

**BOROUGH OF WYOMISSING**  
**ZONING ORDINANCE OF 2010**  
**AS AMENDED**  
**(June 2024)**

**CHAPTER 27**  
**WYOMISSING BOROUGH CODE**

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## **PART 1**

### **TITLE, PURPOSE, INTERPRETATION AND APPLICATION**

#### **§100. Title.**

This Chapter shall be known as and may be cited as the “Borough of Wyomissing Zoning Ordinance of 2010.”

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §2; as amended by Ord. 1285, 10/14/2008, §1; as amended by Ord. 1288, 11/11/2008, §1; as amended by Ord. 1298, 8/29/2009, as amended by Ord. 1305, 09/14/2010, §1; as amended by Ord. 1308, 11/9/2010, §1 and §2; as amended by Ord. 1308, 11/9/2010, §1 and §2; as amended by Ord. 1330, 1/10/2012, §1; as amended by Ord. 1338, 6/12/2012, §1; as amended by Ord. 1344, 9/11/2012, §1; as amended by Ord. 1347, 12/11/2012, §1)

#### **§101. Purpose.**

This Chapter is enacted to promote the public health and safety and the general welfare of the residents and occupants of the Borough of Wyomissing (the “Borough”) by securing safety from fire, panic, flood and other dangers and accomplishing the following community development objectives:

- A. Encourage the most appropriate use of land and buildings.
- B. Prevent the overcrowding of land.
- C. Avoid undue traffic and population congestion.
- D. Provide for adequate areas for vehicular parking and loading.
- E. Provide for adequate light and air.
- F. Conserve the value of land and buildings.
- G. Provide for adequate transportation, water, sewerage, school and other public facilities.
- H. Encourage the harmonious and orderly development of land.
- I. Maintain the character of existing residential neighborhoods.

(Ord. 1234, 2/11/2003, §1)

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### **§102. Interpretation.**

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health and safety and the general welfare of the residents and occupants of the Borough. Where the provisions of this Chapter impose greater restrictions than those of any other Borough statute, ordinance or regulation, the provisions of this Chapter shall take precedence. Where the provisions of any other Borough statute, ordinance or regulation impose greater restrictions than this Chapter, the provisions of such other Borough statute, ordinance or regulation shall be complied with unless otherwise stated in this Chapter.

(Ord. 1234, 2/11/2003, §1)

### **§103. Application.**

Except as hereinafter provided, no building, structure, land or parts thereof in the Borough shall be used or occupied, erected, constructed, assembled, moved, enlarged, removed, reconstructed or structurally altered unless in conformity with the provisions of this Chapter. This Chapter shall not apply to the Borough where the Borough requires a special exception or variance to permit the Borough to construct, modify, change or place a structure, building, land use, sign side yard, setback, etc., for Borough use. In these circumstances, the Borough shall require no special exception or variance.

(Ord. 1234, 2/11/2003, §1)

## PART 2

### DEFINITIONS

#### **§200. General.**

For the purpose of this Chapter, certain terms and words are defined below. Words used in the present tense shall include the future tense. Words in the singular shall include the plural and words in the plural shall include the singular. Words in the masculine include the feminine and the neuter. The word "shall" is mandatory. The word "may" is permissive. The word "person" includes "individual," "company," "unincorporated association" or other similar entities. The words "used for" include "designed for," "arranged for," "intended for," "maintained for" or "occupied for." The word "building" shall be construed as if followed by the phrase "or part thereof."

(Ord. 1234, 2/11/2003, §1)

#### **§201. Specific Terms.**

**ACCESSORY BUILDING or STRUCTURE** — a building or structure subordinate to the principal building, and detached from the principal building, on a lot and used for purposes customarily incidental to those of the principal building. Earth satellite receiving dishes are included in this definition.

**ACCESSORY USE** — a subordinate use of a portion of a lot which is customarily incidental to the main or principal use of the land or of a building on a lot.

**ADULT ARCADE** — Any place to which the public is permitted or invited wherein coin-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

**ADULT BOOKSTORE** — any establishment or place to which the public is permitted or invited:

- A. which has 1% or more of its stock in trade or 1% or more of the floor area devoted to customer sales consisting of the following items: (i) books, magazines or other periodicals, films or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction, description or display of sexual activities or conduct or exposed male or female genital areas; and/or (ii) instruments, devices or paraphernalia which are designed primarily for use in connection with sexual activities or conduct; and/or

B. 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, with or without sound, where the images so displayed are distinguished or characterized by an emphasis on depiction, description or display of sexual activities or conduct or exposed male or female genital areas.

**ADULT CABARET** — A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in the state of nudity; or
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- C. Films, motion pictures, video cassettes, slides, digital imagery, digital video discs (DVDs) or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of one or more of such photographic reproductions; or
- D. Offers sleeping rooms for rent more than one time in one calendar day during five or more calendar days in any continuous 30- day period.

**ADULT MOTION PICTURE THEATER** — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, digital imagery, digital video discs (DVDs) or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

**ADULT MOTEL** — A motel or similar establishment offering public accommodations for any consideration which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

**ADULT THEATER** — any theater, auditorium, concert hall or other place of assembly featuring live performances which are distinguished or characterized by emphasis on depiction, description or display of sexual activities or exposed male or female genital areas for observation by patrons.

**ALTERATION, STRUCTURAL** — any enlargement of a building or structure; the moving of a building or structure from one location to another; any change in or addition to the structural parts of a building or structure; any change in the means of egress from or access to a building or structure.

**ANTENNA** — Any system of wires, rods, discs, panels, flat panels, dishes, whips, or other similar devices used for the transmission or reception of wireless signals. An

antenna may include an omnidirectional antenna (rod), directional antenna (panel), parabolic antenna (disc) or any other wireless antenna. An antenna shall not include tower-based wireless communications facilities defined below. [Ord. 1371]

**APPROVED PRIVATE STREET** — a right-of-way which provides the primary vehicular access to a lot, not dedicated or deeded to the Borough, but approved by the Borough Council and shown on a recorded subdivision plan.

**BASEMENT** — a story partly below the finished grade but having 1/2 or more of its height (measured from finished floor to finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building.

**BASE STATION** - any structure or equipment at a fixed location that enables FCC-licenses or authorized communications between user equipment and a communications network. Includes structures other than towers that support or house an antenna, transceiver, or other associated equipment that constitutes part of a "base station" at the time the relevant application is filed with the State or municipal authorities, even if the structure was not built for the sole or primary purpose of providing such support, but does not include structures that do not at that time support or house base station components. The term includes buildings, light poles, utility poles, water towers, etc., as well as DAS systems and small cells. [Ord. 1376]

**BED AND BREAKFAST ESTABLISHMENT** – an owner-occupied detached residential structure where between one and five rooms are rented to overnight guests. A bed and breakfast establishment may operate year-round; however, the length of stay for any overnight guest shall not exceed two continuous weeks. Meals, if offered, are only provided to registered overnight guests. [Ord. 1435]

**BOARDING, ROOMING AND LODGING HOUSE** – a building or structure used to shelter more than two persons who are not related to the property owner by blood, marriage, adoption or guardianship and who live in the building or structure by prearrangement and for definite periods of time and compensation, and which may or may not provide meals for residents, and which does not involve separate dwelling units that are each occupied by a family. This term does not include bed and breakfast establishments, hospitals, hotels, nursing home, motels, institutional residences, and short-term residential rental units. Occupancy is typically long-term rather than transient. [Ord. 1435]

**BOROUGH** — Borough of Wyomissing, Berks County, Pennsylvania.

**BOROUGH COUNCIL** — Borough Council of the Borough of Wyomissing.

**BUFFER STRIP** — a continuous strip of landscaped land which is clear of all buildings and paved areas.

**BUILDING** — a structure enclosed within exterior walls or firewalls, built, erected and framed of component structural parts, designed for the enclosure and support of individuals, animals or property of any kind.

