section 412 Churches and Related Uses

- 412.1. Within the (R-1, R-2, R-3, and TC) Zones, churches and related uses are permitted by special exception, and within the (MU) Zone, churches are permitted by conditional use, all subject to the following criteria:
- 412.2. House of Worship:
1. Minimum lot area – One (1) acre;
  2. Minimum lot width – One hundred fifty feet (150');
  3. Maximum permitted lot coverage - Fifty percent (50%), unless a greater percentage is permitted elsewhere within this Ordinance;
  4. All houses of worship shall have vehicular access to an arterial or collector road;
  5. Side yard setback – Twenty-five feet (25') on each side; and,
  6. All off-street parking areas shall be set back at least twenty-five feet (25') from the street right-of-way line, and screened from adjoining residentially-zoned properties.
- 412.3. Church-Related Residences (Rectories and Convents):
1. All residential uses shall be accessory, and located upon the same lot or directly adjacent to a lot containing a house of worship; and,
  2. All residential uses shall be governed by the location, height and bulk standards imposed upon other residences within the underlying zone. In any nonresidential zone, such residences shall comply with applicable requirements of the R-2 Residential Zone.

412.4. Church-Related Educational or Day-Care Facilities:

1. All educational or day-care uses shall be accessory, and located upon the same lot as a house of worship;
2. If education or day-care is offered below the college level, an outdoor play area shall be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking lots shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be completely enclosed by a minimum four foot (4') high fence, and screened from adjoining residentially-zoned properties. Any vegetative materials located within the outdoor play areas shall be of a nonharmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade such as a shade tree(s) or pavilion(s);
3. Enrollment shall be defined as the largest number of persons under day-care supervision at any one time during a seven-day period;
4. Passenger "drop-off" areas shall be provided and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site;
5. All educational or day-care uses shall be governed by the location, height, and bulk standards imposed upon principal uses within the underlying zone; and,
6. Unless the applicant can demonstrate that the off-street parking associated with the house of worship is sufficient for the proposed use, one off-street parking space shall be provided for each six students enrolled below grade ten, and/or one off-street parking space for each three students and/or other persons, grades ten and above.

412.5. Cemeteries:

1. All burial/internment sites shall be set back at least ten feet (10') from any property line and shall not be located within the Floodplain Zone.

## Section 413 Cluster Developments

413.1. Within the (C) Zone, cluster developments are permitted by conditional use, subject to the following criteria:

413.2. Purpose - This conditional use is intended to blend various residential development types amid substantial areas of Bechtelsville Borough that are characterized by severe development constraint and natural sensitivity or usable parklands. It is the express purpose to offer a density bonus and flexible design standards as enabled in the Act for the preservation and protection of natural-cultural features and/or the provision of common open space;

413.3. The minimum lot area devoted to a cluster development shall be ten (10) acres;

413.4. Delineation of Required Common Open Space – No less than forty percent (40%) of the lot area shall be devoted to common open space. In accordance with the purpose of this section, proposed common open space shall only include those areas characterized by features listed in this Section 413.5. Any proposed common

open space that is not comprised of these features shall not be considered to be part of the cluster development. Such common open space shall be in addition to any dedicated parklands (or fees-in-lieu thereof) derived under Section 523 of the SLDO. As part of the site planning process for the cluster development, the applicant shall be required to prepare a detailed natural and cultural features inventory of the site. Such features shall become all or part of the required common open space. Qualified experts must identify, describe and plot each of the following found on the proposed site:

- aquifer recharge areas
- 100-year floodplains;
- steep slopes [greater than fifteen percent (15%)];
- wetlands, streams, ponds, or other water bodies;
- sinkholes, caves, vistas, or other significant geologic features;
- threatened or endangered species habitats;
- archaeological resources
- historic resources; and,
- significant stands of mature trees.

In addition, the applicant can include proposed parklands within required common open space if such parkland complies with Section 523.4. of the SLDO;

413.5. The ownership and maintenance of common open space shall be governed by Section 321 of this Ordinance;

413.6. Within a cluster development, single-family detached dwellings are permitted at a density of no more than one (1) dwelling unit per each one and one-half (1.5) acres of lot area and shall be designed in accordance with the following standards:

Utilized Public Utilities	Minimum Lot Area	Minimum Lot Width at Building Setback Line & Frontage	Maximum Lot Coverage	Minimum Yard Setbacks				Maximum Permitted Height
				Front	Sides		Rear	
					One	(Both)		
None	43,560 sq. ft.	150 ft. <sup>1</sup>	20%	35 ft.	25 ft.	(50 ft.)	35 ft.	35 ft.
Public Water	32,000 sq. ft.	125 ft. <sup>1</sup>	25%	35 ft.	25 ft.	(50 ft.)	35 ft.	35 ft.
Public Sewer	20,000 sq. ft.	100 ft. <sup>1</sup>	30%	35 ft.	20 ft.	(40 ft.)	35 ft.	35 ft.
Both Public Sewer and Public Water	10,000 sq. ft.	90 ft. <sup>1</sup>	40%	35 ft.	15 ft.	(30 ft.)	35 ft.	35 ft.

<sup>1</sup>Within a cluster development, the use of flag lots is permitted only when it will enable the preservation of some important natural or cultural feature which would otherwise be disturbed by conventional lotting techniques.

1. For the purposes of this section, a flag-lot shall be described as containing two parts: (1) The "flag" shall include that portion of the lot that is the location of the principal and accessory buildings. (2) The "pole" shall be considered that portion of the site that is used for vehicular access between the site and its adjoining road;
2. Requirements for the Flag – The minimum lot area and lot width requirements of the Borough Zoning Ordinance shall be measured exclusively upon the flag. For purposes of determining required yards and setbacks, the following shall apply:

Front yard – The area between the principal structure and that lot line of the flag which is most parallel to the street providing vehicular access to the site. Additionally, all areas of the pole shall be considered to be within the front yard;

Rear Yard – The area between the principal structure and that lot line of the flag that is directly opposite the front yard, as described above; and,

Side yards – The area between the principal structure and that one (1) outermost lot line which forms the flag and pole, plus the area on the opposite side of the principal structure. (See the adjoining Flag-Lot Diagram for a graphic depiction of the yard locations.)

3. The flag-lot shall contain adequate driveway dimension for vehicular backup so that ingress to, and egress from, the lot can be maneuvered in the forward direction.
4. Requirements for the Pole – The pole shall maintain a minimum width of twenty-eight feet (28"). The pole shall not exceed six hundred feet (600') in length, unless additional length is needed to avoid the disturbance of some significant natural or cultural feature. No part of the pole shall be used for any portion of an on-lot sewage disposal system, nor any other improvement, except a driveway and other permitted improvements, such as landscaping, fencing, utility connections to off-site facilities, mailboxes, and signs. The cartway contained on the pole shall be located at least six feet (6') from any adjoining property line, and twenty feet (20') from any existing structures on the site or any adjoining property. No pole shall be located within two hundred feet (200') of another on the same side of the street, unless an adjoining pole utilizes a joint-use driveway, regulated as follows:
5. Joint-Use Driveways – When one or more flag lots are proposed, such lots may rely upon a joint-use driveway for vehicular access. A joint-use driveway must serve at least one flag-lot, but may also serve conventional lots, up to a maximum of four total lots. All joint-use driveways shall have a minimum cartway width of sixteen feet (16') . Cross access easements shall be required to ensure common use of, access to, and maintenance of, joint-use driveways; such easements shall be recorded in language acceptable to the Borough Solicitor, and depicted on the subdivision plan.

## **Section 414 Commercial and Private Schools**

- 414.1. Within the (C-1 and TC) Zones, commercial and private schools are permitted by special exception, and within the (MU) Zone, commercial and private schools are permitted by conditional use, all subject to the following criteria:
- 414.2. All height, area, setback, and coverage standards within the underlying zone shall apply;
- 414.3. All off-street parking lots shall be screened from adjoining residentially-zoned property lines;
- 414.4. If education is offered below the college level, an outdoor play area shall be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking lots shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be completely enclosed by a minimum four foot (4') high fence and screened from adjoining residentially-zoned properties. No vegetative materials located within the outdoor play area shall be of a harmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade such as a shade tree(s) or pavilion(s);
- 414.5. Enrollment shall be defined as the largest number of students on the site at any one time during a seven (7) day period;
- 414.6. Passenger "drop-off" and "pick-up" areas shall be provided and arranged so that students do not have to cross traffic lanes on or adjacent to the site; and,
- 414.7. Off-street parking spaces shall be provided in accordance with the schedule contained within Section 311.6. of this Ordinance.

## **Section 415 Commercial Day-Care Facilities**

- 415.1. Within the (C-1 and TC) Zones, commercial day-care facilities are permitted by special exception, and within the (MU) Zone, commercial day-care facilities are permitted by conditional use, subject to the following criteria:
- 415.2. An outdoor play area shall be provided, at a rate of one hundred (100) square feet per individual enrolled. Off-street parking compounds shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be completely enclosed by a minimum four (4) foot high fence, and screened from adjoining residentially-zoned properties. No vegetative materials located within the outdoor play areas shall be of a harmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade such as a shade tree(s) or pavilion(s);
- 415.3. Enrollment shall be defined as the largest number of persons under day-care supervision at any one time during a seven (7) day period;
- 415.4. Passenger "drop-off" and "pickup" areas shall be provided and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site; and,
- 415.5. One (1) off-street parking space shall be provided for each six (6) persons enrolled, or fraction thereof.

## **Section 416 Commercial Recreation Facilities**

- 416.1. Within the (C-1 and TC) Zones, commercial recreation facilities are permitted by special exception, subject to the following criteria:
- 416.2. The subject property shall front on an arterial or collector road;
- 416.3. Those uses involving outdoor activities shall provide sufficient screening and/or landscaping measures to mitigate any visual and/or audible impacts on adjoining properties;
- 416.4. Structures exceeding the maximum permitted height may be permitted so long as they are set back from all property lines at least the horizontal distance equal to their height, plus an additional fifty feet (50'). Furthermore, such structures shall not be used for occupancy;
- 416.5. The applicant shall furnish qualified evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, noise, light, litter, dust and pollution;
- 416.6. Required parking will be determined based upon the types of activities proposed and the schedule listed in Section 311.6. of this Ordinance. In addition, the Borough may require an unimproved grassed overflow parking area to be provided for peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads;
- 416.7. Any booths or other structures used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle backups on adjoining roads

during peak arrival periods. Any other collection of fees (roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on adjoining roads. If, at any time after the opening of the commercial recreation facility, the Borough determines that traffic backups are occurring on adjoining roads, and such backups are directly related to the means of access to the subject property, the Borough can require the applicant to revise means of access to relieve the undue congestion; and,

- 416.8. Any outside pedestrian waiting lines, shall be provided with a means of shade.

## **Section 417 Commercial Stockyards or Feedlots**

- 417.1. Within the (I) Zone, commercial stockyards and feedlots are permitted by conditional use, subject to the following criteria:
- 417.2. Minimum Lot Area – Five (5) acres;
- 417.3. No part of the subject property shall be within three hundred feet (300') of any land within the R-1, R-2, R-3, MU, or TC Zones;
- 417.4. A working plan for the removal of deceased animals shall be submitted and continuously implemented by the applicant. In no case shall any deceased animals remain on the site for more than twenty-four (24) hours;
- 417.5. All access drives onto the site shall be paved for a distance for at least two hundred feet (200') from the street right-of-way line. In addition, a fifty foot (50') long gravel section of driveway should be placed just beyond the preceding two hundred foot (200') paved section to help collect any mud that may have attached to a vehicle's wheels;
- 417.6. The owner and/or operator shall be responsible for removing any mud from public streets caused by persons traveling to and from the site;
- 417.7. Adequate off-street parking and loading areas must be provided. No parking or loading/unloading shall be permitted on or along any street;
- 417.8. Soil erosion, sedimentation, and storm water runoff shall be controlled in accordance with all applicable laws and regulations;
- 417.9. A traffic study shall be prepared in accordance with Section 302.5.4. of the SLDO;
- 417.10. The subject property shall front along, and have access to, an arterial street;
- 417.11. Any area used for the storage, keeping, feeding, watering, or running of livestock shall be completely enclosed by suitable fencing to prevent animal escape, and such area shall be set back at least one hundred feet (100') from all property lines;
- 417.12. All outdoor loudspeaker and lighting systems shall be designed, arranged and operated so as to prevent objectionable impact on adjoining parcels and streets;
- 417.13. The applicant must obtain and submit all necessary State permits and approvals.

## Section 418 Communication Antennas, Towers and Equipment

- 418.1. Within the (C) Zone, communication antennas, towers and equipment are permitted by special exception, subject to the following criteria:
- 418.2. The applicant shall demonstrate that the proposed location is necessary for the efficient operation of the system;
- 418.3. Any communication tower shall be set back from each property line a distance equal to its height, plus fifty feet (50'). This setback shall also be applicable to guide wire anchors for the communication tower;
- 418.4. All towers and guide wire anchors shall be completely enclosed by a minimum eight foot (8') high fence with a self-locking gate;
- 418.5. All ground-mounted satellite dishes that are used to transmit video format data shall be completely enclosed by a minimum eight foot (8') high, non-climbable fence that includes signage warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended;
- 418.6. The applicant shall furnish expert testimony regarding the construction methods or other measures used to prevent (1) the toppling of any communication tower onto adjoining properties and/or roads, and (2) the wind-borne scattering of ice onto adjoining properties and/or roads;
- 418.7. No site shall be located within five hundred feet (500') of any land within the (R-1, R-2, R-3, and TC) Zones;
- 418.8. The applicant shall submit notice of approval for the proposed installation from the Federal Aviation Administration and the Federal Communications Commission;
- 418.9. Communication antennas which are capable of transmitting signals shall not create electrical, electromagnetic, microwave, or other interference off-site;
- 418.10. The applicant shall submit expert testimony that the communication tower or antenna is the minimum height required to function satisfactorily;
- 418.11. The applicant shall submit a plan for the removal of the communication tower and the communication antenna when they become functionally obsolete or are no longer in use. The applicant shall be responsible for the removal of the facility within three (3) months from the date the applicant ceases use of the facility or the facility becomes obsolete;
- 418.12. In order to reduce the number of antenna support structures needed in the (municipality) in the future, any proposed support structure shall be designed to accommodate other users, including, but not limited to, police, fire and emergency services;
- 418.13. If an antenna site is fully automated, two (2) off-street parking spaces shall be required. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift, but in any event, may not be less than two (2) off-street parking spaces; and,
- 418.14. In accordance with Section 106 of the National Historic Preservation Act, and as an undertaking requiring a Federal permit, license or approval, the applicant shall be

required to obtain a Letter of Determination from the State Historic Preservation Office of the Pennsylvania Historical and Museum Commission that a proposed use will not adversely affect any historic resources.