**BUILDING AREA** — the total area taken on a horizontal plane at the main grade level of all primary and accessory buildings on a lot, excluding unroofed porches, paved terraces, steps, eaves and gutters, but including all enclosed extensions.

**BUILDING COVERAGE** — the percentage of the horizontal surface area at grade level of a lot covered buildings and other structures. Retaining walls and swimming pools shall not be included in the calculation of building coverage.

**BUILDING HEIGHT** — the vertical distance from grade plane to the top of the highest ridge of the roof, in the case of a pitched roof, or the highest parapet or cornice level, in the case of a flat roof.

**BUILDING SETBACK** — the minimum distance a building or structure must be set back from a street right of way line (except the right-of-way of a service street). See Appendix A attached to this Chapter which is a list of the approximate portion of street right-of-way outside the curb face for the listed streets. Appendix A shall be used only as an aid to the users of this ordinance, and shall not be interpreted as a surveyed distance or as a legally determinative measurement. Appendix A may be amended, supplemented or replaced by the Borough Council, without amending this Ordinance, by adopting a resolution.

**BUILDING SETBACK LINE** — the line within a property establishing the minimum required distance between any building or structure or portions thereof to be erected or altered and a street right-of-way (except the right-of-way of a service street). The distance shall be measured at right angles from the street right-of-way line which abuts the property and the building setback line shall be parallel to said right-of-way line. A building setback line may be established farther from a street right-of-way line than the minimum building setback established for a zoning district.

**CARTWAY** — the portion of a street right-of-way, whether paved or unpaved, intended for vehicular use.

**CELL SITE** — a geographic area or zone surrounding a transmitter in a cellular telephone system.

**CELLAR** — a story partly below the finished grade, having more than 1/2 of its height (measured from finished floor to finished ceiling) below the average level of the adjoining finished grade where such grade abuts the exterior walls of the building.

**CLUB or LODGE** — an association of persons for some common nonprofit activity, not including groups organized primarily to render a service which is customarily carried on as a business.

**CO-LOCATION** — The mounting of one or more WCFs, including antennae, on an existing tower-based WCF or utility or light pole. [Ord. 1371]

**COMMERCIAL SCHOOL** — a school for the teaching of a trade or skill, carried on as a business.

**COMMON OPEN SPACE** — an area or areas of land or an area of water (excluding stormwater detention facilities), or a combination of land and water, within the parcel designed and intended for use or enjoyment of all residents of the development in which it is located. Land included within the right-of-way lines of streets shall not be classified as common open space. Common open spaces shall not include required open areas between buildings and required open areas between buildings and street rights-of-way, driveways, parking areas and property lines of the parcel.

**COMMON PARKING AREA** — a parking facility other than those provided within the lot lines of a lot on which one single-family detached dwelling, one single-family semidetached dwelling, one townhouse or one two-family detached dwelling is located.

**COMMUNICATIONS SERVICE PROVIDER** — Any of the following:

- (1) A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(5)).
- (2) A provider of information service as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(24)).
- (3) A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(51)).
- (4) A wireless provider.

[Ord. 1425]

**CORNER LOT** — a lot abutting two or more intersecting public or private streets, or at the point of abrupt change of direction of a single street (an interior angle of less than 135°).

**CURB FACE** — the surface of a curb facing the cartway of a street; where the curb is rolled or incorporates a gutter, the curb face shall be measured from the point of the rolled curb or gutter closest to the center of the street.

**DATA COLLECTION UNIT (DCU)** — Any ground-mounted structure that is designed and constructed primarily for the purpose of data collection, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes structures used to wirelessly read utility meters and for other remote monitoring purposes. For the purposes of this ordinance, the term includes facilities that are not solely under the jurisdiction of the Pennsylvania Public Utility Commission, except where permitted by law. The term includes the structure and any supporting structures thereto. [Ord. 1376]

**DECORATIVE POLE** — A municipal pole that is specially designed and placed for aesthetic purposes. [Ord. 1425]

**DISPENSARY** - A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the PA Department of Health to dispense medical marijuana pursuant to the Pennsylvania Medical Marijuana Act, 35 P.S. §10231.101 *et seq.* [Ord. 1381]

**DISTANCE BETWEEN BUILDINGS** — this measurement shall be made at the closest point.

**DISTRIBUTED ANTENNA SYSTEMS (DAS)** — Network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure. [Ord. 1371]

**DWELLING** — a building or structure or portion thereof arranged, intended, designed or used as the living quarters for one or more families living independently of each other for a period of time in excess of thirty (30) consecutive days. Such buildings as bed and breakfast establishments, hospitals, hotels, boarding, rooming, lodging houses, nursing homes, motels and institutional residences, and short-term residential rental units, are not included in the definition of "dwelling."

**APARTMENT BUILDING** — a building on a single lot arranged, intended, or designed to be occupied as a residence for three or more families, and in which the dwelling units may be separated horizontally and/or vertically.

**APARTMENT UNIT** — a dwelling unit within an apartment building or dwelling unit in combination with a commercial use as permitted in this Chapter.

**SINGLE-FAMILY DETACHED DWELLING** — a building arranged, intended or designed to be occupied exclusively as a residence for one family and having no party wall with an adjacent building.

**SINGLE-FAMILY SEMIDETACHED DWELLING** — a building arranged, intended or designed to be occupied exclusively as a residence for two families, one family living on each side of a common or party wall. ZONING (27, Part 5-D) 27-16 4/27/2021

**TOWNHOUSE** — a building arranged, intended or designed to be occupied exclusively as a residence for one family which is one of a group of three or more such buildings, placed side by side and separated by unpierced party walls, each dwelling having at least one separate entrance from the outside.

**TWO-FAMILY DETACHED DWELLING** — a building arranged, intended or designed to be occupied exclusively as a residence for two families, with one family living wholly or partly over the other and with no common wall with an adjacent building.

**DWELLING UNIT** — a building or structure or portion thereof providing one or more rooms arranged for the use of one or more individuals living together as a single

housekeeping unit for a period of time in excess of thirty (30) consecutive days, and having no cooking or sanitary facilities in common with any other dwelling unit.

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

**ESCORT AGENCY OR SERVICE** — A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

**FAMILY** —

- A. One or more persons, related by blood, marriage, adoption or guardianship, with not more than two boarders, roomers or lodgers, living together as a single housekeeping unit and using cooking facilities and certain rooms in common.
- B. Not more than four unrelated persons living together as a single housekeeping unit and using cooking facilities and certain rooms in common.

**FAMILY DAY CARE HOME** — Any premise other than the person's own home, whether operated for profit or not for profit, in which day care is provided at any time to four or more persons who are not relatives of the caregiver. [Ord. 1397]

**FCC**—Federal Communications Commission. [Ord. 1371]

**FINANCIAL INSTITUTION** — bank, savings and loan association, savings bank, investment company, investment manager, investment banker, securities broker/dealer, philanthropic foundation or other similar uses as determined by the Zoning Officer.

**FLOOR AREA (GROSS FLOOR AREA)** — the sum of the gross horizontal areas of every floor of a building measured to the exterior faces of exterior walls and to the center line of party walls, including basement space and roofed porches, roofed breezeways, roofed terraces, roofed garages and carports and accessory buildings. Cellar area is excluded.

**FLOOR AREA (NET FLOOR AREA)** — the sum of the net horizontal areas of every floor of a building measured by the interior faces of interior walls, excluding hallways and stairwells, basement and cellar space, roofed porches, roofed breezeways, roofed terraces, roofed garages, and carports. (1308)

**FOOTCANDLE** - A unit of incident light stated in lumens per square foot and measurable with an illuminance meter, also known as "footcandle or light meter." [Ord. 1330]

**FORESTRY** — the management of forests and timberlands when practiced in accor

dance with accepted silvicultural principals, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

**GAMING POSITION** – a seat or standing location in which an individual participates in a licensed gaming activity, such as slots and video machines or table games. Table games generally average seven gaming positions per table.

**GRADE** — the level of the ground adjacent to a building, structure, exposed storage or sign.

**GRADE PLANE** – a reference plane representing the average of the finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and lot line, or where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

**GROUP HOME FOR THE HANDICAPPED** – A dwelling shared by not more than four handicapped persons and not more than two live-in staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. All such uses shall have licensed staff on-site at all times and shall provide on-site support services through a licensed social service agency.

As used herein, the term “handicapped” shall mean having: (i) a physical or mental impairment that substantially limits one or more of such person’s major life activities so that such person is incapable of living independently; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. However, “handicapped” shall not include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term “group home for the handicapped” shall not include alcoholism or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

**GROWER/PROCESSOR** – A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the PA Department of Health pursuant to the Pennsylvania Medical Marijuana Act, 35 P.S. §10231.101 *et seq.* to grow and process medical marijuana. [Ord. 1381]

**HIGHWAY ACCESS POINT** — a place of egress from or access to a street or highway created by a driveway or another street or highway.

**HIGHWAY FRONTAGE** — the lot dimension measured along the right-of-way line of any one street or highway abutting a lot.

**HISTORIC DISTRICT OR BUILDING** — A building that is or a group of buildings, properties or sites that are:

- (1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register.
- (2) Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 CFR Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process).
- (3) Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical and museums).
- (4) Within a historic district created pursuant to the act of June 13, 1961 (P.L.282, No.167), entitled "An act authorizing counties, cities, boroughs, incorporated towns and townships to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts."

[Ord. 1425]

**HOME OCCUPATION – CLASS I** – A “No-impact home-based business”, which is a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use.

**HOME OCCUPATION – CLASS II** – A nonprofessional or professional business use that shall be conducted in a nonobtrusive manner entirely within a residence located in the applicable residential zoning district that does not change or affect the residence’s physical character or have any exterior evidence of the home occupation as an incidental or secondary use, except as provided in Section 622.

**HOME OCCUPATION – CLASS III** – A nonprofessional or professional business use that shall be conducted within a residence located in the applicable residential zoning district that does not change or affect the residence’s physical character or have any exterior evidence of the home occupation as an incidental or secondary use, except as provided in Section 622.

**HOTEL** — a building or group of buildings containing individual rooms for rental, primarily for transients, with common hallways for all rooms on the same floor, and where no provision is made for cooking in any individual room or suite. "Hotel" does not include institutional or educational uses and buildings where human beings are housed under legal constraint.

**INSTITUTIONAL RESIDENCE** — a building or structure used as a family day care home, group home for the handicapped, or treatment center, as defined in this Chapter. [Ord. 1435]

**LICENSED GAMING FACILITY** — a licensed gaming facility as authorized by the Commonwealth of Pennsylvania, pursuant to 4 Pa. C.S., Ch. 11, entitled "Pennsylvania Race Horse Development and Gaming Act", as amended from time to time. For purposes of this Chapter, a Licensed Gaming Facility includes all of the uses and activities conducted on the same parcel as the Licensed Gaming Facility, including, but not limited to, any hotel or motel, restaurant, banquet, nightclub, or retail use or activity area.

**LIVING UNIT FOR THE ELDERLY** — a dwelling unit in which at least one resident shall be at least 60 years of age.

**LOT** — a designated parcel tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit. The area and depth of a lot abutting a street shall be determined by measurements to the street line.

**LOT LINE** — a line forming the front, rear or side boundary of a lot.

FRONT LOT LINE — the line separating a lot from a street right-of-way.

REAR LOT LINE — the lot line which is opposite the front lot line. The rear line of any triangularly or irregularly shaped lot shall be established such that it will be at least 10 feet long.

**LOT OF RECORD** — a lot or parcel recorded in the office of the Recorder of Deeds of Berks County, Pennsylvania.

**LOT SIZE** — the area of a lot, excluding land contained within street right-of-way lines.

**LOT WIDTH** — the distance between side lot lines, determined by establishing the shortest straight-line distance. It shall not be measured along an arc.

**MASSAGE ESTABLISHMENT** — any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association or corporation engages in or carries on the practice of massage; provided, however, that this definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth of Pennsylvania, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck or the shoulders.

**MEDICAL MARIJUANA** - Marijuana for certified medical use as set forth in the Pennsylvania Medical Marijuana Act, 35 P.S. §10231.101 *et seq.* [Ord. 1381]

**MICRO WIRELESS FACILITY** — A small wireless facility that:

- (1) does not exceed two cubic feet in volume; and
- (2) has an exterior antenna no longer than 11 inches.

[Ord. 1425]

**MONOPOLE** — A WCF or site which consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennae and connecting appurtenances. [Ord. 1371]

**MOTEL** — a group of attached or detached buildings containing individual living or sleeping units designed for temporary use by tourists or transients generally traveling by motor vehicle.

**MOTOR VEHICLE GARAGE** — Any building or premises in which the maintenance, servicing, or repairing of motor vehicles is conducted. [Ord. 1397]

**MOTOR VEHICLE SERVICE STATION** — Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories, or any combination thereof, are sold at retail and normal mechanical repairs are conducted, but not including body work, painting, spraying, or welding or storage of automobiles not in operating condition and not on the premises for normal mechanical repairs. [Ord. 1397]

**MUNICIPAL POLE** — A utility pole owned, managed or operated by or on behalf of the Borough.

**MUNICIPAL USE** — buildings, structures or land owned and maintained by the Borough. This definition shall include communications towers and antennae that may be permitted by special exception on buildings, structures or land owned by the Borough in any zoning district where a municipal use is permitted.