## **Section 419 Convenience Stores**

- 419.1. Within the (C-1 and TC) Zones, convenience stores are permitted by special exception, subject to the following criteria:
- 419.2. The applicant must furnish evidence as to how the use will be controlled as to not constitute a nuisance due to noise or loitering outside the store;
- 419.3. A minimum of one (1) parking space for each seventy-five (75) square feet of gross floor area shall be provided. In addition, any accessory uses shall also require those spaces required by Section 311.6. of this Ordinance;
- 419.4. Exterior trash/recycling receptacles shall be provided and routinely emptied to prevent the scattering of litter, and the applicant shall furnish and continuously implement a working plan for the cleanup of litter and debris;
- 419.5. The subject property shall have a minimum width of one hundred twenty-five feet (125');
- 419.6. The subject property shall front on an arterial or collector road as defined herein;
- 419.7. The subject property shall be set back at least three hundred feet (300') from any lot containing a school, day-care facility, playground, library, hospital, or nursing, rest or retirement home;
- 419.8. All structures (including gasoline pump islands, but not permitted signs) and machinery shall be set back at least fifty feet (50') from any street right-of-way line;
- 419.9. Access driveways shall be a minimum of twenty-eight feet (28') wide and separated by one hundred feet (100') from one another if located along the same frontage as measured from edge to edge;
- 419.10. All ventilation equipment associated with fuel storage tanks shall be set back one hundred feet (100') and oriented away from any adjoining properties within the R-1, R-2, R-3, and/or MU zones;
- 419.11. All automated teller machines shall be located, or contain convenient parking spaces, so that the on-site movement of vehicles will not be hampered by those cars belonging to persons using the automated teller machines; and,
- 419.12. Any exterior microphone/speaker system and external lighting shall be arranged and/or screened to comply with those regulations contained within Section 502.13. of the SLDO.

## **Section 420 Conversion Apartments**

- 420.1. Within the (R-2, C-1 and TC) Zones, conversion apartments shall be permitted by special exception, and within the (MU) Zone, conversion apartments shall be permitted by conditional use, all subject to the following criteria:

- 420.2. Only one (1) conversion apartment shall be permitted per lot as an accessory use to a principal owner-occupied single-family detached dwelling within the R-2 Zone;
- 420.3. Each dwelling unit shall contain at least four hundred (400) square feet of habitable floor area and shall be confined to the principal dwelling unit building;
- 420.4. The applicant shall furnish evidence that an approved system of water supply and public sewage disposal will be utilized;
- 420.5. Any extensions or modifications to the external appearance of the building (except fire escapes) shall complement its residential character;
- 420.6. All floors above or below grade shall have a direct means of escape to ground level; and,
- 420.7. Two (2) off-street parking spaces per unit shall be provided.

## **Section 421 Drive-Thru and/or Fast-Food Restaurants**

- 421.1. Within the (C-1 and TC) Zones, drive-thru and/or fast food restaurants are permitted by special exception, subject to the following criteria:
- 421.2. The subject property shall front on an arterial or collector road;
- 421.3. Exterior trash receptacles shall be provided and routinely emptied so to prevent the scattering of litter. All applications shall include a description of a working plan for the cleanup of litter;
- 421.4. All drive-thru window-lanes shall be separated from the parking lot's interior drive-ways and shall provide at least two hundred feet (200') of on-site stacking per lane, preceding the food order location;
- 421.5. Any exterior speaker/microphone system shall be arranged and/or screened to prevent objectionable noise impact on adjoining properties;
- 421.6. All exterior seating/play areas shall be completely enclosed by a minimum three foot (3') high fence; and,
- 421.7. No part of the subject property shall be located within one hundred feet (100') of any residentially-zoned land.

## **Section 422 ECHO Housing**

- 422.1. Within the (A and C) Zones, ECHO housing is permitted by special exception, subject to the following criteria:
- 422.2. The elder cottage may not exceed nine hundred (900) square feet of floor area;
- 422.3. The total lot coverage for the principal dwelling, any existing accessory structures and the elder cottage together shall not exceed the maximum requirement for the zoning district in which the elder cottage is located;

- 422.4. The elder cottage shall be occupied by either an elderly, handicapped or disabled person related to the occupants of the principal dwelling by blood, marriage or adoption;
- 422.5. The elder cottage shall be occupied by a maximum of two (2) people;
- 422.6. Utilities:
1. For sewage disposal and water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used. All connections shall meet the applicable utility company standards; and
  2. If on-site sewer or water systems are to be used, the applicant shall submit evidence to the Zoning Hearing Board showing that the total number of occupants in both the principal dwelling and the elder cottage will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the sewage enforcement officer.
- 422.7. A minimum of one (1) all-weather off-street parking space, with unrestricted ingress and egress to the street, shall be provided for the elder cottage, in addition to that required for the principal dwelling;
- 422.8. The elder cottage shall be installed and located only in the side or rear yards, and shall adhere to all side and rear yard setback requirements for principal uses;
- 422.9. The elder cottage shall be removed from that property within ninety (90) days after it is no longer occupied by a person who qualifies for the use; and,
- 422.10. Upon the proper installation of the elder cottage, the Zoning Officer shall issue a temporary building permit. Such permit shall be reviewed every twelve (12) months until such time as the elder cottage is required to be removed. A fee, in the amount to be set by the Borough, shall be paid by the landowner upon each renewal of the temporary building permit. Such fee shall be based upon the cost of the annual review of the permit.

## **Section 423 Family Day-Care Facilities**

- 423.1. Within the (C, R-1, R-2, and R-3) Zones, family day-care facilities are permitted by special exception, subject to the following criteria:
- 423.2. A family day-care facility shall offer care and supervision to no more than six (6) different minors during any calendar day;
- 423.3. All family day-care facilities shall furnish a valid Registration Certificate for the proposed use, issued by the PA Department of Public Welfare;
- 423.4. An outdoor play area no less than four hundred (400) square feet in area shall be provided. Such play area shall not be located within the front yard nor any vehicle parking lot. Outdoor play areas shall be screened from any adjoining residentially-zoned property. A minimum four foot (4') high fence shall completely enclose the

outdoor play area. No vegetative materials located within the outdoor area shall be of a harmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must include a means of shade, such as a tree(s) or pavilion(s); and,

- 423.5. Passenger “drop-off” and “pickup” areas shall be provided and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.

## **Section 424 Farm Occupations**

- 424.1. Within the (A) Zone, farm occupations are permitted by special exception, subject to the following criteria:
- 424.2. For each farm (as defined herein) existing on the effective date of this Ordinance, only one (1) farm occupation may be established;
- 424.3. All farm occupations must be established, and remain, accessory to the principal agricultural use of the subject property. This section is not intended to restrict the income generated by a farm occupation. If the subject property ceases to be used for agriculture, then the farm occupation must also cease;
- 424.4. Farm occupations may involve any one of a wide range of uses, so long as it is compatible with the primary agricultural use of the land. The applicant must demonstrate that the farm occupation is compatible with the rural setting and will not create nuisances for nearby residences and other uses;
- 424.5. For farm parcels of up to fifty (50) acres in size, while the farm occupation is in operation, non-farm related subdivisions will not be permitted. The purpose of this provision is to limit the conversion of farmland to non-agricultural uses;
- 424.6. No more than the equivalent of six (6) full-time, nonresident employees of the farm parcel shall be employed by the farm occupation. However, the number of employees may be additionally reduced if it is believed that the proposed use is too intensive;
- 424.7. The farm occupation shall occupy an area no greater than a maximum of four thousand (4,000) square feet of gross floor area;
- 424.8. The maximum lot coverage, as specified in the underlying Agricultural Zone, shall include the proposed farm occupation;
- 424.9. The maximum acreage devoted to a farm occupation (including the structure, parking, storage, and driveway if separate) shall be no more than one (1) acre;
- 424.10. Where practicable, farm occupations shall be conducted within an existing farm building. However, any building constructed for use by the farm occupation shall be (1) located behind a residence or other farm building(s) or, (2) set back one hundred feet (100') from every property line and be located within one hundred feet (100') of the residence;
- 424.11. Any building constructed for the use of the farm occupation shall be of a nature that it can be converted to agricultural use or removed from the property if the farm occupation is discontinued. The structure should blend in with the surrounding agricultural setting;

- 424.12. No farm occupation shall be located within one hundred feet (100') of any adjacent residential zone. Such distances shall be measured as a straight line between the closest points of any structure or any other physical improvement of the farm occupation and the zoning boundary line;
- 424.13. Off-street parking shall be provided per the schedule of required parking spaces contained in Section 311.6. of this Ordinance. The applicant shall demonstrate that sufficient parking for the anticipated demands of the farm occupation has been provided;
- 424.14. Any outdoor storage of supplies, materials or products shall be located behind the building in which the farm occupation is located. Such outdoor storage shall also be screened from adjoining roads and properties; and,
- 424.15. Outdoor advertising signs for the farm occupation shall be regulated in accordance with the sign regulations contained in Section 314 of this Ordinance. However, no such sign shall exceed ten (10) square feet in total area.

## **Section 425 Farmers, Antiques and/or Flea Markets**

- 425.1. Within the (C-1) Zone, farmers, antiques and/or flea markets are permitted by special exception, subject to the following criteria:
- 425.2. The retail sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales shall include all indoor and/or outdoor areas as listed above;
- 425.3. The retail sales area shall be set back at least fifty feet (50') from all property lines, and shall be calculated as part of the maximum permitted lot coverage, regardless of its surface treatment;
- 425.4. Off-street parking shall be provided at the rate of one (1) space per each two hundred (200) square feet of retail sales area;
- 425.5. Off-street loading shall be calculated upon the retail sales area described above and according to the schedule listed in Section 312.3. of this Ordinance;
- 425.6. All outdoor display and sales of merchandise shall not begin prior to one (1) hour before official sunrise and shall cease no later than one (1) hour after official sunset;
- 425.7. Any exterior amplified public address system shall be arranged and designed so as to prevent objectionable impact on adjoining properties; and,
- 425.8. Exterior trash receptacles shall be provided amid any outdoor retail sales area. Such trash receptacles shall be routinely emptied so as to prevent the scattering of litter and debris. All applications shall include a description of a working plan for the cleanup of litter.

## **Section 426 Funeral Homes**

- 426.1. Within the (C-1 and TC) Zones, funeral homes are permitted by special exception, and within the (MU) Zone, funeral homes are permitted by conditional use, subject to the following criteria:
- 426.2. Public sewer and water facilities shall be utilized;
- 426.3. Sufficient off-street parking and stacking shall be provided to prevent traffic back-ups onto adjoining roads; and,
- 426.4. No vehicular access to the site shall be from an arterial road.

## **Section 427 Health and Recreation Clubs**

- 427.1. Within the (C-1 and TC) Zones, health and recreation clubs are permitted by special exception, subject to the following criteria:
- 427.2. Off-street parking shall be provided as required by the combination of elements comprising the health club, including accessory uses;
- 427.3. All outdoor recreation facilities shall be set back at least fifty feet (50') from the street right-of-way line, and twenty-five feet (25') from all other lot lines; and,
- 427.4. All lighting of outdoor recreation areas shall be arranged to prevent glare on adjoining properties and streets.

## **Section 428 Heavy Equipment Sales, Service and/or Repair Facilities**

- 428.1. Within the (I) Zone, heavy equipment sales, service and/or repair service facilities are permitted by conditional use, subject to the following criteria:
- 428.2. All service and/or repair activities shall be conducted within a completely-enclosed building;
- 428.3. All uses involving drive-thru service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads;
- 428.4. All exterior storage and/or display areas shall be screened from adjoining residentially-zoned properties. All exterior storage/display areas shall be set back at least fifty feet (50') from adjoining street lines and shall be covered in an all-weather, dust-free surface;
- 428.5. The storage of junked vehicles, boats, machinery, trucks, trailers, mobile homes, and heavy equipment vehicles on the property is prohibited;
- 428.6. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining residentially-zoned property;
- 428.7. All vehicles shall be repaired and removed promptly from the premises; and,

- 428.8. The applicant shall furnish evidence of how the storage and disposal of materials will be accomplished in a manner that complies with all applicable State and Federal regulations.

## **Section 429 Heavy Industrial Uses**

- 429.1. Within the (I) Zone, heavy industrial uses are permitted by conditional use, subject to the following criteria:
- 429.2. The applicant shall provide a detailed description of the proposed use in each of the following topics:
1. The nature of the on-site processing operations, the materials used in the process, the products produced, and the generation and methods for disposal of any wastes and/or by-products. In addition, the applicant shall furnish evidence that the storage and disposal of materials will be accomplished in a manner that complies with State and Federal regulations;
  2. The general scale of the operation in terms of its market area, specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size;
  3. Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish expert evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances; and,
  4. A Traffic Impact Report prepared by a professional traffic engineer, according to Section 302.5.4. of the SLDO.

## **Section 430 Home Improvement and Building Supply Stores**

- 430.1. Within the (C-1) Zone, home improvement and building supply stores are permitted by special exception, subject to the following criteria:
- 430.2. All outdoor storage and display areas (exclusive of nursery and garden stock) shall be screened from adjoining roads and properties;
- 430.3. If the subject property contains more than (2) acres, it shall front along an arterial or collector road;
- 430.4. The retail sales area shall be all areas open for public display, including, but not limited to, shelves, racks, bins, stalls, tables, and booths, plus any adjoining aisles or walkways from which consumers can inspect items for sale. The retail sales area shall include both interior and exterior areas as listed above;
- 430.5. Off-street parking shall be provided at the rate of one (1) space for each two hundred (200) square feet of interior retail sales area, plus one (1) space for each five hundred (500) square feet of exterior retail sales area;

- 430.6. All exterior retail sales areas shall include a dust-free surface and a completely-enclosed minimum six foot (6') high fence;
- 430.7. All exterior storage and retail sales area (exclusive of nursery and garden stock) shall be screened from adjoining roads and properties;
- 430.8. The applicant shall furnish expert evidence that any exterior amplified public address system and/or exterior lighting has been arranged and designed so as to prevent objectionable impact off the site;
- 430.9. Any drilling, cutting, sawing, mixing, crushing, or some other preparation of building materials, plus any testing or repair of motorized equipment shall be conducted within a completely-enclosed building; and,
- 430.10. The applicant shall submit a Traffic Impact Report, as governed by Section 302.5.4. the SLDO.

## **Section 431 Home Occupations**

- 431.1. Within the (A, C, R-1, R-2, R-3, and TC) Zones, home occupations are permitted by special exception, and within the (MU) Zone, home occupations are permitted by conditional use, subject to the following criteria:
- 431.2. Only single-family, detached dwellings may contain a home occupation;
- 431.3. No more than two (2) nonresident employees shall be permitted;
- 431.4. Such occupations shall be incidental or secondary to the use of the property as a residence and are limited to those occupations customarily conducted within a dwelling unit;
- 431.5. Three (3) off-street parking spaces in addition to those required of residence units shall be required. Such parking spaces shall be screened from adjoining properties;
- 431.6. No goods shall be visible from the outside of the dwelling;
- 431.7. The area used for the practice of a home occupation shall occupy no more than twenty-five percent (25%) of the total floor area of the dwelling unit or five hundred (500) square feet, whichever is less. All home occupation activities shall be conducted within the dwelling building;
- 431.8. No manufacturing, repairing, or other mechanical work shall be performed in any open area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference, or smoke shall be noticeable at or beyond the property line;
- 431.9. No external storage of materials or products shall be permitted. No storage in accessory structures or attached garages shall be permitted;
- 431.10. The exterior appearance of the structure or premises is constructed and maintained as a residential dwelling; and,

- 431.11. One (1) non-illuminated sign, not to exceed two (2) square feet in display area, shall be permitted.