**NONCONFORMING BUILDING, LOT, STRUCTURE OR USE** — a building, lot, structure or use which does not conform to the regulations of the zoning district in which it is located, either at the time of enactment of this Chapter or as a result of subsequent amendments thereto, but which lawfully existed prior to the enactment of this Chapter. Nonconforming structures include, but are not limited to, nonconforming signs.

**NON-TOWER WIRELESS COMMUNICATIONS FACILITY (non-tower WCF)** — All non-tower wireless communications facilities, including, but not limited to, data collection units, communications antennae and related equipment. Non-tower WCF shall include support structures for communications antennae and related equipment that is mounted to the ground or at ground-level. Other non-ground mounted examples can include, but

not limited to, installation of a WCF on an existing utility pole, light pole, barn, church steeple, farm silo, water towers or other similar structures. Not included are towers and supporting structures on residential dwellings for private noncommercial amateur purposes including, but not limited to, ham radios and citizen band radios.

[Ord. 1371 and Ord. 1376]

**NUDE MODEL STUDIO** — Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

**NUDITY or A STATE OF NUDITY** — The appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

**NONCONFORMING USE** — any structure, object of natural growth or use of land which is inconsistent with the provisions of this Chapter or any amendment thereto and which is in existence as of the effective date of this Chapter or of any such amendment hereto, as the case may be.

**NURSING HOME** — establishment providing nursing, dietary and other similar personal services to convalescents, invalids or aged persons, but excluding mental cases, cases of contagious or communicable disease, surgery or other treatments which are customarily provided in sanitariums and hospitals.

**OTHER ADULT-ORIENTED RETAIL, COMMERCIAL SERVICE OR ENTERTAINMENT ESTABLISHMENT** — any other business or club which primarily offers its patrons or members retail goods, commercial services or entertainment which is characterized by an emphasis on matter or activities relating to, depicting, describing or displaying sexual activity or conduct or exposed male or female genital areas.

**OPEN AREA** — ground upon which no principal or accessory buildings, structures or uses and paved areas are permitted.

**PARKING SPACE** — a space within a building or on a lot, used for the parking of a motor vehicle.

**PARTY WALL** — a wall used or adopted for joint service between two buildings or parts thereof.

**PAVED AREA** — the percentage of a lot covered by paving. At the election of the property owner, each square foot of porous paving shall count as one-half square foot of paved area, for purposes of calculating the paved area under this Chapter; provided, however, that where such election is selected, the following conditions shall be met: (1) the property owner shall enter into a porous paving maintenance plan agreement with the Borough which shall be recorded and which agreement shall be an encumbrance which runs with the land; (2) porous paving shall not be counted towards any Open Space requirement under this Chapter; and (3) to qualify for the porous paving calculation allowed under this provision porous paving must have the ability to store the entire one

hundred (100) year storm for storm water generated upon the porous paving area in clean aggregate below the porous paving surface with a means of dewatering between 24 hours and 72 hours.

**PAVING** — hard material such as concrete, asphalt, brick or stone treated to decrease its permeability applied to a lot in order to smooth or firm the surface of the lot and shall also include decks, wooden or of composite material, placed not greater than thirty inches (30") above grade. [Ord. 1344]

**PAWNSHOP** - An establishment whose business is to purchase, take, or receive by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatsoever. [Ord. 1381]

**PERSONS** – Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the Commonwealth of Pennsylvania; provided, that “person” does not include or apply to the Borough or to any department or agency of the Borough. [Ord. 1371]

**PREMISES** — a descriptive word to include all improvements, buildings, structures and land on or within a lot.

**PRIMARY SURFACE** — a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Part 3 of this Chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.

**PRINCIPAL BUILDING** — a building in which a principal use on a lot is conducted.

**PRINCIPAL USE** — the main or primary purpose for which any land, structure or building is designed, arranged or intended, and for which they may be occupied or maintained under the terms of this Chapter.

**PROFESSIONAL** — doctor, surgeon, dentist, psychiatrist, psychologist, chiropractor and licensed professional persons offering similar medical care; optician, architect, artist, accountant, insurance agent, real estate broker, teacher, engineer, lawyer, musician, surveyor, landscape architect, land planner, systems analyst, computer programmer or other similar uses as determined by the Zoning Officer.

**PUBLIC ROAD** — a public thoroughfare, including a street, road, lane, alley, court or similar terms, which has been dedicated or deeded to the Borough and accepted by it.

**PUBLIC SCHOOL** — a school owned and operated by the Wyomissing Area School District or Wilson Area School District.

**PUBLIC UTILITY TRANSMISSION TOWER** — a structure, owned and operated by a public utility electric company regulated by the Pennsylvania Public Utility Commiss-

sion, designed and used to support overhead electricity transmission lines.

#### **RESTAURANT –**

**STANDARD RESTAURANT** — any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:

- (1) Customers, normally provided with an individual menu, are served their foods, frozen desserts or beverages by a restaurant employee at the same table or counter at which said items are consumed.
- (2) A cafeteria-type operation where foods, frozen desserts or beverages are consumed within the restaurant building.

**CARRY-OUT RESTAURANT** — any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes both of the following characteristics:

- (1) Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- (2) The consumption of foods, frozen desserts or beverages within the restaurant building, within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.

**FAST-FOOD RESTAURANT** — any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes both of the following characteristics:

- (1) Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- (2) The consumption of foods, frozen desserts or beverages within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.

**DRIVE-IN RESTAURANT** — any establishment whose business includes the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, and whose design, method of operation or any portion of whose business includes one or both of the following characteristics, regardless of whether or not, in addition thereto, seats or other indoor accommodations are provided for the patrons:

- (1) Foods, frozen desserts or beverages are served directly to the customer through an exterior window in the establishment, or by other means which eliminate the need for the customer to enter the establishment.
- (2) The consumption of foods, frozen desserts or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is allowed, encouraged or permitted.

**RETIREMENT COMMUNITY** — a development consisting of a building or group of buildings designed and used specifically for the residence and care of elderly and disabled persons.

**RIGHT-OF-WAY or ROW** — The surface of and space above and below any real property in the Borough in which the Borough or Commonwealth has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Borough or Commonwealth, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than streets that are owned by the Borough or Commonwealth. The phrase "in the right(s)-of-way" and means in, on, over, along, above and/or under the right(s)-of-way. [Ord. 1371]

**SANITARY SEWAGE SYSTEM, PUBLIC** — a sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal plant.

**SCREEN** — vegetative material, fence, etc., planted or constructed to screen the buildings, structures and uses on the lot on which the screen is located from the view of people on adjoining properties.

**SEMI-NUDE** — a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**SERVICE STREET** — a minor right-of-way providing secondary vehicular access to the side or rear of two or more properties, which is not the primary means of access to the properties.

**SEXUAL ENCOUNTER CENTER** — a business or commercial enterprise that as one of its primary business purposes, offers for any consideration:

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

**SEXUALLY ORIENTED BUSINESS** — an adult arcade, adult bookstore, or adult video store, adult cabaret, adult motion picture theater, escort agency or service, nude model studio, or sexual encounter center.

**SHOPPING CENTER** — a group of commercial establishments built on a site that is planned, developed, owned and managed as an operating unit related in location, size and type of shops to the trade area that the unit serves; certain shopping centers are also sometimes referred to as strip malls. [Ord. 1338]

**SHORT-TERM RESIDENTIAL RENTAL UNIT** - a building or structure which in every way meets the definition of a dwelling except that the residential occupancy of the building or structure by one family is for a period of less than thirty (30) consecutive days. The use of a dwelling as an approved bed and breakfast establishment as an accessory use shall not be considered a short-term rental. [Ord. 1430]

**SIGHT TRIANGLE** — an area within which no vision-obstructing object is permitted beyond 2 1/2 feet of the center line grades of intersecting streets.

**SIGN** — any structure, wall or other surface, or any device or part thereof, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or other representations used for announcement, direction, information, attraction or advertisement.

**AREA OF SIGN** — 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 closed, on which they are displayed, but not including any supporting framework and bracing which is incidental to the display itself. Where the sign consists of individual letters or symbols attached to or painted on a surface, the area shall be considered to be the smallest rectangle which can be drawn to encompass all of the letters and symbols.

**HEIGHT OF SIGN** — the vertical distance measured from the average grade at the lowest point of the sign to its highest point. A supporting structure shall be used in determining the lowest or highest point of a sign.

**SIGN, FREESTANDING** — an independently supported sign not attached to any building.

**SMALL WIRELESS FACILITY MODIFICATION** or **MODIFY** — The improvement, upgrade or replacement of a small wireless facility or an existing utility pole that does not substantially change, as defined in 47 CFR 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the small wireless facility or utility pole. [Ord. 1425]

**SMALL WIRELESS FACILITY** — The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:

- (1) Each antenna associated with the deployment is no more than three cubic feet in volume.
- (2) The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the small wireless facility shall not be included in the calculation of equipment volume under this paragraph.

[Ord. 1425]

**SPECIAL EXCEPTION** — permission granted by the Zoning Hearing Board, with appropriate restrictions, to undertake certain activities specified in this Chapter or to occupy or use land, buildings or structures for a specific purpose or in a certain manner specified in this Chapter.

**SPECIFIED ANATOMICAL AREAS** — less than completely or opaquely covered human genitals, pubic region, or human male genitals in a discernibly turgid state, even if completely or opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** — includes the following:

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

**STATE LICENSED NURSERY SCHOOL OR DAY CARE CENTER** — Any premises in which child day care is provided simultaneously for six (6) or more children who are not relatives of the operator and which complies with all laws, rules, ordinances and regulations of the Commonwealth of Pennsylvania, the Borough, and all other governmental entities of whatsoever nature having authority or jurisdiction with respect thereto. Nursery schools are deemed to be day care centers. [Ord. 1397]

**STEALTH TECHNOLOGY** — Camouflaging methods applied to wireless communications towers, antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, flag poles and light poles. [Ord. 1371]

**STORY** — the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

**STREET** — a public or private right-of-way, excluding driveways, intended as a means of vehicular and pedestrian travel, furnishing access to abutting properties. The word "street" includes thoroughfare, avenue, boulevard, court, drive, expressway, highway and similar terms.

**STREET FRONTAGE** — the lot dimension measured along the right-of-way line of any one street or highway abutting a lot.

**STREET LINE** — The street right-of-way line.

**STRUCTURE** — anything built, constructed or erected which requires location on the ground or attachment to something located on the ground, including a mobile object, constructed or installed by man including, but not limited to, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines, excepting any deck, wooden or of composite material, placed not greater than thirty inches (30") above grade. [Ord. 1344]

**STUDIO** — the working place of a painter, sculptor, photographer or such other similar artistic endeavor as determined by the Zoning Officer; a place for the study of an art such as dancing, singing or acting, or such other similar artistic endeavor as determined by the Zoning Officer.

**SUBSTANTIALLY CHANGE or SUBSTANTIAL CHANGE** — A modification to the physical dimensions of a tower or base station as measured from the dimensions of the tower or base station inclusive of any modifications approved prior to the passage of the Spectrum Act (effective February 22, 2012), if it meets any of the following criteria:

- A. For towers outside of the public rights-of-way, it increases the height by more than twenty (20) feet or ten percent (10%), whichever is greater; for all base stations, it increases the height of the tower or base station by more than ten percent (10%) or ten feet (10'), whichever is greater;
- B. For towers outside of the public rights-of-way, it protrudes from the edge of the tower more than twenty feet (20'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for all base stations, it protrudes from the edge of the structure more than six feet (6');
- C. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets;
- D. It entails any excavation or deployment outside the current site of the tower or base station;

- E. It would defeat the existing concealment elements of the tower or base station; or
- F. It does not comply with conditions associated with the prior approval of the tower or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds.

[Ord. 1376]

**SWIMMING POOL** — a pool used for swimming or bathing which has a depth in any part of 24 inches or more. [Ord. 1308]

**TATTOO PARLOR** – An establishment where tattooing is performed. [Ord. 1381]

**TECHNICALLY FEASIBLE** — By virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a material reduction in the functionality of the small wireless facility. [Ord. 1425]

**TELECOMMUNICATIONS EQUIPMENT BUILDING** – The building or cabinet in which electronic receiving, relay or transmitting equipment for a telecommunications facility is housed and covering an area on the ground not greater than 200 square feet. [Ord. 1371]

**TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (Tower - Based WCF)** – Any structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers and monopoles. DAS hub facilities are considered to be tower-based WCFs. [Ord. 1371]

**TREATMENT CENTER** - A use involving any one or a combination of the following:

- A. A use (other than a prison or a hospital) providing housing for three (3) or more unrelated persons who need specialized housing, treatment and/or counseling because of:
  - 1. Criminal rehabilitation, such as a criminal halfway house, or a facility for the housing of persons judged to be juvenile delinquents, or a criminal work release or prerelease facility;
  - 2. Current addiction to a controlled substance that was used in an illegal manner or alcohol; and/or
  - 3. A type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.
- B. A residential or non-residential Methadone Treatment Facility, which shall be defined as a facility licensed by the Pennsylvania Department of Health, other

than a Hospital, to use the drug methadone in the treatment, maintenance or detoxification of persons.

C. A lot upon which resides two (2) or more persons who are required to register their place of residence with the Pennsylvania State Police as a requirement of the Pennsylvania Megan's Law II, or its successor law, as amended.

D. A use that otherwise meets the definition of a Group Home For the Handicapped, except that it includes a higher number of residents than is allowed in a Group Home for the Handicapped, unless approved otherwise under Section 902G.

[Ord. 1381]

**TREE** — any object of natural growth.

**UTILITY FACILITY** — Buildings, other structures and equipment owned or operated by a public utility, as defined in 66 Pa.C.S. § 102 (relating to definitions), to provide service. [Ord. 1425]

**UTILITY POLE** — A pole or similar structure that is or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for collocation. The term includes the vertical support structure for traffic lights but does not include wireless support structures or horizontal structures to which signal lights or other traffic control devices are attached. [Ord. 1425]

**USE** — the specific purpose for which land, a sign or a structure or building is designed, arranged, intended or for which it may be occupied or maintained, or any activity, occupation, business or operation which may be carried on, thereon or therein. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**VARIANCE** — relief, granted by the Zoning Hearing Board, from the terms and conditions of this Chapter provided those conditions contained hereafter relating to establishing the entitlement to variances are found to exist by the Zoning Hearing Board.