## **Section 432 Hospitals and Related Uses**

- 432.1. Within the (C-1) Zone, hospitals and related uses are permitted by conditional use, subject to the following criteria:

432.2. Minimum Lot Area - Five (5) acres;

432.3. The subject property shall have frontage along an arterial or collector road;

432.4. Adequate provision shall be made for a system of roads sufficient to accommodate predictable vehicular traffic and to ensure safe and efficient vehicular access for emergency management equipment;

432.5. Emergency entrances shall be located on a building wall which faces away from adjoining residentially-zoned properties or separated by at least three hundred feet (300') from residentially-zoned properties;

432.6. The applicant shall submit a Traffic Impact Report, as governed by Section 302.5.4. of the SLDO;

432.7. Public sewer, and public water utilities shall be utilized;

432.8. Adequate provision shall be made for the collection, disposal and recycling of garbage, trash, and medical and hazardous waste;

432.9. Where more than one (1) of the uses enumerated in 432.10. below are proposed either at one time or separately over time, integrated site function and design shall be required consistent with the creation of a campus-like environment;

432.10. Permitted Uses:

1. Commercial day-care facilities;
2. Commercial schools with exclusively health care-related curricula intended to prepare enrolled students for careers in health care, nursing schools, and other allied health technology training programs;
3. Health and fitness clubs;
4. Hospitals and hospices;
5. Intermediate care and skilled nursing facilities;
6. Medical and dental offices;
7. Outpatient health services, including, but not limited to, laboratories, radiological and diagnostic imaging services, blood banks, outpatient surgery centers, and outpatient clinics and patient care facilities;
8. Accessory buildings, uses and services customarily incidental to the above uses, including, but not limited to, the following:
  - A. Administrative offices;
  - B. Automobile parking lots and parking garages;
  - C. Housing for students, employees and their families in accordance with the standards of the (R-3) Zone;
  - D. Helistop (see Section 432.10.11.);
  - E. Incinerators and autoclaves (see Section 432.10.12.);
  - F. Lodging facilities for patients and their families;

- G. Public uses and essential services (e.g., private central utility plant, electrical switching facility, steam generation facility, heating facility, ventilation facility, and oxygen facility);
- H. Retail sales of medical/health care-related supplies (e.g., durable medical equipment, prosthetics, pharmaceutical supplies) and retail sales/service for the convenience of employees, patients and visitors (e.g., uniforms, flowers, gifts, uniform cleaning, barber/beauty salons, automatic teller banking, restaurants). All retail sales and services shall be located within buildings in which other permitted uses are located. Retail sales and services may not exceed five percent (5%) of the floor area of existing buildings within this Zone; and,
- I. Short-term, intermittent educational programs which are not intended to prepare students for careers in health care, but, rather, are intended to inform employees, patients, health care providers, or the public regarding health care issues;

432.11. Specific Requirements for Selected Accessory Uses:

- 1. Helistops - The helistop shall only be used for the emergency transport by helicopter of patients to or from other permitted health care-related uses. The helistop shall not include auxiliary facilities, such as fueling and maintenance equipment. The helistop shall be set back a minimum of three hundred feet (300') from any adjoining property and any street. The applicant must demonstrate compliance, through a written statement, and continue to comply with applicable State and Federal standards; and,
- 2. Incinerators and Autoclaves - Only the processing of waste generated on-site is permitted. All processing and storage of waste shall be conducted within a completely-enclosed building. All storage of waste shall be in a manner that is leak- and vector-proof. No storage of waste shall exceed seven (7) days in length. The incinerator shall be set back at least a distance equal to its height from all lot lines. The applicant must demonstrate compliance, through a written statement, and continue to comply with all applicable State and Federal standards and regulations; and,

432.12. Maximum Permitted Height - Sixty feet (60') for hospitals, provided all structures are set back a horizontal distance equal to their height from each property line and street right-of-way line; thirty-five feet (35') for all other uses.

## Section 433 Intensive Livestock Operations

433.1. Within the (A) Zone, intensive livestock operations are permitted by conditional use, subject to the following criteria:

433.2. Any building, or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least three hundred feet (300') from:

- 1. the nearest property line of any existing residence other than the principal residence of the applicant;
- 2. the nearest property line of any approved lot which has been subdivided during the last five (5) years for residential purposes, which has not yet been constructed; and,

3. the nearest property line of any lot proposed for residential purposes which has been submitted for preliminary or final subdivision approval.
- 433.3. Any building, or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least three hundred feet (300') from any land within the R-1, R-2, R-3, and/or MU Zones;
- 433.4. The applicant shall submit a copy of an approved nutrient management plan for the proposed use, which has been reviewed and approved by the appropriate reviewing agency. All subsequent operations and activities shall be conducted in accordance with such plans. If, at any time, the nutrient management plan is amended, the applicant must again submit the amended plan to the Zoning Officer;
- 433.5. The applicant shall furnish evidence from the Berks County Conservation District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If, at any time, the conservation plan is amended, the applicant must again furnish evidence from the Berks County Conservation District that the amended plan has been approved;
- 433.6. The applicant shall submit, abide by, and demonstrate a working knowledge of, written qualified evidence describing those methods that will be employed to:
1. minimize odor on nearby properties. Unless these methods employ the best possible techniques and materials that can be practicably applied to the proposed use, the application will be denied;
  2. dispose dead animals according to the regulations of the Pennsylvania Department of Agriculture. In the event of a catastrophic event in which mass disposal is warranted, the Pennsylvania Department of Agriculture can require whatever disposal methods are deemed appropriate to safeguard animal and public health; and,
  3. comply with the above-required nutrient management plan and conservation plan;
- 433.7. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within one thousand feet (1,000') of the closest residence that is not that of the operator, then the applicant shall construct a dispersion buffer between the exhaust of the fan and that/those residence(s). Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at the property line;
- 433.8. Any driveway or access drive providing for vehicular access to the proposed use shall maintain a fifty foot (50') wide radius for all turns and intersections;
- 433.9. Any on-site manure storage facilities shall comply with the requirements of Section 200.2.6.A. of this Ordinance;
- 433.10. All buildings used for the housing of livestock shall be fitted with a solid concrete slab or slotted floor; and,
- 433.11. The applicant may conduct a freestanding roadside stand operation or one within one of the permanent buildings, but such use shall be limited to no more than two hundred fifty (250) square feet of display area.

## Section 434 Intensive Produce Operations

- 434.1. Within the (A) Zone, intensive produce operations are permitted by conditional use, subject to the following criteria:
- 434.2. Minimum Lot Area – Twenty (20) acres;
- 434.3. Maximum Permitted Lot Coverage - Thirty percent (30%), including all impervious surfaces;
- 434.4. If applicable, the applicant shall submit written evidence from the appropriate reviewing agency that the proposed use has an approved nutrient management plan. All subsequent operations and activities shall be conducted in accordance with such plans. If at any time, the nutrient management plan is amended, the applicant must again submit written evidence of plan approval to the Zoning Officer;
- 434.5. The applicant shall furnish evidence from the Berks County Conservation District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If, at any time, the conservation plan is amended, the applicant must again furnish evidence from the Berks County Conservation District that the amended plan has been approved;
- 434.6. The applicant shall abide by, and demonstrate a working knowledge of, those methods that will be employed to comply with the above-required nutrient management plan and conservation plan;
- 434.7. If greenhouses, or other buildings with substantially clear or translucent surfaces, are used, the applicant shall submit information that demonstrates that any noise or light generated by the proposed use will not adversely affect adjoining and nearby properties;
- 434.8. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within one thousand feet (1,000') of the closest subject property line, then the applicant shall construct a dispersion buffer between the exhaust of the fan and that/those residence(s). Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at any of the subject property lines;
- 434.9. Any driveway or access drive providing for vehicular access to the proposed use shall be paved and shall maintain a fifty foot (50') wide radius for all turns and intersections;
- 434.10. Any on-site waste storage facilities shall comply with the requirements of Section 200.2.6.A. of this Ordinance;
- 434.11. While a commercial produce operation exists, no subdivision or land development that would create an additional principal dwelling unit shall be permitted on the subject property, except that subject to the limitations of Sections 200.5. Additional dwellings may be created for family members of the farm owner or for someone who is involved in the day-to-day farm operations;
- 434.12. The applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, indicating quantity of water required. If

the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed;

In addition, if the facility is to rely upon non-public sources of water, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer;

A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the municipality.

A water feasibility study shall include the following information:

- calculations of the projected water needs;
- a geologic map of the area with a radius of at least one mile from the site;
- the location of all existing and proposed wells within one thousand feet (1,000') of the site, with a notation of the capacity of all high-yield wells;
- the location of all existing on-lot sewage disposal systems within one thousand feet (1,000') of the site;
- the location of all streams within one thousand feet (1,000') of the site and all known point sources of pollution;
- based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
- a determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table; and,
- a statement of the qualifications and the signature(s) of the person(s) preparing the study.

- 434.13. Should the proposed use not make use of public water and require more than 100,000 gallons of water per day, the applicant shall furnish written evidence of approval from the Delaware Valley River Basin Commission;
- 434.14. All commercial produce operations must comply with applicable storm water management regulations of the SLDO;
- 434.15. The applicant shall be required to obtain an approved land development under the SLDO;
- 434.16. The applicant shall be required to submit a Traffic Impact Report in accordance with Section 302.5.4. of the SLDO;
- 434.17. The applicant shall be required to submit a written qualified plan for the removal of all buildings and the reclamation of all topsoil in the event of discontinuance of the commercial produce operation. If the site is graded during construction and operation of the commercial produce operation, all topsoil shall remain on the site in a manner which makes it conveniently accessible for reclamation. Should the applicant not adequately guarantee the removal of such buildings and reclamation of topsoil upon discontinuance of the commercial produce operation at his/her expense, the conditional use shall be denied;

- 434.18. The site shall include one (1) off-street parking space for each employee during the largest work shift;
- 434.19. The applicant may conduct a freestanding roadside stand operation or one within one of the permanent buildings, but such use shall be limited to no more than two hundred fifty (250) square feet of display area;
- 434.20. All buildings and storage/processing structures shall be set back at least one hundred feet (100') from adjoining roads and properties, and all off-street parking and loading spaces, outdoor storage areas and dumpsters shall be set back at least fifty feet (50') and screened from adjoining roads and properties; and,
- 434.21. One (1) sign, as provided for in Section 314 of this Ordinance, shall be permitted.

## **Section 435      Junkyards**

- 435.1. Within the (I) Zone, junkyards are permitted by conditional use, subject to the following criteria:
- 435.2. Minimum Lot Area - Ten (10) acres;
- 435.3. The outdoor area devoted to the storage of junk shall be completely enclosed by an eight foot (8') high, sight-tight fence which shall be set back at least one hundred feet (100') from all property lines;
- 435.4. All completely enclosed buildings used to store junk shall be set back at least fifty feet (50') from all property lines;
- 435.5. No material may be stored or stacked so that it is visible from adjoining properties and roads;
- 435.6. All additional Federal and State laws shall be satisfied;
- 435.7. The setback area between the fence and the lot lines shall be kept free of weeds and all scrub growth;
- 435.8. All junk shall be stored or arranged so as to permit access by firefighting equipment and to prevent the accumulation of water, and with no junk piled to a height greater than eight feet (8');
- 435.9. No oil, grease, tires, gasoline, or other similar material shall be burned at any time;
- 435.10. Any junkyard shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies or other vectors; and,
- 435.11. No junkyard shall be located on land with a slope in excess of five percent (5%).

## **Section 436 Kennels**

- 436.1. Within the (A) Zone, kennels are permitted by special exception, subject to the following criteria:
- 436.2. Minimum Lot Area - Two (2) acres;
- 436.3. All animal boarding buildings that are not completely enclosed and any outdoor animal pens, stalls or runways shall be located within the rear yard;
- 436.4. All animal boarding buildings that are not completely enclosed and any outdoor animal pens, stalls or runways shall be a minimum of one hundred feet (100') away from all property lines;
- 436.5. All outdoor running areas shall be enclosed to prevent the escape of the animals; all such enclosures shall be a minimum of ten feet (10') from all property lines;
- 436.6. All animal wastes shall be regularly cleaned up and properly disposed of; and,
- 436.7. The applicant shall demonstrate a working plan to prevent or alleviate any noise problems emanating from animals boarded on the site.

## **Section 437 Mini-Warehouses**

- 437.1. Within the (C-1 and I) Zones, mini-warehouses are permitted by conditional use, subject to the following criteria:
- 437.2. Off-street parking spaces shall be provided according to the schedule listed in Section 311.6. of this Ordinance;
- 437.3. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least twenty-six feet (26') wide when cubicles open onto one side of the lane only and at least thirty feet (30') wide when cubicles open onto both sides of the lane;
- 437.4. Required parking spaces may not be rented as, or used for, vehicular storage. However, additional external storage area may be provided for the storage of privately-owned travel trailers and/or boats, so long as such external storage area is screened from adjoining residentially-zoned land and adjoining roads, and is located behind the minimum front yard setback line. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperative vehicles;
- 437.5. All storage shall be kept within an enclosed building except that the storage of flammable, highly combustible, explosive or hazardous chemicals shall be prohibited;
- 437.6. A resident manager shall be required to live on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval and all applicable ordinances.
- The actual dwelling of the resident manager shall comply with all of those requirements listed within the R-3 Zone, and shall be entitled to all residential accessory uses provided in this Ordinance;

- 437.7. Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture is prohibited;
- 437.8. No door openings for any mini-warehouse storage unit shall be constructed facing any residentially-zoned property;
- 437.9. Mini-warehouses shall be used solely for the dead storage of property. The following lists examples of uses expressly prohibited upon the site:
1. Auctions, commercial wholesale or retail sales, or garage sales;
  2. The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment;
  3. The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment;
  4. The establishment of a transfer and storage business; and,
  5. Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.

The applicant shall adequately demonstrate that all mini-warehouses rental and/or use contracts shall specifically prohibit these uses.

## **Section 438 Mixed Uses**

- 438.1. Within the (MU) Zone, various mixed uses, as listed in Section 210.2. of this Ordinance, are permitted by conditional use, subject to the following criteria:
- 438.2. The applicant shall describe what, if any, of the design standards listed in Section 231 (Main Street Overlay Zone) will be applied to the proposed use. If none will be used, the applicant must demonstrate a valid effort to have employed such designs and list those impediments preventing their use. Furthermore, the applicant shall describe any actions that can be taken by the Borough Council to overcome such impediments to use of such designs.

## **Section 439 Mobile Home Parks**

- 439.1. Within the (R-3) Zone, mobile home parks are permitted by conditional use, subject to the following criteria:
- 439.2. The minimum parcel size for any mobile home park development shall be five (5) acres;
- 439.3. The maximum number of mobile home units shall be limited to seven (7) per gross acre;
- 439.4. No single mobile home lot shall contain less than four thousand, two hundred (4,200) square feet;

- 439.5. No mobile home lot shall be within fifty feet (50') of a park boundary, nor within fifty feet (50') of an outside street right-of-way. This area shall constitute the mobile home park boundary area;
- 439.6. No mobile home, office or service building shall be located within fifty feet (50') of a park boundary; nor within seven-five feet (75') of an outside street right-of-way; nor within ten feet (10') of the right-of-way of an interior park street, or the paved edge of a common parking area or common walkway; nor within twenty feet (20') of an adjacent structure or mobile home;
- 439.7. Each mobile home shall have a minimum front yard of thirty feet (30'), rear yard of twenty-five feet (25'), and two sides of ten feet (10') each. In no case shall the distance between any two mobile homes be less than twenty feet (20');
- 439.8. A paved on-site walkway of a minimum width of three (3) feet shall be provided to each mobile home unit from an adjacent street;
- 439.9. There shall be a common walk system four feet (4') wide throughout the development;
- 439.10. All roads in the park shall be private access drives shall be lighted and shall be paved with a bituminous or concrete surface at least twenty-four feet (24') wide;
- 439.11. Each mobile home lot shall abut on a park access drive with access to such access drive. Access to all mobile home lots shall not be from public streets or highways;
- 439.12. Each mobile home space shall contain no more than one (1) mobile home, nor more than one (1) family;
- 439.13. No less than ten percent (10%) of the total mobile home park area shall be set aside for recreation and open space purposes. Such area may not include any of the required mobile home park boundary area. No service buildings or offices may be constructed within the required recreation and open space area;
- 439.14. Each mobile home stand shall have attachments for waste disposal, water supply facilities and electrical service, and such facilities shall be properly connected to an approved method of sewage disposal, and water and electrical supply;
- 439.15. Protective skirting shall be placed around the area between the ground surface and the floor level of each mobile home so as to prevent that area from forming a harborage for rodents, creating a fire hazard, or exposing unsightly conditions;
- 439.16. No travel or vacation trailer or other form of temporary living unit shall be placed upon any mobile home stand or used as a dwelling within the mobile home park;
- 439.17. Individual mobile home owners may install accessory or storage sheds, extensions and additions to mobile homes and exterior patio areas. Any such facilities so installed shall not intrude into any required minimum front, side or rear yard and in every case, shall substantially conform in style, quality and color to the existing mobile homes;
- 439.18. Each mobile home shall be provided with a minimum of two (2) paved parking spaces which shall be located on the mobile home space. If on-street parking is not provided, one additional off-street parking space per unit shall be provided in a common visitor parking compound. Such visitor parking compounds shall be sized, arranged, and located so that the spaces are within three hundred feet (300') walking distance to those units served;

439.19. Each mobile home shall be placed on a six (6) inch thick poured concrete pad over a six (6) inch stone base, the length and width of which shall be at least equal to the length and width of the mobile home it is to support; and,

439.20. All mobile home parks shall be screened from adjoining properties and roads. Screening methods shall be described and graphically depicted as part of the conditional use application.

## **Section 440 Nightclubs**

440.1. Within the (C-2) Zone, nightclubs are permitted by conditional use, subject to the following criteria;

440.2. No part of the subject property shall be located within two hundred feet (200') of any residentially-zoned land;

440.3. The applicant shall furnish evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light, and/or litter;

440.4. The applicant shall furnish evidence as to how the use will be controlled as to not constitute a nuisance due to noise or loitering outside the building; and,

440.5. A working plan for the clean-up of litter shall be furnished and implemented by the applicant.

## **Section 441 Noncommercial Keeping of Livestock**

441.1. Within the (A and C) Zones, the noncommercial keeping of livestock is permitted by special exception, subject to the following criteria:

441.2. Minimum Lot Area - One (1) acre; additionally, the following list specifies additional area requirements by size of animals kept:

GROUP 1 - Animals whose average adult weight is less than ten (10) pounds shall be permitted at an animal density of twelve (12) per acre, with a maximum number of fifty (50) animals;

GROUP 2 - Animals whose average adult weight is between ten (10) and sixty-five (65) pounds shall be permitted at an animal density of two (2) per acre, with a maximum number of twenty (20) animals; and,

GROUP 3 - Animals whose average adult weight is greater than sixty-five (65) pounds shall be permitted at an animal density of one (1) per acre, with a maximum number of ten (10) animals.

The keeping of a combination of animal types (Group 1, 2, and 3) shall require an animal density equal to the ratio of the numbers of animals, by type. In no case shall a lot contain more than fifty (50) total animals. Should one structure be used to house a combination of animal types, the most restrictive setback shall apply.

441.3. The following lists minimum setbacks (from all property lines) imposed upon the placement of any structure used to house noncommercial livestock:

**GROUP 1 Animals**

Up to 25 animals, a 25-foot setback;  
above 25 animals, a 50-foot setback;

**GROUP 2 Animals**

Up to 2 animals; a 50-foot setback;  
above 2 animals; a 100-foot setback; and,

**GROUP 3 Animals**

One hundred feet (100').

- 441.4. All structures used to house noncommercial livestock shall be prohibited from placement in the front yard;
- 441.5. All outdoor pasture/recreation areas shall be enclosed to prevent the escape of the animals; and,
- 441.6. All animal wastes shall be properly stored and disposed of, so to not be objectionable at the site's property line. All animals, their housing and their outdoor pasture/recreation areas shall be properly maintained so to not become a nuisance to adjoining properties.

## **Section 442 Nursing, Rest or Retirement Homes**

- 442.1. Within the (R-3 and TC) Zones, nursing, rest or retirement homes are permitted by special exception, and within the (MU) Zone, nursing, rest or retirement homes are permitted by conditional use, all subject to the following criteria:
- 442.2. Minimum Lot Area - One (1) acre;
- 442.3. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be utilized;
- 442.4. Off-street parking lots and loading areas shall be screened from adjoining residentially-zoned lands;
- 442.5. No more than eighteen (18) occupants per acre shall be permitted, excluding the staff of the facility; and,
- 442.6. The applicant shall furnish evidence of all State approvals, permits and licenses.

## **Section 443 Off-Track Betting Parlors**

- 443.1. Within the (C-1 and I) Zones, off-track betting parlors are permitted by conditional use, subject to the following criteria:
- 443.2. An off-track betting parlor shall not be permitted to be located within one thousand feet (1,000') of any other off-track betting parlor. The distance between any two off-track betting parlors shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment;

- 443.3 No off-track betting parlor shall be located within three hundred feet (300') of any residentially-zoned land. The distance between any off-track betting parlor and any land use shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior property line of the off-track betting parlor to the closest point on the property line of said land use;
- 443.4. No off-track betting parlor shall be located within six hundred feet (600') of any parcel of land which contains any one or more of the following specified land uses:
1. Amusement park;
  2. Camp (for minors' activity);
  3. Child-care facility;
  4. Church or other similar religious facility;
  5. Community center;
  6. Museum;
  7. Park;
  8. Playground;
  9. School; or
  10. Other lands where minors congregate;
- 443.5. No more than one (1) off-track betting parlor may be located within one building or shopping center;
- 443.6. The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light and/or litter;
- 443.7. The applicant shall furnish expert evidence as to how the use will be controlled so as to not constitute a nuisance due to noise or loitering outside the building;
- 443.8. A working plan for the cleanup of litter shall be furnished and implemented by the applicant;
- 443.9. Off-street parking shall be provided at the rate of one (1) space per each sixty-five (65) square feet of gross floor area, including related dining, restaurant and snack bar areas; and,
- 443.10. All off-track betting parlors shall comply with the Pennsylvania Horse and/or Harness Racing Commission's Rules and Regulations pertaining to Nonprimary Locations, as defined therein.

## **Section 444      Parking Lots/Garages for Nonresidential Uses                                  Contained on Adjoining Properties**

- 444.1. Within the (R-1, R-2 and TC) Zones, parking lots/garages for nonresidential uses contained on adjoining properties may be permitted by special exception, and within the (MU) Zone, parking lots/garages for nonresidential uses contained on adjoining properties may be permitted by conditional use, all subject to the following criteria:
- 444.2. The land proposed for the parking lot shall either immediately adjoin or be directly across the street from the nonresidential use to be served;

- 444.3. The parking lot shall contain not more than fifty percent (50%) of the total number of parking spaces provided and may not exceed twenty (20) total parking spaces;
- 444.4. On the effective date of this Ordinance, adequate area did not exist on the nonresidential use property to provide the number of parking spaces needed for the use;
- 444.5. The parking lot shall be visually screened from adjoining residentially-zoned properties. Such screening can consist of a wooden sight-tight fence, earthen berm, vegetative materials, or any combination of these;
- 444.6. The location and configuration of driveways or access points shall not endanger pedestrians or create traffic hazards;
- 444.7. Light, if necessary, shall be arranged so as to not cast glare on adjoining residentially-zoned properties;
- 444.8. If practicable, parking in such lot shall be permitted only for employees of the adjoining business, and a sign of such size and with such wording shall be erected, to this effect; and,
- 444.9. The Zoning Hearing Board can attach other conditions to approval of the proposed parking lot to safeguard the character of the adjacent residential area and the general public welfare.

## **Section 445 Public Transportation Depots**

- 445.1. Within the (C-1) Zone, public transportation depots are permitted by special exception, subject to the following criteria;
- 445.2. The applicant shall submit a Traffic Impact Report in accordance with Section 302.5.4. of the SLDO;
- 445.3. The applicant shall present qualified expert evidence as to how the use will provide for the expected demand for needed, off-street parking spaces for the proposed use. In addition, the applicant shall present evidence of the ability to provide additional off-street parking spaces, if demand increases. The applicant shall also present credible evidence that the number of "oversized" off-street parking spaces provided for public transportation vehicles will be adequate to accommodate the expected demand generated by patrons. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods;
- 445.4. The subject property shall have a minimum of two hundred feet (200') of road frontage along an arterial road;
- 445.5. The subject property shall be located no closer than three hundred feet (300') feet from any R-1, R-2, R-3, or MU Zones and/or property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus;
- 445.6. All structures (including, but not limited to, air compressors, fuel pump islands, kiosks) shall be set back at least fifty feet (50') from any street right-of-way line;

- 445.7. Access driveways shall be a minimum of twenty-four feet (24'), and a maximum of thirty-five feet (35') wide. All access drives onto the same road shall be set back at least one hundred fifty feet (150') from one another, as measured from closest points of cartway edges;
- 445.8. Trash and recycling receptacles shall be provided amid off-street parking areas which shall be routinely emptied. Furthermore, a working plan for the regular cleanup of litter shall be furnished and continuously implemented by the applicant;
- 445.9. All vehicle service and/or repair activities shall be conducted within a completely-enclosed building. No outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations, shall be permitted;
- 445.10. The outdoor storage of unlicensed and uninspected vehicles is prohibited;
- 445.11. The demolition or junking of vehicles is prohibited. Demolished vehicles and/or parts thereof, shall be removed within thirty (30) days after arrival;
- 445.12. Any exterior public address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the ambient noise levels of the use, as measured at each of the property lines; and,
- 445.13. The applicant shall furnish evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all applicable State and Federal regulations.

## **Section 446      Recycling Facilities for Paper, Plastic, Glass, and Metal Products**

- 446.1. Within the (I) Zone, recycling of paper, plastic, glass, and metal products is permitted by conditional use, subject to the following criteria:
- 446.2. All operations, including collection shall be conducted within a completely-enclosed building;
- 446.3. There shall be no outdoor storage of materials processed, used or generated by the operation;
- 446.4. The applicant shall explain the scope of operation, and offer expert testimony regarding the measures used to mitigate problems associated with noise, fumes, dust, and litter; and,
- 446.5. The applicant will be required to assure regular maintenance of the site to immediately collect stray debris.

## **Section 447 Restaurants and Taverns**

- 447.1. Within the (MU) Zone, restaurants and taverns are permitted by conditional use, subject to the following criteria:
- 447.2. The applicant shall furnish evidence of an approved means of water supply and sewage disposal;
- 447.3. All off-street parking and/or loading areas shall be screened from adjoining residences and roads;
- 447.4. All restaurant seating shall be provided within the completely-enclosed building, except that limited exterior seating may be provided if:
1. Such seating is situated and designed so as not to adversely impact nearby residences;
  2. Such seating is accessory to the principal interior seating accommodations;
  3. During use, such seating is continuously supervised by an employee or owner of the restaurant;
  4. Any lighting or music systems serving such seating is designed and operated so as not to constitute a nuisance to adjoining properties;
  5. The applicant shall furnish and implement a working plan for the continuous cleanup of litter and debris that may result from such outdoor seating; and,
  6. Such seating is removed during seasons when not in use.

## **Section 448 Riding Schools and/or Horse Boarding Stables**

- 448.1. Within the (A and C) Zones, riding schools and/or horse boarding stables are permitted by special exception, subject to the following criteria:
- 448.2. Minimum Lot Area - Ten (10) acres;
- 448.3. Any structure used for the boarding of horses shall be set back at least two hundred feet (200') from any property line;
- 448.4. All stables shall be maintained so to minimize odors perceptible at the property line;
- 448.5. All outdoor training or show facilities or areas shall be set back one hundred feet (100') from all property lines;
- 448.6. All outdoor training, show, riding, boarding, or pasture areas shall be enclosed by a minimum four foot (4') high fence, which will be located at least ten feet (10') from all property lines; and,
- 448.7. All parking compounds and unimproved overflow parking areas shall be set back at least ten feet (10') from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking environment or movement of vehicles across neighboring properties.

## Section 449 Rural Occupations

- 449.1. Within the (A and C) Zones, rural occupations are permitted by special exception, subject to the following criteria:
- 449.2. Only one (1) rural occupation may be conducted on the same property as the owner's principal residence, and shall not exceed the area of the principal residence's ground floor or one thousand (1,000) square feet, whichever is the lesser;
- 449.3. A rural occupation shall only be conducted within one completely-enclosed out-building that satisfies at least one (1) of the following:
1. The building will remain the same size and in the same location as it existed on the effective date of this section; or
  2. The building is limited to one (1) story in height or twenty feet (20'), whichever is lesser, is located in the rear yard of the principal residence, and is set back at least fifty feet (50') from any side or rear lot lines. All applicants are required to design buildings that are compatible with their residential settings;
- 449.4. In no case shall any new rural occupation building be constructed before the owner resides on the subject property. In addition, rural occupations may only be conducted so long as the sole owner of the business resides on the site;
- 449.5. In no case shall the required maximum lot coverage be exceeded by those impervious surfaces associated with the principal residence, rural occupation and/or other accessory uses;
- 449.6. All off-street parking and loading spaces shall be screened from adjoining roads and properties;
- 449.7. No outdoor storage or display shall be permitted except that one (1) commercial truck of not more than eleven thousand (11,000) pounds gross vehicle weight may be parked behind the principal residence so long as it is screened from adjoining roads and properties;
- 449.8. One (1) non-illuminated sign not exceeding twelve (12) square feet shall be permitted and must be set back a distance at least equal to its height from every lot line;
- 449.9. No rural occupation and its principal dwelling shall generate more than twenty (20) vehicle trips per day to or from the site. The applicant shall furnish testimony regarding the expected numbers of vehicle trips associated with the proposed use;
- 449.10. Vehicular access to the rural occupation shall be limited to the same driveway connection with the public street that serves the principal residence; however, in no case shall the driveway be closer than fifteen feet (15') from any side or rear lot line. No additional roadway connections shall be permitted;
- 449.11. The maximum number of employees who do not reside on the site shall be equal to two (2) full-time positions. For the purposes of this section, "employees" shall be defined as those involved in the on-site conduct of the rural occupation;
- 449.12. Rural occupations shall only be conducted between the hours of 6 a.m. and 9 p.m. No rural occupation shall be conducted on Sundays;

- 449.13. No manufacturing, mechanical or industrial use shall be permitted which causes any noise, odor, glare, fume, smoke, dust, vibration, electromagnetic interference, or other hazard that is noticeable at or beyond the line of the nearest residential lot. No use that requires application or permitting by the PA DEP for the handling of hazardous waste or other substances, shall be permitted, except for wastewater treatment;
- 449.14. Any area devoted to retail sales display shall be limited to twenty percent (20%) of the overall size of the rural occupation;
- 449.15. The applicant shall furnish evidence that an approved means of sewage disposal shall be utilized, and further that such means is part of the same system in use for the principal residence; and,
- 449.16. Evidence shall be provided indicating that the disposal of all materials and wastes will be accomplished in a manner that complies with State and Federal regulations. Such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate within the County which have been contracted to dispose of the materials and wastes used or generated on-site or some other legal means of disposal. The zoning permit for this use shall remain valid only so long as such contracts remain in effect and all materials and wastes are properly disposed of on a regular basis. Should the nature of the farm occupation change in the future, such that the materials used or wastes generated changes significantly, either in type or amount, the owner of the farm operation shall so inform the Zoning Officer, and shall provide additional evidence demonstrating continued compliance with the requirements of this section.