**WATER DISTRIBUTION SYSTEM** — a system for supplying and distributing water from a common source to dwellings and other buildings, but generally not confined to one neighborhood.

**WIRELESS** - Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals. [Ord. 1371]

**WIRELESS COMMUNICATIONS FACILITY (WCF)** – The antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services. [Ord. 1371]

**WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF Applicant)** – Any person that applies for a wireless communications facility building permit, zoning

approval and/or permission to use the public ROW or other Borough owned land or property. [Ord. 1371]

**WIRELESS FACILITIES APPLICABLE CODES** — Any of the following:

- (1) Uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
- (2) Local zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances that comply with this act.

[Ord. 1425]

**WIRELESS FACILITIES APPLICATION** — A request submitted by an applicant to the Borough:

Small Wireless Facility:

- (1) for a permit to collocate small wireless facilities; or
- (2) to approve the installation, modification or replacement of a utility pole with small wireless facilities attached.

Non-Tower Wireless Facility:

for a permit to install, construct, modify or replace a non-tower wireless communication facility on a structure or building other than a utility pole and outside the right-of-way

Tower Based Wireless Facility:

for a permit to install or construct a tower based wireless communication facility.

[Ord. 1425]

**WIRELESS INFRASTRUCTURE PROVIDER** — A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in this Commonwealth that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures but is not a wireless services provider. [Ord. 1425]

**WIRELESS PROVIDER** — A wireless infrastructure provider or a wireless services provider. [Ord. 1425]

**WIRELESS SERVICES** — Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using wireless facilities. [Ord. 1425]

**WIRELESS SERVICES PROVIDER** — A person who provides wireless services. [Ord. 1425]

**WIRELESS SUPPORT STRUCTURE** — A freestanding structure, such as a tower-based wireless communications facility or any other support structure that could support the placement or installation of a wireless communications facility if approved by the Borough. [Ord. 1371]

**YARD** — the open space on the same lot with a building. The space shall be open and unobstructed from the ground upward, except as otherwise provided in this Chapter, and not less in depth or width than the minimum required in each zoning district.

**YARD, FRONT** — an open space between an adjacent street right-of-way and a line drawn parallel thereto, at such distance therefrom as may be specified herein for any zoning district, and extending for the full width of the lot.

**YARD, REAR** — an open space between the rear lot line and a line drawn parallel thereto at such distance therefrom as may be specified herein for any zoning district, and extending for the full width of the lot, except that in the case where the rear lot line is included within a service street, the rear yard shall be between the right-of-way line of the service street nearest the front yard of the lot and a line drawn parallel to such right-of-way line of the service street.

**YARD, SIDE** — an open space between the side lot line and a line drawn parallel thereto at such distance therefrom as may be specified herein for any zoning district, and extending from the front yard to the rear yard, except that in the case where the side lot line is included within a service street, the side yard shall be between the right-of-way line of the service street nearest the principal use or building on the lot and a line drawn parallel to such right-of-way line of the service street.

**ZONING HEARING BOARD** — Borough of Wyomissing Zoning Hearing Board.

**ZONING OFFICER** — that person appointed by the Borough of Wyomissing to issue zoning permits and who shall be charged with the duty of administering and enforcing this Ordinance.

**ZONING ORDINANCE** — Borough of Wyomissing Zoning Ordinance [this Chapter].

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §2; as amended by Ord. 1285, 10/14/2008, §1; as amended by Ord. 1288, 11/11/2008, §1; as amended by Ord. 1298, 8/29/2009, §1; as amended by Ord. 1305, 09/14/2010, §1; as amended by Ord. 1308, 11/9/2010, §1 and §2; as amended by Ord. 1308, 11/9/2010, §1 and §2; as amended by Ord. 1330, 1/10/2012, §1; as amended by Ord. 1338, 6/12/2012, §1; as amended by Ord. 1344, 9/11/2012, §1; as amended by Ord. 1347, 12/11/2012, §1; as amended by Ord. 1371, §§ 1

and 2, 9/8/2015; as amended by Ord. 1376, 12/8/2015, §1; as amended by Ord. 1381, 1/10/2017, §1; as amended by Ord. 1397, 10/9/2018, §1; as amended by Ord. 1421, 10/21/2021, §2; as amended by Ord. 1425, 1/11/2022, § 1; as amended by Ord. 1430, 2/14/2-23, §1); and as amended by Ord. 1435, 6/13/2023,§1.



## **PART 3**

### **ZONING DISTRICTS**

#### **§300. Types of Zoning Districts.**

In order to carry out the objectives of this Chapter, the Borough of Wyomissing has been divided into the following zoning districts:

- R-1 Low Density Residential District
- R-1A Low Density Residential District
- R-2 Suburban Residential District
- R-2A Suburban Residential District
- R-3 Medium Density Residential District
- R-3A Medium Density Residential District
- R-4 Retirement Community District
- T-C Town Center Residential/Office District
- C-1 Neighborhood Commercial District
- C-2 Retail Commercial District
- C-3 Special Commercial District
- I-1 Office/Research Park District
- I-2 Light Industrial District
- I-3 Special Light Industrial District

(Ord. 1234, 2/11/2003, §1; as amended by Ord 1381, 1/10/2017, §3)

#### **§301. Official Zoning Map.**

1. The boundaries of the zoning districts shall be as shown on the zoning map of the Borough. The zoning map and all notations, references and data shown thereon are hereby incorporated by reference into this Chapter.<sup>1</sup>
2. The Zoning Map of the Borough of Wyomissing, prepared by McCarthy Engineering, dated January 19, 2021, a copy of which is attached hereto as Exhibit "A", is hereby adopted as the Official Zoning Map of the Borough of Wyomissing. A copy of the prior zoning map of the Borough of Wyomissing, with the areas highlighted where zoning district boundaries are being changed, is attached hereto as Exhibit "B".
3. The official copy of the zoning map shall be so labeled and identified by the signature of the President of the Borough Council, attested by the Secretary of the Borough and bear the seal of the Borough under the following words:

"This is to certify that this is the official Zoning Map of the Borough of Wyomissing  
adopted \_\_\_\_\_, 20\_\_."

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<sup>1</sup> Editor's Note: The Zoning Map is on file in the Borough Office, available for view and copies may be obtained there.

4. If the official zoning map is amended, an entry indicating the change and the date of the change shall be made on the map and the entry shall include the signatures of the President of Borough Council and the Borough Secretary.
5. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret by reason of the nature and number of changes and additions made thereon, the Borough Council may by resolution adopt a new official zoning map which shall supersede such prior map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the President of the Borough Council, attested by the Secretary of the Borough, and bear the seal of the Borough under the following words:

"This is to certify that this is the official Zoning Map of the Borough of Wyomissing adopted \_\_\_\_\_, 20\_\_."