## **Section 450      Septage and Spent Mushroom Compost Processing and/or Commercial Mushroom Operations**

- 450.1. Within the (A and I) Zones, septage and spent mushroom compost processing and/or commercial mushroom operations are permitted by conditional use, subject to the following criteria:
- 450.2. Any processing, loading, storage, and packaging operations must be conducted within a completely-enclosed building that is leak- and vector-proof;
- 450.3. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable State and Federal standards and regulations:
- 450.4. The use shall be screened from all roads and adjoining properties;
- 450.5. All uses shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting to be weighed or loaded/unloaded will not back up onto public roads;
- 450.6. All driveways onto the site must be paved for a distance of at least one hundred feet (100') from the street right-of-way line. In addition, a fifty foot (50') long gravel section of driveway shall be placed just beyond the preceding one hundred foot (100') paved section to help collect any mud that may have attached to a vehicle's wheels:
- 450.7. The unloading, processing and transfer, of septage and spent mushroom compost shall be continuously supervised by a qualified facility operator;

450.8. Any leachate shall be disposed of in a manner in compliance with any applicable State and Federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the PA DEP regulations;

450.9. The applicant shall submit an analysis of raw water needs (groundwater or surface-water) from either private or public sources, indicating quantity of water required. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed;

In addition, if the facility is to rely upon non-public sources of water, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer;

A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the municipality.

A water feasibility study shall include the following information:

- calculations of the projected water needs;
- a geologic map of the area with a radius of at least one mile from the site;
- the location of all existing and proposed wells within one thousand feet (1,000') of the site and all known point sources of pollution;
- based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
- a determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams and the groundwater table; and,
- a statement of the qualifications and the signature(s) of the person(s) preparing the study;

450.10. A minimum one hundred foot (100') wide buffer strip shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this buffer strip. Any fences or other screening erected on the site must not be located within this buffer strip;

450.11. The applicant shall provide an analysis of the physical conditions of the primary road system serving the proposed use. The analysis shall include information on the current traffic flows on this road system, and projections of traffic generated by the proposed use. Improvements to the road shall be provided by the applicant to insure safe turning movements to and from the site and safe through-movement on the existing road; and,

450.12. Any structure used for the storage, loading, processing and/or packaging of spent mushroom compost shall be set back at least three hundred feet (300') from all property lines. In addition, any ventilation outlets must be oriented away from any land within a residential zone.

## Section 451 Shooting Ranges

- 451.1. Within the (C) Zone, shooting ranges are permitted by conditional use, subject to the following criteria:
- 451.2. Shooting Range Operations:
1. May not substantially injure or detract from the lawful existing or permitted use of neighboring properties;
  2. May not substantially damage the health, safety or welfare of the (municipality) or its residents and property owners;
  3. Must comply with all applicable State and local laws, rules and regulations regarding the discharge of a firearm;
  4. Shall limit the storage of ammunition to only that utilized on the property within a twenty-four (24) hour period. The storage of live ammunition shall only occur in an approved safe;
  5. Shall limit the number of shooters to the number of firing points or stations identified on the development plan;
  6. Shall require all shooters to satisfactorily complete an orientation safety program given in accordance with the National Rifle Association, or show a valid hunting permit or gun permit, before they are allowed to discharge firearms; and,
  7. Shall limit the consumption of alcoholic beverages to days when no shooting activities are permitted, or when the shooting activities are completed for that day. Furthermore, alcoholic beverages may only be consumed in designated areas away from the firing points or stations;
- 451.3. A development plan shall identify the Safety Fan for each firing range. The Safety Fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The Safety Fan configuration shall be based upon qualified expert testimony regarding the trajectory of the bullet and the design effectiveness of walls, baffles or other safety barriers to contain projectiles to the Safety Fan;
- 451.4. All surfaces located within the Safety Fan, including the backstop, walls, baffles, and range floor, shall be free of hardened surfaces, or other ricochet-producing materials;
- 451.5. All shooting range facilities, including buildings, parking, firing range, and Safety Fan shall be set back a minimum of one hundred feet (100') from the property line and street right-of-way;
- 451.6. The applicant shall present credible evidence that the sounds of shooting in the nearest residential zone do not exceed the ambient noise level; and,
- 451.7. Off-street parking facilities shall be provided with a ratio of one and one-half (1½) spaces per firing station, but not less than one (1) space for each four (4) seats.

## Section 452 Shopping Centers

- 452.1. Within the (C-1 and TC) Zones, shopping centers are permitted by conditional use, subject to the following criteria:
- 452.2. The subject property shall front on an arterial or collector road, and all access drives shall be set back at least two hundred feet (200') from the intersection of any street right-of-way lines;
- 452.3. In addition to vehicular access to the property, the applicant shall be required to design and construct pedestrian linkages with any nearby residentially-zoned areas, and industrially-zoned areas, even if they are not yet developed. Such pedestrian linkages shall be located so as to provide safe and convenient access to the shopping center from the nearby areas;
- 452.4. Any shopping center must provide an improved bus stop which would be conveniently accessible for patrons who would travel to and from the site by bus. Such bus stop must be provided, even if current bus service is unavailable along the subject property. Such bus stop shall include a shelter, seating, a waste receptacle, and at least one shade tree;
- 452.5. A Traffic Impact Report shall be submitted by the applicant, in accordance with Section 302.5.4. of the SLDO; and,
- 452.6. Signage shall be permitted in accordance with those regulations contained in the following table:

SHOPPING CENTER SIGN REQUIREMENTS					
Sign Type	Maximum Number Permitted	Maximum Permitted Sign Area	Maximum Permitted Height	Other Requirements	Zoning Permit Required
<b>Freestanding shopping center sign</b>	1 per street frontage with entrance or exit	1 sq. ft. for each 4 lineal feet of frontage within the shopping center, with a maximum of 100 sq. ft.	15 ft.	This sign shall devote no less than 50% of the total sign area (per side) to the advertisement of the shopping center's name.	Yes
<b>Anchor tenant sign</b> for one use containing more than 150 lineal feet of storefront.	1 per side facing a street, with a maximum of 2 signs	If sign is less than 100 ft. from facing street, then sign can be up to a maximum of 50 sq. ft. If sign is more than 100 ft. from facing street, then sign can be up to a maximum of 100 sq. ft.	Height of wall to which sign is attached.	These signs shall only be provided as flat wall, wall projecting or roof signs.	Yes
<b>Storefront sign</b> for one use containing up to 150 lineal feet of storefront.	1 per principal use	2 sq. ft. per lineal foot of storefront, up to a maximum of 50 sq. ft.	Height of wall to which sign is attached.	This sign shall only be provided as a flat wall or a wall projecting sign.	Yes

SHOPPING CENTER SIGN REQUIREMENTS					
Sign Type	Maximum Number Permitted	Maximum Permitted Sign Area	Maximum Permitted Height	Other Requirements	Zoning Permit Required
<b>Storefront under-canopy signs</b> for all principal uses.	1 per use with less than 150 lineal feet of storefront, 2 per use with more than 150 lineal feet of storefront	4 sq. ft.	To base of canopy, or where no canopy is provided, 10 ft.	No under-canopy sign shall have a vertical dimension of more than 18 in. from its lowest to highest point. The base of an under-canopy sign shall be no less than 8 ft., 6 in. above the finished grade below such sign.	Yes
<b>Outparcel signs</b> for principal freestanding uses sharing common ingress and egress to shopping center.	2 per principal use, but only 1 per wall	50 sq. ft. per sign, not exceeding 20% of wall area to which sign is attached.	Height of wall to which sign is attached.	These signs shall only be provided as flat wall, wall projecting or roof signs.	Yes

### Section 453 Slaughtering, Processing, Rendering, and Packaging of Food Products and Their By-Products

- 453.1. Within the (I) Zone, slaughtering, processing, rendering, and packaging of food products and their by-products are permitted by conditional use, subject to the following criteria:
- 453.2. Minimum Lot Area - Five (5) acres;
- 453.3. The subject site shall have access to a major collector or arterial road;
- 453.4. Public sewer and public water facilities shall be utilized;
- 453.5. All aspects of the slaughtering, processing, rendering, and packaging operation, excepting the unloading and holding of live animals, shall be conducted within a completely-enclosed building;
- 453.6. All live animals held outside shall be within secure holding pens or runways, sufficiently large to accommodate all animals without crowding, and not located within the front yard;
- 453.7. The applicant shall furnish a working plan for the recovery of escaped animals which minimizes the potential for animals to enter traffic or cross property lines, and which shall be continuously implemented;
- 453.8. All animal wastes shall be regularly cleaned up and properly disposed of, so as not to be objectionable at the site's property line;
- 453.9. The unloading of live animals from trucks into holding pens and their movement into the plant shall be continuously supervised by a qualified operator, whose responsibility it shall also be to immediately identify and appropriately dispatch any obviously ill or injured animals;

- 453.10. The unloading of live animals and their movement into the plant shall be conducted in an orderly and calm manner so as to minimize noise levels;
- 453.11. The loading and unloading of trucks shall be restricted to the hours between 6:00 a.m. and 10:00 p.m.;
- 453.12. No exterior animal holding pens and/or areas devoted to loading/unloading of animals shall be located within three hundred feet (300') of any property line;
- 453.13. All animal holding pens and/or areas used for the loading/unloading of animals shall be screened from all adjoining properties and shall include a minimum fifty foot (50') wide landscape strip;
- 453.14. Sewer and water lines shall not meet within or beneath the plant, and shall further be designed and installed to minimize the potential for leakage and contamination by maximizing the separation distance between lines and laying sewer lines at greater depth than water lines;
- 453.15. Where wastewater pretreatment is required by the EPA or local authority, wastewater shall be kept completely covered at all times to reduce the potential for release of odors. In no event shall wastewater be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with PA DEP regulations;
- 453.16. Public water supplies shall be tested for water potability prior to approval, and annually thereafter, the results of which shall be regularly submitted to the USDA;
- 453.17. All unusable animal by-products shall be stored indoors in leak- and vector-proof containers. In the case of slaughtering or processing operations which do not do their own rendering, the applicant shall provide evidence of a written contract with a rendering operation for the daily disposal of such waste products. In no case shall any waste products remain on the site for more than twenty-four (24) hours;
- 453.18. The applicant must demonstrate written compliance with, and continue to comply with, all applicable local, State and Federal standards and regulations;
- 453.19. The use shall provide sufficiently-long stacking lanes and on-site loading/unloading areas, so that trucks waiting to be loaded/unloaded will not back up onto public roads. No parking or loading/unloading shall be permitted on or along any public road;
- 453.20. Vehicular access shall be so arranged as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties. Access drives used by trucks shall only intersect with major collector or arterial roads;
- 453.21. All access drives onto the site shall have a paved minimum thirty-five foot (35') wide cartway for a distance of at least two hundred feet (200') from the street right-of-way. In addition, if portions of on-site access drives are unpaved, then a fifty foot (50') long gravel section of driveway shall be placed just beyond the preceding two hundred foot (200') paved section to help collect any mud that may have attached to a vehicle's wheels; and,
- 453.22. The applicant shall furnish a Traffic Impact Report prepared by a professional traffic engineer in accordance with Section 302.5.4. of the SLDO.

## **Section 454 Solid Waste Disposal and Processing Facilities**

- 454.1. Within the (I) Zone, solid waste disposal and processing facilities are permitted by conditional use, subject to the following criteria:
- 454.2. Any processing or solid waste (including, but not limited to, incineration, composting, shredding, compaction, material separation, refuse derived fuel, pyrolysis, etc.) shall be conducted within a completely-enclosed building;
- 454.3. No refuse shall be deposited or stored, and no building or structure shall be located within three hundred feet (300') of any property line;
- 454.4. Any area used for the unloading, transfer, storage, processing, incineration or deposition of refuse must be completely screened from ground-level view at the property line. (The use of an earthen berm is encouraged where practicable.) In addition, such areas must also be completely enclosed by an eight foot (8') high fence, with no openings greater than two inches (2") in any direction;
- 454.5. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable State and Federal standards and regulations;
- 454.6. The use shall be screened from all roads and adjoining properties;
- 454.7. All uses shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting to be weighed will not back up onto public roads;
- 454.8. All driveways onto the site shall be paved for a distance of at least two hundred feet (200') from the street right-of-way line. In addition, a fifty foot (50') long gravel section of driveway should be placed just beyond the preceding two hundred foot (200') paved section to help collect any mud that may have attached to a vehicle's wheels;
- 454.9. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against the indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations;
- 454.10. Hazardous waste as described by the Department of Environmental Protection shall not be disposed of within the proposed area;
- 454.11. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the cleanup of litter shall be submitted to the (municipality);
- 454.12. The unloading, processing, transfer and deposition of solid waste shall be continuously supervised by a qualified facility operator;
- 454.13. Any waste that cannot be used in any disposal process/or material that is to be recycled, shall be stored in leak- and vector-proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely-enclosed building;
- 454.14. All storage of solid waste shall be indoors in a manner that is leak- and vector-proof. During normal operation, no more solid waste shall be stored on the property

that is needed to keep the facility in constant operation; but, in no event for more than seventy-two (72) hours;

- 454.15. A contingency plan for the disposal of solid waste during a facility shutdown, shall be submitted to the (municipality);
- 454.16. Leachate from the solid waste shall be disposed of in a manner in compliance with any applicable State and Federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the Department of Environmental Protection's regulations;
- 454.17. All structures exceeding three hundred feet (300') in height shall be set back at least a distance equal to their height from each property line;
- 454.18. The applicant shall submit an analysis of raw water needs (groundwater or surface-water) from either private or public sources, indicating quantity of water required. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed.

In addition, if the facility is to rely upon non-public sources of water, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer.

A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the municipality.

A water feasibility study shall include the following information:

- calculations of the projected water needs;
- a geologic map of the area with a radius of at least one mile from the site;
- the location of all existing and proposed wells within one thousand feet (1,000') of the site, with a notation of the capacity of all high-yield wells;
- the location of all existing on-lot sewage disposal systems within one thousand feet (1,000') of the site;
- the location of all streams within one thousand feet (1000') of the site and all known point sources of pollution;
- based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
- a determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams and the groundwater table; and,
- a statement of the qualifications and the signature(s) of the person(s) preparing the study.