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1254, 4/12/2005; as amended by Ord 1381, 1/10/2017, §3; as amended by Ord. 1416-2021, 3/9/2021, §2)

### **§302. District Boundaries; Rules for Interpretation.**

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately coinciding with the center lines of streets, highways, lanes, alleys, creeks, rivers or railroad tracks, such center lines shall be construed to be such boundaries.
- B. Where district boundaries are indicated as approximately coinciding with lot lines or right-of-way lines, such lot lines or right-of-way lines shall be construed to be such boundaries.
- C. Where district boundaries are indicated as being approximately parallel to the right-of-way lines of streets or highways, lanes, alleys, creeks, rivers or railroad tracks, such district boundaries shall be construed as being parallel to the right-of-way lines at such distance as is indicated on the official zoning map. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- D. Where district boundaries are indicated as being approximately perpendicular to the right-of-way lines of streets, highways or railroad tracks, such district boundaries shall be construed as being perpendicular to the right-of-way lines.

- E. Boundaries indicated as approximately following Borough limits shall be construed as following such limits.
- F. Boundaries indicated as extensions of features indicated in subsections (A) through (E), above, shall be so construed.
- G. Where physical or contour features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (A) through (F), above, the Zoning Officer shall interpret the district boundaries.
- H. Where a district boundary line divides a lot which was in single ownership at the effective date of this Chapter, at the election of the property owner, the regulations of either zoning district may be extended a distance of not more than 50 feet beyond the district boundary line into the remaining portion of the lot.
- I. Where setback, screening or buffering requirements from zoning districts are imposed, zoning districts in adjacent municipalities shall be considered in addition to those in the Borough.

(Ord. 1234, 2/11/2003, §1)

### **§303. Application of District Regulations.**

- 1. No building, structure or land shall be used or occupied and no building, structure or part thereof shall be erected, constructed, assembled, moved, enlarged, reconstructed, removed or structurally altered without the issuance of a zoning approval by the Zoning Officer or his/her concurrence in the issuance of a building permit.
- 2. Compliance with this Chapter in no way relieves responsibility of complying with other Borough ordinances.
- 3. No part of a yard, common open space, other open space or off-street parking or loading space required in connection with one structure, building or use of the land shall be included as part of a yard, common open space, open space or off-street parking or loading space similarly required for any other structure, building or use of the land, except as permitted or required by this Chapter or other Borough ordinances or regulations.
- 3. No yard or lot existing at the time of passage of this Chapter which meets the requirements of this Chapter shall be reduced in dimension or area below the minimum requirements set forth in this Chapter. A yard or lot existing at the time of passage of this Chapter shall not be further reduced below the minimum requirements of this Chapter.

4. Where district regulations specify a minimum lot width at the street line, the minimum lot width shall be provided contiguous along the street line of one street. It is prohibited, when calculating the width of a lot, to add widths along the street lines of two or more streets. In the case of a corner lot, the minimum lot width must be provided along the street line of one street, but does not have to be provided along the street line of each street on which the lot fronts, unless otherwise required by this Chapter.
5. Where district regulations specify a minimum lot width at the building setback line, the minimum lot width shall be provided contiguous along the building setback line established from one street. It is prohibited, when calculating the width of a lot, to add widths along the building setback lines established from two or more streets. In the case of a corner lot, the minimum lot width must be provided along the building setback line established from one street, but does not have to be provided along the building setback line established from each street on which the lot fronts.
6. In the case of a lot of irregular shape in which a portion of the lot abuts a street and a portion not abutting a street abuts the rear yards of lots which have frontage on the same street as does the irregularly shaped lot, on the irregularly shaped lot a building setback line shall be established from the abutting rear yards. As a minimum, the building setback requirement of the applicable zoning district shall be used in establishing such building setback line.

(Ord. 1234, 2/11/2003, §1)

#### **§304. Minimum Building Setback Requirements (Districts R-1A & R-2A).**

ROAD NAME	MINIMUM BUILDING SETBACK
Abington Drive	25 feet
Bristol Court	25 feet (35 feet on back of court)
Buckingham Drive	35 feet
Cheltenham Drive	25 feet
Christine Drive	25 feet
Daleview Road	25 feet
Darlin Drive	30 feet
Deborah Drive	35 feet
Devonshire Drive	25 feet
Dorchester Drive	25 feet
Downing Drive	35 feet
East Park Road	25 feet
Edgedale Court	30 feet

<b>ROAD NAME</b>	<b>MINIMUM BUILDING SETBACK</b>
Gail Circle (north side)	35 feet
Gail Circle (south side)	30 feet
Grandview Boulevard	40 feet
Hawthorne Road	30 feet
Hillside Road	15 feet
Lawndale Road	25 feet
Margaret Drive	25 feet
Mayfair Road	25 feet
Merrymount Road	30 feet
Northfield Drive	30 feet
Overhill Road (south of Hawthorne Road)	25 feet
Overhill Road (north of Hawthorne Road)	30 feet
Park Road	30 feet
Parliament Drive	25 feet
Robert Road	35 feet
Seiberts Court	25 feet
Southampton Drive	35 feet
Telford Avenue	25 feet
Tewkesbury Drive	25 feet
Upland Road	30 feet
Valley Road	25 feet
Vista Road	25 feet
Warwick Drive	25 feet
Wellington Boulevard	35 feet
Wingert Road	25 feet
Woodland Road (south of State Hill Road)	30 feet
Woodside Avenue (Snyder Road)	30 feet
Wroxham Drive	25 feet
Wyomissing Hills Boulevard	30 feet

(Ord. 1234, 2/11/2003, §1)

**PART 4****RESIDENTIAL DISTRICT REGULATIONS****§400. R-1 Low Density Residential District.****§401. Specific Intent.**

It is the purpose of this district to provide for the maintenance and expansion of single-family detached residential areas at low densities of development.

(Ord. 1234, 2/11/2003, §1)

**§402. Uses Permitted by Right.**

Land and buildings in an R-1 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Single-family detached dwelling.
- B. Municipal use.
- C. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- D. Forestry activities including, but not limited to, timber harvesting
- E. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B
- F. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.
- G. Short-Term Residential Rental Unit, subject to Section 628.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §3; as amended by Ord. 1425, 1/11/2022, §2); and as amended by Ord. 1435, 6/13/2023, §2.

**§403. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Public or private elementary, middle, junior or senior high school (for grades K-12).

- B. Family day care and group homes.
- C. Bed and Breakfast Establishment, subject to Section 629.
- D. Boarding, Rooming and Lodging House, subject to Section 630.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1430, 2/14/2023, §2; as amended by Ord. 1435, 6/13/2023, §3)

#### **§404. Area, Yard and Height Regulations.**

##### Maximum Permitted

Building Height:	35 feet
Building Coverage:	25%
Paved Area:	20%

##### Minimum Requirements

Lot Size:	12,000 Square Feet
Building Setback:	30 feet

##### Minimum Requirements

###### Side Yard

Total:	30 feet
Each Side:	15 feet
Rear Yard:	40 feet*
Lot Width	
At Street Line:	60 feet
At Building Setback Line:	100 feet

\* Or 25% of the lot depth, whichever is less.