- 454.19. The applicant shall submit a qualified Traffic Impact Report in accordance with Section 302.5.4. of the SLDO; and,

- 454.20. A minimum one hundred foot (100') wide landscape strip shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this landscape strip. Any fences or other screening erected on the site, must not be located within this landscape strip.

## **Section 455 Truck or Motor Freight Terminals**

- 455.1. Within the (I) Zone, truck or motor freight terminals are permitted by conditional use, subject to the following criteria:
- 455.2. The applicant shall furnish a Traffic Impact Report prepared by a professional traffic engineer, in accordance with Section 302.5.4. of the SLDO;
- 455.3. The subject property shall have a minimum of three hundred feet (300') of road frontage and have direct vehicular access along an arterial or collector road;
- 455.4. The subject property shall be located no closer than three hundred feet (300') from any residential zone and/or property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus;
- 455.5. All structures (including, but not limited to, air compressors, fuel pump islands, kiosks) shall be set back at least fifty feet (50') from any street right-of-way line;
- 455.6. Access driveways shall be a minimum of twenty-eight feet (28'), and a maximum of thirty-five feet (35') wide. All access drives onto the same road shall be set back at least one hundred fifty feet (150') from one another, as measured from closest points of cartway edges;
- 455.7. Off-street parking shall be provided at a rate equal to that required for each of the respective uses comprising the truck stop. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods;
- 455.8. All vehicle service and/or repair activities shall be conducted within a completely-enclosed building. No outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations, shall be permitted;
- 455.9. The outdoor storage of unlicensed vehicles is prohibited;
- 455.10. The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof, shall be removed within two (2) weeks after arrival;
- 455.11. Any exterior public address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the ambient noise levels of the use, as measured at each of the property lines; and,
- 455.12. The applicant shall furnish evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all applicable State and Federal regulations.

## Section 456 Truck Stops

- 456.1. Within the (I) Zone, truck stops are permitted by conditional use, subject to the following criteria:
- 456.2. The subject property shall have a minimum of three hundred feet (300') of road frontage and have direct vehicular access along an arterial or collector road;
- 456.3. The subject property shall be located no closer than three hundred feet (300') from any residential zone and/or property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus;
- 456.4. All structures (including, but not limited to, air compressors, fuel pump islands, kiosks) shall be set back at least fifty feet (50') from any street right-of-way line;
- 456.5. Access driveways shall be a minimum of twenty-eight feet (28'), and a maximum of thirty-five feet (35') wide. All access drives onto the same road shall be set back at least one hundred fifty feet (150') from one another, as measured from closest points of cartway edges;
- 456.6. Off-street parking shall be provided at a rate equal to that required for each of the respective uses comprising the truck stop. The applicant shall also present credible evidence that the number of "oversized" off-street parking spaces provided for trucks will be adequate to accommodate the expected demand generated by truck patrons. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods;
- 456.7. Trash receptacles shall be provided amid off-street parking areas which shall be routinely emptied. Furthermore, a working plan for the regular cleanup of litter shall be furnished and continuously implemented by the applicant;
- 456.8. All uses involving drive-thru restaurant and/or drive-thru vehicle service and/or washing shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads;
- 456.9. All vehicle service and/or repair activities shall be conducted within a completely-enclosed building. No outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations, shall be permitted;
- 456.10. The outdoor storage of unlicensed vehicles is prohibited;
- 456.11. All vehicles and machinery shall be repaired and removed from the premises promptly;
- 456.12. The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof, shall be removed within two (2) weeks after arrival;
- 456.13. Any exterior public address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the ambient noise levels of the use, as measured at each of the property lines;

- 456.14. The applicant shall submit a Traffic Impact Report, as governed by Section 302.5.4. of the SLDO; and,
- 456.15. The applicant shall furnish evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all applicable State and Federal regulations.

## **Section 457 Warehousing and Wholesale Trade Establishments**

- 457.1. Within the (I) Zone, warehousing and wholesale trade establishments are permitted by conditional use, subject to the following criteria:
- 457.2. The applicant shall provide a detailed description of the proposed use in each of the following topics:
1. The nature of the on-site activities and operations, the types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations;
  2. The general scale of the operation, in terms of its market area, specific floor space requirements for each activity, the total number of employees on each shift, and an overall needed site size;
  3. Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances; and,
  4. A Traffic Impact Report prepared by a professional traffic engineer, according to Section 302.5.4. of the SLDO.

## **Section 458 Wholesale Produce and Tobacco Auctions**

- 458.1. Within the (I) Zone, wholesale produce and tobacco auctions are permitted by conditional use, subject to the following criteria:
- 458.2. No part of the subject property shall be within three hundred feet (300') of any residentially-zoned land;
- 458.3. All access drives onto the site shall be paved for a distance for at least two hundred feet (200') from the street right-of-way line. In addition, a fifty foot (50') long gravel section of driveway should be placed just beyond the preceding two hundred foot (200') paved section to help collect any mud that may have attached to a vehicle's wheels;
- 458.4. The owner and/or operator of the produce auction shall be responsible for removing any mud from public roads caused by persons traveling to and from the auction;

- 458.5. The applicant shall be required to provide sufficient off-street parking and loading so as not to require such parking or loading on or along any road, nor upon adjoining property. If, at any time after the opening of the facility, the Borough determines that parking, loading or traffic backups are occurring on adjoining roads, and such are directly related to the lack of on-site facilities on the subject property, the Borough can require the applicant to revise and/or provide additional on-site parking and/or loading space. In addition, the Borough may require an unimproved grassed overflow parking area to be provided for peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads;
- 458.6. The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, noise, light, litter, dust, and pollution;
- 458.7. The subject property shall have road frontage and direct vehicular access along an arterial or collector road;
- 458.8. Soil erosion, sedimentation and storm water runoff shall be controlled in accordance with all applicable laws and regulations; and,
- 458.9. The applicant shall submit and continuously implement a working plan for the cleanup of litter and other debris.





# Article 5

## Nonconformities

### Section 500 Continuation

Except as otherwise provided in this Article of this Ordinance, any use, building, or structure lawfully existing at the time of enactment of this Ordinance may be continued, although it is not in conformity with the regulations specified by this Ordinance.

### Section 501 Abandonment

If a nonconforming use of land or building or structure ceases or is discontinued for a continuous period of two (2) years, or more, a presumption of abandonment shall arise, and unless the presumption is rebutted, resumption of the use of such building, structure or land shall be in conformity with the provisions of this Ordinance.

### Section 502 Extension of a Nonconforming Use of Land

Any lawful nonconforming use of land exclusive of buildings and structures and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Ordinance, but such extension shall conform to area and lot regulations and the design standards of this Ordinance and to the percentage limitation as set forth in Section 503.1.2. of this Ordinance. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Ordinance.

### Section 503 Expansion or Alteration

503.1. Any nonconforming use may be expanded or altered through the acquisition of a special exception and subject to the following criteria, and those contained in Section 604.3:

1. Expansion of the nonconformity shall be confined to the lot on which it was located at the time the use became nonconforming;
2. The total of all such expansions or alterations of use shall not exceed an additional fifty percent (50%) of the area of those buildings or structures or land devoted to the nonconforming use as they existed on the date on which the use of such buildings, structures or land first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created;

3. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance;
4. Provision for yards, building height and building area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located;
5. Appearance should be harmonious with surrounding properties; this feature includes, but is not limited to, landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces;
6. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings and open spaces;
7. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities;
8. No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this Ordinance shall be permitted in the Floodplain Zone;
9. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or structure located in the Floodplain Zone shall comply with Section 230.9. of this Ordinance; and,

503.2. Any dimensional nonconformity may be reduced by permitted use. The extension or enlargement of a dimensional nonconformity may also be permitted by right; however, such extension or enlargement shall be limited to a total of a ten percent (10%) increase of the dimensional nonconformity when it was originally created.

## **Section 504 Substitution or Replacement**

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception, if the Zoning Hearing Board determines that the proposed use is at least equally compatible with the surrounding area, as the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities. The Zoning Hearing Board may attach reasonable conditions to the special exception to keep the use compatible within its surroundings.

## **Section 505 Restoration**

Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause may be reconstructed in the same location, provided that:

- 505.1. The reconstructed building or structure shall not exceed the height, area, or volume of the damaged or destroyed building or structure and such reconstructed building or structure shall not increase any dimensional nonconformities; and,
- 505.2. Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

## **Section 506      Previously Expanded Nonconforming Uses and Structures**

It is the express intent and purpose of this Ordinance that if a building, structure, sign or land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said building, structure, sign, or land shall be authorized. In the event a nonconforming building, structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion if permitted by this Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

## **Section 507      Nonconforming Lots**

Subject to the provisions of Section 508(4) of the Act, the following shall apply:

- 507.1.      In any zone in which single-family detached dwellings are permitted, a single-family detached dwelling may be erected on any single lot, as defined in this Ordinance, existing in single and separate ownership on the effective date of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet all of the lot area and lot width requirements of the zone in which the lot is located. All setback and lot coverage requirements shall be met.
- 507.2.      If a lot consists of two or more lots of record or combinations of lots or portions of lots of record held in single and separate ownership on the effective date of this Ordinance, such lots of record shall not be separately transferred or developed, unless the lot so transferred or developed (whether consisting of one or more lots of record) and the lot retained by the transferor (whether consisting of one or more lots of record) shall meet all requirements of the zone in which the lot or lots are located. It is the intention of this provision that no portion of any lot consisting of two or more lots of record shall be used or sold in a manner which does not comply with all requirements established by this Ordinance or which shall result in the creation of a lot with a lot width, lot area or yard setback below the minimum requirements or with lot coverage in excess of the maximum requirements stated in this Ordinance.

## **Section 508      Nonconforming Signs**

Nonconforming signs may continue to be displayed, as long as there is compliance with the following limitations and conditions:

1. There may be no expansion or increase in the nonconformity in any way;
2. Maintenance and repair of the sign are permitted; if necessary, up to fifty percent (50%) of the sign and its supporting structure may be replaced in the event of damage, with this fifty percent (50%) limitation being cumulative; any such replacement must be completed within six (6) months of the damage occurring; and,
3. The sign must be brought into conformity if, for a period of at least three (3) months, the message has no longer applied to an activity on the premises (this does not apply to billboards).







# Article 6

## Zoning Hearing Board

### Section 600 Establishment and Membership

Within each Borough, there shall be a Zoning Hearing Board which shall consist of three (3) members who shall be appointed by its Borough Council. The membership of the Zoning Hearing Board shall consist of residents of the Borough. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify its respective 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 its respective Borough. Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of its respective Borough Council taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Each Borough Council may appoint at least one (1), but no more than three (3) residents of the municipality to serve as alternate members of its respective Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 601, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. Alternates shall hold no other office in their respective municipality, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Zoning Hearing Board, but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated pursuant to Section 602, unless designated as a voting alternate member pursuant to Section 601 of this Ordinance.

### Section 601 Organization of Zoning Hearing Board

Within each Borough, the 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 members of the Zoning Hearing Board, but each 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 Section 603. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Zoning Hearing Board shall designate as many alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made

on a case-by-case basis in rotation according to declining seniority among all alternates. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with Ordinances of its respective Borough and laws of the Commonwealth. Each Zoning Hearing Board shall keep full public records of its business, which records shall be the property of its respective Borough, and shall submit a report of its activities to its respective Borough Council upon request.

## **Section 602 Expenditures for Services**

Within the limits of funds appropriated by its Borough Council, each 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 the Borough Council. Alternate members of the Zoning Hearing Board may receive compensation, as may be fixed by the Borough Council, for the performance of their duties when designated as alternate members pursuant to Section 601, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the Borough Council.

## **Section 603 Hearings**

603.1. Each Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Public notice (as defined herein) shall be provided. In addition, each Zoning Hearing Board shall notify by mail its respective Zoning Officer, Borough Secretary, each member of its Borough Council, Secretary of the Borough Planning Commission, every other person or organization who shall have registered with the Zoning Hearing Board for the purposes of receiving such notices, and all other persons or property owners, as determined by resolution of the Borough Council. Such mailed notices shall state the location of the site and the nature of the request. It shall also state the time, date and location of the proposed hearing. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing;
2. Each Borough Council may prescribe reasonable fees with respect to hearings before its Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of its Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of its Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs;
3. The first hearing shall be commenced within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant. Any party aggrieved by the schedule or progress of the hearings may apply to the Court of Common Pleas for judicial relief. The hearing shall be completed no later than one hundred (100) days after the completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas;

- 603.2. The hearings shall be conducted by the Zoning Hearing Board, or the Zoning Hearing Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the hearing officer as final;
- 603.3. The parties to the hearing shall be the respective Borough, any person affected by the application who has made timely appearance of record before the respective Zoning Hearing Board, and any other person, including civic or community organizations permitted to appear by the Zoning Hearing Board. Each Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Zoning Hearing Board for that purpose;
- 603.4. The chairman, or acting chairman, of each Zoning Hearing Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties;
- 603.5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues;
- 603.6. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded;
- 603.7. Each 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 respective 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 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;
- 603.8. The respective Zoning Hearing Board, or the hearing officer, shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative, unless all parties are given an opportunity to be present;
- 603.9. The respective Zoning Hearing Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of the Act or of this Ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by

a hearing officer, and there has been no stipulation that his decision or findings are final, the respective Zoning Hearing Board shall make its report and recommendations available to the parties within forty-five (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, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Where the respective Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to commence or complete the required hearing as provided in Section 603.1.3. of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the respective Zoning Hearing Board to meet or render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in Section 603.1. of this Ordinance. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction;

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

603.11. Effect of Zoning Hearing Board's Decisions:

1. If a variance or special exception is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the variance or special exception is finally granted, or the issuance of a permit is finally approved, or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the respective Zoning Hearing Board may, at any time, upon application in writing, extend either of these deadlines;
2. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit, should he fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the respective Zoning Hearing Board;
3. Should the appellant or applicant commence construction or alteration within said two (2) year period, but should he fail to complete such construction or alteration within said three (3) year period, the respective Zoning Hearing Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Zoning Hearing Board finds that no good cause appears for the failure to complete within such three (3) year period, and if the Zoning

Hearing Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified; and,

4. As an alternative to the preceding, an applicant can request, as part of the original application before the Zoning Hearing Board, the granting of a time-table associated with the request which would supersede the deadlines imposed in Sections 603.11.1.-3. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a time-table under this section, the respective Zoning Hearing Board must establish and bind a definite time frame for (1) issuance of a zoning permit, and (2) completion of the project.

## **Section 604 Zoning Hearing Board's Functions**

Within each Borough, its Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decisions in the following matters:

604.1. Substantive challenges to the validity of the Zoning Ordinance, except those brought before the Borough Council pursuant to Sections 703.7. and 703.8. of this Ordinance.

1. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged Ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
  - A. The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities;
  - B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or Zoning Map;
  - C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources, and other natural features;
  - D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts; and,
  - E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare;
2. Public notice of the hearing shall be provided as specified in Section 703.2.2. of this Ordinance;

3. The respective Zoning Hearing Board shall commence its hearings within sixty (60) days after the request is filed, unless the landowner requests or consents to an extension of time; and,
4. The respective Zoning Hearing Board shall render its decision within forty-five (45) days after the conclusion of the last hearing. If the Board fails to act on the landowner's request within this time limit, a denial of the request is deemed to have occurred on the 46<sup>th</sup> day after the close of the last hearing;

604.2. Challenges to the validity of the Zoning Ordinance, raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of the Ordinance;

604.3. Special exceptions, as provided for in this Ordinance, and subject to all applicable requirements, including, but not limited to:

1. Filing Requirements. In addition to the required zoning permit information (see Section 701), each special exception application shall include the following:
  - A. Ground floor plans and elevations of proposed structures;
  - B. Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
  - C. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
  - D. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance;
2. General Criteria. Each applicant must demonstrate compliance with the following:
  - A. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
  - B. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
  - C. The proposed use will not substantially change the character of the subject property's neighborhood;
  - D. Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.);
  - E. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance; and,

F. The proposed use will not substantially impair the integrity of the Borough's Comprehensive Plan.

3. Conditions. The respective Zoning Hearing Board, in approving special exception applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 7; and,
4. Site Plan Approval. Any site plan presented in support of the special exception pursuant to Section 604.3.1. shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property, not reflected on the originally approved site plan, shall require the obtainment of another special exception approval;

604.4. Variances. The respective Zoning Hearing Board shall hear requests where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or zone in which the property is located;
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance, and that the authorization of a variance is therefore necessary to enable reasonable use of the property;
3. That such unnecessary hardship has not been created by the appellant;
4. That the variance, if authorized, will not alter the essential character of the zone or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;
6. In granting any variance, the respective Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions

shall constitute a violation of this Ordinance and subject to the penalties described in Article 7;

7. Filing Requirements – In addition to the required zoning permit information (see Section 701), each variance application shall include the following:
    - A. Ground floor plans and elevations of existing and/or proposed structures;
    - B. Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
    - C. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
    - D. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance;
  8. Conditions. The respective Zoning Hearing Board in approving variance applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 7; and,
  9. Site Plan Approval. Any site plan presented in support of a variance shall become an official part of the record for said variance. Approval of any variance will also bind the use in accordance with the submitted site plan;
- 604.5. Appeals from the determination of the respective Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot;
- 604.6. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance;
- 604.7. Appeals from the respective Zoning Officer's determination under Section 916.2 (and any subsequent amendments) of the Act; and,
- 604.8. Appeals from the determination of the respective Zoning Officer or municipal engineer in the administration of any land use ordinance with reference to sedimentation and erosion control, and/or storm water management for applications not involving a subdivision/land development, nor a planned residential development as regulated in Articles V and VII of the Act, respectively.

## **Section 605 Parties Appellant Before the Zoning Hearing Board**

Appeals under Sections 604.5., 604.6., 604.7., and 604.8., and proceedings to challenge this Ordinance under Sections 604.1. and 604.2. may be filed with the respective Zoning Hearing

Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance under Section 604.4., and for special exception under Section 604.3., may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner. Any appeal shall state:

- 605.1. The name and address of the appellant and applicant;
- 605.2. The name and address of the landowner of the real estate to be affected;
- 605.3. A brief description and location of the real estate to be affected by such proposed change, together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request;
- 605.4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof; and,
- 605.5. A statement of the section of this Ordinance under which the request may be allowed, and reasons why it should, or should not be granted.

## **Section 606 Time Limitations**

No person shall be allowed to file any proceeding with its Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Zoning Officer or the agency responsible for granting such approval, 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 or 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 this Ordinance or the Official Zoning Map pursuant to Section 916.2. of the Act, as amended, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative preliminary approval.

## **Section 607 Stay of Proceeding**

Upon filing of any proceeding referred to in Section 605, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed, unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved, and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is

frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

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

## **Section 608      Appeal**

All appeals from all decisions of the Zoning Hearing Board by any party shall be taken to the Court of Common Pleas of Berks County and shall be filed within thirty (30) days after entry of the decision or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given, as set forth in Article X-A of the Act, as amended.





# Article 7

## Administration

### Section 700 Administration and Enforcement

#### 700.1. Administration:

1. Zoning Officer. The provisions of this Ordinance shall be enforced by an agent, to be appointed by each Borough Council, who shall be known as the Zoning Officer. The Zoning Officer shall be appointed at the first meeting of its Borough Council in January to serve until the first day of January next following, and shall thereafter be appointed annually to serve for a term of one (1) year and/or until his successor is appointed. The Zoning Officer may succeed himself. He/she shall receive such fees or compensation as the Borough Council may, by resolution, provide. The Zoning Officer shall not hold any elective office within the Borough in which he/she serves. The Zoning Officer may designate an employee of the Borough as his Assistant, subject to the approval of the Borough Council, who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.
2. Duties. The duties of the Zoning Officer shall be:
  - A. To receive, examine and process all applications and permits, as provided by the terms of this Ordinance. The Zoning Officer shall also issue zoning permits for special exception and conditional uses, or for variances after the same have been approved;
  - B. To record and file all applications for zoning permits or certificates of use and occupancy, and accompanying plans and documents, and keep them for public record;
  - C. To inspect properties to determine compliance with all provisions of this Ordinance, as well as conditions attached to the approval of variances, special exceptions, conditional uses, and curative amendments;
  - D. To inspect nonconforming uses, structures and lots, and to keep a filed record of such nonconforming uses and structures, together with the reasons why the Zoning Officer identified them as nonconformities, as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations;

- E. Upon the request of the respective Borough Council or the respective Zoning Hearing Board, present to such bodies facts, records and any similar information on specific requests, to assist such bodies in reaching their decisions;
- F. To be responsible for keeping this Ordinance and the Official Zoning Map up-to-date, including any amendments thereto;
- G. To remain eligible for the National Flood Insurance Program, the Zoning Officer shall submit a biannual report to the Federal Insurance Administration concerning the status of the Program in the Borough (the report form shall be provided by the Federal Insurance Administration);
- H. To render a preliminary opinion regarding a proposed land use, in accordance with Section 916.2. of the Act; and,
- I. To revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application, or on the plans on which the permit or approval was based, or for any other cause set forth in the Zoning Ordinance, or otherwise permitted by law;

700.2. Enforcement. This Ordinance shall be enforced by the respective Zoning Officer of each Borough. No zoning permit or certificate of use and occupancy shall be granted by him/her for any purpose, except in compliance with the literal provisions of this Ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment;

700.3. Violations. Failure to secure a zoning permit prior to a change in use of land or structure, or the erection, construction or alteration of any structure or portion thereof, shall be a violation of this Ordinance. It shall also be a violation of this Ordinance to undertake other deliberate actions which are contrary to the terms of the Ordinance and any conditions placed upon the approval of special exceptions, variances and conditional uses. Each day that a violation is continued shall constitute a separate offense.

If it appears to the respective Borough that a violation of this Zoning Ordinance enacted under the Act or prior enabling laws has occurred, said Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in the following:

1. 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;
2. An enforcement notice 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 the Ordinance;
- D. The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
- E. That the recipient of the notice has the right to appeal to the respective Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Ordinance; and,
- F. 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;

700.4. Enforcement Remedies. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance enacted under the Act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by the respective Borough, pay a judgment of not more than five hundred dollars (\$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 be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the respective Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of the Zoning Ordinance shall be paid over to the Borough;

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

## Section 701 Permits

701.1.

### General Requirements for Zoning Permits:

1. A zoning permit shall be required prior to:
  - A. a change in use of land or structure;
  - B. the erection, construction, improvement, demolition, or alteration of any structure or portion thereof that affects the exterior dimensions of the structure;
  - C. the alteration or development of any improved or unimproved real estate, including, but not limited to, mining, dredging, filling, grading, paving, excavation, or drilling operations;
  - D. the erection or alteration of any signs specified in Section 314.2. of this Ordinance;
  - E. the construction or installation of animal waste impoundments, lakes, ponds, dams, or other water retention basins; and/or
  - F. the conduct of any forestry use, as defined herein.

No zoning permit shall be required for repairs or maintenance of any structure or land, provided such repairs do not change the use or the exterior dimensions of the structure, or otherwise violate the provisions of this Ordinance;

2. Application for zoning permits shall be made in writing to the respective Zoning Officer;
3. Such zoning permits shall be granted or refused within ninety (90) days from date of application;
4. No zoning permit shall be issued, unless such permit complies with:
  - A. all applicable regulations of this Ordinance;
  - B. any conditions imposed upon the site by the respective Zoning Hearing Board or the respective Borough Council; and,
  - C. any recorded subdivision or land development plan;
5. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all of the above-described requirements, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the zoning permit will be denied;
6. Application for a permit shall be made by the Owner or Lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application;
7. The Zoning Officer may call upon other Borough staff and/or Borough-appointed consultants in the review of submitted materials for applications;

8. The Zoning Officer may revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance;
9. Where a permit is required by this Ordinance, but the work is commenced or the use is commenced or changed prior to obtaining such permit, and after notice by the Borough, the fees set by ordinance or resolution of the Borough Council for such permit shall be doubled. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Borough, resulting from the need to inspect the property, respond to any complaints, issue any enforcement notices and/or process the application as soon as it is received. The payment of such increased permit fee shall not relieve any person from complying with all requirements of this Ordinance or any other applicable Borough ordinances or from any penalties or enforcement actions authorized by this Ordinance or the Act;
10. Issuance of Permits. Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons therefor. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, and that the certificate of use and occupancy as required herein has been applied for, he shall issue a permit therefore as soon as practical, but not later than ninety (90) days from receipt of the application;
11. Reconsideration of Application. An applicant whose request for a permit has been denied by the Zoning Officer may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met;
12. Expiration of Permit. The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional two (2) years, upon written request by the applicant which demonstrates good cause to the Zoning Officer;
13. Compliance With Ordinance. The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel or set aside any of the provisions of the Zoning Ordinance, except as stipulated by the respective Zoning Hearing Board;
14. Compliance With Permit and Plot Plan. All work or uses shall conform to the approved application and plans for which the permit has been issued, as well as the approved plot plan;
15. Display of Zoning Permit. All approved zoning permits shall be prominently 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. Such permit display shall be continuous until the site receives its certificate of use and occupancy; and,

16. Temporary Use Permits. It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that, at the time of petition of special exception, they will:
- A. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the zone, or
  - B. Contribute materially to the welfare of the Borough, particularly in a state of emergency, under conditions peculiar to the time and place involved, then, the Borough Council may direct the Zoning Officer to issue a permit for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional period of six (6) months;

701.2. Application for All Zoning Permits:

1. Applications 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:
  - A. Actual dimensions and shape of lot to be developed;
  - B. Exact location and dimensions of any structures to be erected, constructed and altered;
  - C. Existing and proposed uses, including the number of occupied units, businesses, etc., all structures are designed to accommodate;
  - D. Off-street parking and loading spaces;
  - E. Utility systems affected and proposed;
  - F. Alteration or development of any improved or unimproved real estate;
  - G. The size of structures and the number of employees anticipated;
  - H. Any other lawful information that may be required by the Zoning Officer to determine compliance with this Ordinance; and,
  - I. Copies of any applicable approved subdivision or land development plans; and,
2. If the proposed development, excavation or construction is located within the Floodplain Zone, the following information is specifically required to accompany all applications, as prepared by a licensed professional:
  - A. The accurate location and elevation of the floodplain and floodway;

- B. The elevation, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), of the lowest floor, including basements;
- C. The elevation, in relation to the NGVD, to which all structures and utilities will be floodproofed or elevated;
- D. Where floodproofing is proposed to be utilized for a particular structure, the zoning permit application shall be accompanied by a document certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania, or a licensed professional architect registered by the Commonwealth of Pennsylvania certifying that the floodproofing methods used meet all applicable codes and ordinances; and,
- E. A copy of all applications and plans for any proposed construction or development in any Floodplain Zone to be considered for approval shall be submitted by the Zoning Officer to the Berks County Conservation District for review and comment prior to the issuance of a building permit pursuant to a Memorandum of Understanding between the Boroughs and the Berks County Conservation District. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

701.3. Certification of Use and Occupancy:

1. It shall be unlawful to use and/or occupy a structure, building, sign and/or land or portion thereof for which a zoning permit is required herein until a certificate of use and occupancy for such structure, building, 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 an application for a zoning permit is filed with the Zoning Officer as required herein;
2. The application for a certificate of use and occupancy shall be in such form as the Zoning Officer may prescribe and may be made on the same application as it required for a zoning permit;
3. The application shall contain the intended use and/or occupancy of any structure, building, sign and/or land or portion thereof for which a zoning permit is required herein;
4. The Zoning Officer shall inspect any structure, building, or sign within ten (10) days upon notification that the proposed work that was listed under the permit has been completed and, if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, he shall issue a certificate of use and occupancy for the intended use listed in the original application;
5. The certificate of use and occupancy, or a true copy thereof, shall be kept available for official inspection at all times;
6. Upon request of a holder of a zoning permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign and/or land, or portion thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be used and/or occupied safely prior to full completion of the work without

endangering life or public welfare. The Zoning Officer shall also issue a temporary certificate of use and occupancy for such temporary uses as tents, use of land for religious or other public or semi-public purposes and similar temporary use and/or occupancy. Such temporary certificates shall be for the period of time to be determined by the Zoning Officer, however, in no case for a period exceeding six (6) months;

7. A Certificate of Use and Occupancy shall not be issued for structures and buildings located in subdivisions requiring Improvement Guarantees until the structure or building abuts either a roadway which has been accepted by the Borough for dedication or abuts upon a street which has been paved with a base wearing course; and,
8. In commercial and industrial zones in which operation standards are imposed, no certificate of use and occupancy shall become permanent until thirty (30) days after the facilities are fully operational when, upon a reinspection by the Zoning Officer, it is determined that the facilities are in compliance with all operation standards.

## Section 702 Fees

- 702.1. Determination. Each Borough Council may, by resolution, establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the general public. Each Borough Council may reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the respective Borough Council.
- 702.2. Respective Responsibility. Each Borough will be financially responsible for the ongoing enforcement and administration of this Ordinance on a day-to-day basis. Applications and appeals that affect only one Borough will be the financial responsibility of the respective Borough that is affected; applicants shall only be required to pay filing fees within the respective Borough. The costs associated with applications and appeals affecting both Boroughs will be shared equally; applicants shall be required to pay filing fees to both Boroughs.

## Section 703 Amendments

- 703.1. Power of Amendment. Both Borough Councils may, from time to time, amend, supplement or change this Ordinance, including the Official Zoning Map. Such actions shall only become effective after they are enacted by both Boroughs. Either Borough Council may repeal or withdraw from this joint Zoning Ordinance no sooner than three (3) years from its enactment, as regulated by Section 703.11. of this Ordinance. Any such amendment, supplement, change, or repeal may be initiated by either Borough Planning Commission, the Joint Planning Committee, either Borough Council, or by petition to both Borough Councils by any interested party, subject to the following hearing and enactment procedures:
  1. Public Hearing. Before hearing and enacting the Zoning Ordinance and/or zoning amendments, each Borough Council shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comment. Such public hearing shall be conducted after public notice (as defined herein and as listed below) has been given;

2. Public Notice. Before conducting a public hearing, each Borough Council shall provide public notice, as follows:
  - A. Notice shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. This section shall expressly enable both Boroughs to publish joint notice of such amendments and hearings. All such notice shall state the time(s) and place(s) of the hearing(s) and the particular nature of the matter to be considered at the hearing(s). The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven (7) days from the date of the hearing(s). Publication of the proposed amendment shall include either the full text thereof or the title and brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
    - ⑨ A copy of the full text shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published; and,
    - ⑨ An attested copy of the proposed Ordinance shall be filed in the County Law Library or other County office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said Ordinances;
  - B. For Zoning Map amendments, public notice shall also include the posting of a sign at conspicuous locations along the subject property; these sign(s) shall be posted at least one (1) week prior to the hearing, and will exhibit the nature, date, time, and location of the hearing. In addition, notice of the public hearing shall be mailed by the respective Borough at least thirty (30) days prior to the date of the public hearing by first class mail to the addressees to which real estate tax bills are sent for all property to be rezoned. Such notice shall include the location, date and time of the public hearing. This mail-out hearing notice requirement shall not apply to comprehensive rezoning proposals;
  - C. For curative amendments, public notice shall also indicate that the validity of the Ordinance and/or map is in question, and shall give the place where, and the times when, a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public; and,
  - D. If, after any public hearing held upon an amendment, the proposed amendment substantially changes, or is revised, to include land previously not affected by it, both Borough Councils shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment;
3. Enactment Notice. In addition to the public notice requirements defined herein, the Borough Council must publish a reference to the time and place of the meeting at which passage of the Ordinance or amendment will be considered, and a reference to a place within the Borough where copies of the proposed Ordinance or amendment may be examined without charge, or obtained for a charge not greater than the cost thereof. This section

shall expressly enable both Boroughs to publish joint enactment notice, when practicable. Enactment notice shall be published at least once in one (1) newspaper of general circulation in the Borough not more than sixty (60) days, nor less than seven (7) days, prior to passage. The published content of the enactment notice shall be the same as that required for public notice described in the preceding Section 703.1.2.A.;

4. Borough Planning Commission Referrals. For amendments proposed by parties other than either of the Borough Planning Commissions, each Borough Council shall submit such amendment at least thirty (30) days prior to public hearing to its Borough Planning Commission for review and comment. Each Borough Planning Commission shall submit a report of its review, together with any recommendations, to its Borough Council within forty-five (45) days from the date of said referral. The recommendation of each Borough Planning Commission may include a specific statement as to whether or not the proposed amendment is in accordance with the intent of this Ordinance and the Official Comprehensive Plan of the Borough. The respective Borough Council cannot act upon the amendment until it has received a recommendation from its Borough Planning Commission; however, should the respective Borough Planning Commission fail to submit its recommendation within forty-five (45) days, the Borough Council may proceed without its recommendation;
5. Joint Planning Committee Referrals. For amendments proposed by parties other than the Joint Planning Committee, both Borough Councils shall submit such amendment at least thirty (30) days prior to public hearing to the Joint Planning Committee for review and comment. The Joint Planning Committee shall submit a report of its review, together with any recommendations, to the respective Borough Council within forty-five (45) days from the date of said referral. The recommendation of the Joint Planning Committee may include a specific statement as to whether or not the effect of the proposed amendment is limited to one, or both, Borough(s). Neither Borough Council can act upon the proposed amendment until it has received a recommendation from the Joint Planning Committee; however, should the Joint Planning Committee fail to submit its recommendation within forty-five (45) days, the respective Borough Council may proceed without its recommendation;
6. County Planning Commission Referrals. All proposed amendments shall be submitted to the County Planning Commission at least thirty (30) days prior to public hearing on such amendments. The County Planning Commission may submit recommendations to the respective Borough Council within forty-five (45) days of such referral. Neither Borough Council can act upon the amendment until it has received a recommendation from the County Planning Commission; however, should the County Planning Commission fail to submit its recommendation within forty-five (45) days, the Borough Council may proceed without its recommendation;
7. Both Boroughs shall submit, to each other, comments and recommendations on the proposed amendment. Failure by either Borough to submit such comments, prior to the other's public hearing, shall be construed as a recommendation to adopt such recommendations.
8. Adjournment of Public Hearing. If, during the public hearing process, the Borough Council needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may

adjourn the public hearing to a specific time and place; and,

9. Within thirty (30) days after enactment, each Borough shall forward a copy of the amendment to the Zoning Ordinance to the County Planning Commission;

703.2. Amendments Initiated By the Borough Planning Commission. When an amendment, supplement, change, or repeal is initiated by the Borough Planning Commission, the proposal shall be presented to the Borough Council which shall then proceed in the same manner as with a petition to the Borough Council which has already been reviewed by the Borough Planning Commission;

703.3. Amendments Initiated By the Joint Planning Committee. When an amendment, supplement, change, or repeal is initiated by the Joint Planning Committee, the proposal shall be presented to the Borough Council(s), which shall then proceed in the same manner as with a petition to the Borough Council(s) which has already been reviewed by the Joint Planning Committee;

703.4. Amendments Initiated By the Borough Council. When an amendment, supplement, change, or repeal is initiated by the Borough Council, such amendment, supplement, change, or repeal shall follow the procedure prescribed for a petition under the applicable Sections 703.1. or 703.2. of this Ordinance;

703.5. Amendments Initiated By a Petition From An Interested Party. A petition for amendment, supplement, change, or repeal for a portion of this Ordinance shall be submitted to both Boroughs. It must include an accurate legal description and surveyed plan of any land to be rezoned, and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the respective Borough Council shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The respective Borough Council may require duplicate sets of petition materials. Such amendment, supplement, change, or repeal shall follow the procedure prescribed for a petition under the applicable Sections 703.1. or 703.2. of this Ordinance;

703.6. Curative Amendment By a Landowner. A landowner, who desires to challenge, on substantive grounds, the validity of the Ordinance or the Official Zoning Map, or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, must submit a curative amendment to both Borough Councils (including all of the reasons supporting the request to be considered) with a written request that his challenge and proposed amendment be heard and decided, as provided in Sections 810-A. and 916.a. of the Act, as amended.

1. Both Borough Councils shall commence a hearing thereon within sixty (60) days of the request. The referral procedures and public notice requirements for the curative amendment shall be provided in accordance with Section 703.1. of this Ordinance. The review of the curative amendment shall be in accordance with the following:
2. In reviewing the curative amendment, either or both Borough Councils may deny the request, accept the request as submitted, or may adopt an alternative amendment which will cure the challenged defects. Both Borough

Councils shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

- A. The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities;
  - B. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to, and affordable by, classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
  - C. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources, and other natural features;
  - D. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and,
  - E. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare;
3. Both Borough Councils shall render their decision within forty-five (45) days after the conclusion of the last hearing;
  4. Public notice of the hearing shall include notice that the validity of the Ordinance or Zoning Map is in question and shall give the place where, and the times when, a copy of the request, including any plans, explanatory material or proposed amendments, may be examined by the public;
  5. The challenge shall be deemed denied when:
    - A. Either or both Borough Councils fail to commence the hearing within sixty (60) days;
    - B. Either or both Borough Councils notify the landowner that it will not adopt the curative amendment;
    - C. Either or both Borough Councils adopt another curative amendment which is unacceptable to the landowner; or
    - D. Either or both Borough Councils fail to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality;
  6. Where, after the effective date of the Act, a curative amendment proposal is approved by the grant of a curative amendment application by both Borough Councils pursuant to this section, or a validity challenge is sustained by both Zoning Hearing Boards pursuant to Section 604.1., or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer

shall have two years from the date of such approval to file an application for preliminary or tentative approval for a subdivision, land development or planned residential development. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant, as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of Section 508 (4) of the Act shall apply; and,

7. Where the proposal appended to the curative amendment application or the validity challenge is approved, but does not require further application under any subdivision or land development ordinance, the developer shall have one (1) year within which to file for a zoning permit. Within the one (1) year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

703.7. Curative Amendment by Both Borough Councils:

1. Both Borough Councils, by formal action, may declare this Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Borough Council(s) shall:
  - A. By resolution, make specific findings setting forth the declared invalidity of the Ordinance or portions thereof which may include:
    - a. references to specific uses which are either not permitted or not permitted in sufficient quantity;
    - b. references to a class of use or uses which require revision; or
    - c. references to the entire Ordinance which requires revisions;
  - B. Begin to prepare and consider a curative amendment to the Ordinance to correct the declared invalidity
2. Within nine (9) months from the date of the declaration and proposal, the Borough Councils shall enact a curative amendment to validate or reaffirm the validity of, this Ordinance pursuant to the provisions required by Section 812-A. of the Act in order to cure the declared invalidity of the Ordinance;
3. Upon the date of the declaration and proposal, both Borough Councils shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the respective Zoning Hearing Board in both Boroughs be required to give a report, upon request, for a challenge to the validity of the Ordinance under Section 604.1., subsequent to the declaration and proposal, based upon the grounds identical to, or substantially similar to, those specified in the resolution required by this section. Upon the enactment of a curative amendment to, or the reaffirmation of, the validity of this Ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning

Ordinance for which the Borough Councils propose to prepare a curative amendment; and,

4. Both Borough Councils, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or re-affirmation of the validity of the Ordinance; provided, however, that, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon both Boroughs by virtue of a decision by any Court of competent jurisdiction, both Borough Councils may utilize the provisions of this section to prepare a curative amendment to the Ordinance to fulfill this duty or obligation; and,

703.8. Authentication of Official Zoning Map. Whenever there has been a change in the boundary of a zone or a reclassification of the zone adopted in accordance with the above, the change on the Official Zoning Map shall be made, and shall be duly certified by the Borough Secretary, and shall thereafter be refiled as part of the permanent records of the respective Borough; and,

703.9. Repeal and Withdrawal. Neither Borough may withdraw from or repeal this joint Zoning Ordinance during the first three (3) years following the date of its enactment. If, at any time after the end of the second year following enactment, either Borough wishes to repeal and withdraw from this joint Zoning Ordinance, it shall enact another ordinance repealing this joint Zoning Ordinance. Such other ordinance shall become effective no sooner than one (1) year after its enactment, and shall provide immediately and concurrently one (1) year's advanced written notice of its repeal and withdrawal to the other Borough Council. The repeal and withdrawal may become effective within less than one (1) year with the unanimous approval, by ordinance, of the Borough Councils of both Boroughs.

## **Section 704 Conditional Uses**

704.1. Filing of Conditional Use. For any use permitted by conditional use, a conditional use must be obtained from the respective Borough Council. In addition to the information required on the zoning permit application, the conditional use application must show:

1. Ground floor plans and elevations of proposed structures;
2. Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
3. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance;

704.2. General Criteria. Each applicant must demonstrate compliance with the following:

1. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;

2. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
3. The proposed use will not effect a change in the character of the subject property's neighborhood;
4. Adequate public facilities are available to serve the proposed use (e.g., schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.);
5. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance; and,
6. The proposed use will not substantially impair the integrity of the Borough's Comprehensive Plan;

704.3. Conditions. The respective Borough Council, in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article;

704.4. Site Plan Approval. Any site plan presented in support of the conditional use pursuant to Section 704.1. shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval;

704.5. Hearing Procedures:

1. Before voting on the approval of a conditional use, the respective Borough Council shall hold a public hearing thereon, pursuant to public notice. As an alternative, the respective Borough Council may appoint any one of its members or an independent attorney to act as a hearing officer. The respective Borough Council shall submit each such application to the Borough Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Borough Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Borough Council or hearing officer shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application.
2. Public notice, as defined herein, and written notice shall be given to the applicant, the Zoning Officer, such other persons as the respective Borough Council shall designate by resolution, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provision, by rules of the respective Borough Council. In addition to the written notice provided herein, written notice of

said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing;

3. The respective Borough Council may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural or other technical consultants, or expert witness costs;
4. The parties to the hearing shall be the respective Borough, any person affected by the application who has made timely appearance of record before the Borough Council or hearing officer, and any other person, including civic or community organizations permitted to appear by the Borough Council or hearing officer. The Borough Council or hearing officer shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Borough Council or hearing officer for that purpose;
5. The President or Acting President of the respective Borough Council or hearing officer shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties;
6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues;
7. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded;
8. The respective Borough Council or hearing officer may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough Council. The cost of the original transcript shall be paid by the Borough Council if the transcript is ordered by the Borough Council or hearing officer, or shall be paid by the person appealing the decision of the Borough Council or hearing officer if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof;
9. The respective Borough Council or hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative, unless all parties are given an opportunity to be present;
10. The respective Borough Council shall render a written decision or, when no decision is called for, make written findings of the conditional use application within forty-five (45) days after its last hearing. However, the applicant

and the respective Borough may, prior to the decision of the hearing, waive the decision or findings by the respective Borough Council and accept the decision of the hearing officer as final. Where the application is contested or denied, each decision shall be accompanied by findings of fact, or conclusion based thereon, together with any reasons therefor. Conclusions based on any provisions of the Act or this Ordinance, or of any ordinance, rule or regulation, shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found;

11. Where the respective Borough Council or hearing officer fails to render the decision within the period required by Section 704.5.10. of this Ordinance, or fails to hold the required public hearing within sixty (60) days from the date of the applicant's request for a hearing, or fails to complete the hearing no later than one hundred (100) days after completion of the applicant's case in chief, unless extended for good cause upon application to the Court of Common Pleas, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing, or on the record, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the respective Borough Council or hearing officer to meet or render a decision as required herein, said Borough Council or hearing officer shall give public notice (as defined herein) of the decision within ten (10) days from the last day it could have met to render a decision. Should the respective Borough Council or hearing officer fail to provide such public notice, the applicant may do so;
12. Nothing in this Ordinance shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision or, where no decision is called for, of the findings, shall be delivered to the applicant personally or mailed to him no later than the day following its date.

#### 704.6.

##### Time Limitation:

1. If a conditional use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the conditional use is finally granted, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the respective Borough Council may, at any time, upon application in writing, extend either of these deadlines;
2. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit, should he fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the respective Borough Council;
3. Should the appellant commence construction or alteration within said two (2) year period, but should he fail to complete such construction or alteration within said three (3) year period, the respective Borough Council may, upon ten (10) days notice in writing, rescind or revoke the granted conditional use, if the Borough Council finds that no good cause appears for the failure to complete within such three (3) year period, and if the Borough

Council further finds that conditions have altered or changed in the interval, since the granting of the conditional use, that revocation or rescission of the action is justified; and,

4. As an alternative to the preceding, an applicant can request, as part of the original application before the Borough Council, the granting of a timetable associated with the request which would supersede the deadlines imposed in Sections 704.6.1.-3. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Borough Council must establish and bind a define time frame for (1) issuance of a zoning permit, and (2) completion of construction of the project.

## **Section 705      Inconsistencies**

Any resolution or ordinance, or part thereof, inconsistent herewith, and any amendments thereof, are hereby expressly repealed.

## **Section 706      Effective Date**

This Zoning Ordinance shall become effective five (5) days after its enactment by both the Borough Councils of Bally Borough and Bechtelsville Borough, County of Berks, Commonwealth of Pennsylvania.

This Ordinance, ordained and enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

**BOROUGH COUNCIL OF BALLY BOROUGH**

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

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

(SEAL)

**BOROUGH COUNCIL OF BECHTELSTVILLE BOROUGH**

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

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

(SEAL)