Where a residential lot in this district has an area of at least  $\frac{1}{2}$  acre (21,780 square feet), the maximum permitted building height of a single-family detached dwelling shall be the greater of 35 feet or one and one-half times the shortest distance measured from the structure to each Lot Line as defined in this Chapter; permitted projections into yards as defined in Section 616 of this Chapter shall not be considered part of the structure for purposes of the calculation under this sentence.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1285, 10/14/2008, §2)

#### **§405. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

### **§410. R-1A Low Density Residential District.**

#### **§411. Specific Intent.**

It is the purpose of this district to provide for the maintenance and expansion of single-family detached residential areas at low densities of development.

(Ord. 1234, 2/11/2003, §1)

#### **§412. Uses Permitted by Right.**

Land and buildings in an R-1A District shall be used for the following purposes and no others, unless a special exception as provided for herein is granted:

- A. Single-family detached dwelling.
- B. Municipal use.
- C. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- D. Forestry activities including, but not limited to, timber harvesting.
- E. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- F. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.
- G. Short-Term Residential Rental Unit, subject to Section 628.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §4; as amended by Ord. 1425, 1/11/2022, § 3; as amended by Ord. 1435, 6/13/2023, §4)

#### **§413. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Church or similar place of worship, subject to:
  - (1) Minimum front, rear, and side yards shall be 50 feet.
- B. Public or private elementary, middle, junior or senior high school (for grades K-12).
- C. Private recreational use, including swimming, when said recreational use is in conjunction with the swimming facilities on the premises of a swimming association not organized for profit.
- D. Family day care and group homes.
- E. Bed and Breakfast Establishment, subject to Section 629.
- F. Boarding, Rooming and Lodging House, subject to Section 630.
- F. Accessory uses and structures to the above uses when on the same lot as the permitted use.

(Ord. 1234, 2/11/2003, §1;1 as amended by Ord. 1282, 8/12/2008, §5; as amended by Ord. 1430, 2/14/2023, §3; as amended by Ord. 1435, 6/13/2023, §5)

#### **§414. Area, Height and Yard Regulations.**

##### Maximum Permitted

Building Height:	35 feet
Building Coverage:	30%
Paved Area:	20%

##### Minimum Requirements

Lot Size:	10,000 square feet
Building Setback:	As designated in §304.

##### Side Yard

Total:	25 feet
Minimum Either Side:	10 feet

##### Rear Yard

Principal Building:	25 feet
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##### Lot Width

At Street Line:	60 feet
At Building Setback Line:	80 feet

(Ord. 1234, 2/11/2003, §1)

**§415. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**§420. R-2 Suburban Residential District.**

**§421. Specific Intent.**

It is the purpose of this district to provide for the maintenance of existing single-family detached and semidetached residential areas.

(Ord. 1234, 2/11/2003, §1)

**§422. Uses Permitted by Right.**

Land and buildings in an R-2 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Single-family detached dwelling.
- B. Single-family semidetached dwelling.
- C. Municipal use.
- D. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- E. Forestry activities including, but not limited to, timber harvesting.
- F. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- G. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.
- H. Short-Term Residential Rental Unit, subject to Section 628.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §6; as amended by Ord. 1425, 1/11/2022, §4; as amended by Ord. 1435, 6/13/2023, §6)

### **§423. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Public or private elementary, middle, junior or senior high school (for grades K-12).
- B. Bed and Breakfast Establishment, subject to Section 629.
- C. Boarding, Rooming and Lodging House, subject to Section 630.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1430, 2/14/2023, §4; as amended by Ord. 1435, 6/13/2023, §7)

### **§424. Area, Yard and Height Regulations.**

<b>Maximum Permitted</b>	<b>Single-Family Detached Dwelling</b>	<b>Single-Family Semidetached Dwelling</b>	<b>Nonresidential Uses</b>
Building Height	35 feet	35 feet	35 feet
Building Coverage	25%	30%	25%
Paved Area	20%	20%	20%
Minimum Requirements			
Lot Size	12,000 sq. ft.	8,000 sq. ft.	12,000 sq. ft.
Building Setback	20 feet	20 feet	20 feet
Side Yard			
Total	3,020 feet	20 feet	30 feet
Each Side	15 feet	10 feet	15 feet
Minimum Requirements			
Rear Yard	40 feet*	40 feet*	40 feet*
Lot Width			
At Street Line	50 feet	50 feet	50 feet
At Building Setback Line	80 feet	70 feet	80 feet

\* Or 25% of the lot depth, whichever is less.

(Ord. 1234, 2/11/2003, §1)

**§425. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**§430. R-2A Suburban Residential District.**

**§431. Specific Intent.**

It is the purpose of this district to provide for the maintenance of existing single-family detached and semi-detached residential areas.

(Ord. 1234, 2/11/2003, §1)

**§432. Uses Permitted by Right.**

Land and buildings in an R-2A District shall be used for the following purposes and no others, unless a special exception as provided for herein is granted:

- A. Single-family detached dwelling.
- B. Single family semi-detached dwelling.
- C. Municipal use.
- D. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- E. Forestry activities including, but not limited to, timber harvesting.
- F. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- G. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.
- H. Short-Term Residential Rental Unit, subject to Section 628.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §7; as amended by Ord. 1425, 1/11/2022, §5; as amended by Ord. 1435, 6/13/2023, §8)

**§433. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Church or similar place of worship, subject to:
  - (1) Minimum front, rear, and side yards shall be 50 feet.

- B. Public or private elementary, middle, junior or senior high school (for grades K-12).
- C. Bed and Breakfast Establishment, subject to Section 629.
- D. Boarding, Rooming and Lodging House, subject to Section 630.
- E. Accessory uses and structures to the above uses when on the same lot as the permitted use.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §8; as amended by Ord. 1430, 2/14/2023, §5; as amended by Ord. 1435, 6/13/2023, §9)

#### **§434. Area, Height and Yard Regulations.**

<b>Maximum Permitted</b>	<b>Single Family Detached Dwelling</b>	<b>Single Family Semi-Detached Dwelling</b>	<b>Nonresidential Uses</b>
Building Height	35 feet	35 feet	35 feet
Building Coverage	30%	30%	30%
Paved Area	20%	20%	20%
Minimum Requirements			
Lot Size	10,000 sq. ft.	6,000 sq. ft. per dwelling unit	10,000 sq. ft.
Building Setback	As designated in §304.		
Side Yard			
Total	25 feet	25 feet	25 feet
Min. Either Side	10 feet	10 feet	10 feet
Rear Yard	25 feet	25 feet	25 feet
Lot Width			
at Street Line	60 feet	40 feet per dwelling unit	80 feet
at Building Setback Line	80 feet	40 feet per dwelling unit	80 feet

(Ord. 1234, 2/11/2003, §1)

**§435. General Regulations Applicable.**

In addition to the above regulations listed for this district, the General Regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**§440. R-3 Medium Density Residential District.****§441. Specific Intent.**

It is the purpose of this district to provide for development of multiple family dwellings at medium densities.

(Ord. 1234, 2/11/2003, §1)

**§442. Uses Permitted by Right.**

Land and buildings in an R-3 District may be used for the following purposes and no others:

- A. Municipal use.
- B. Development containing apartments and/or townhouses, subject to:
  - (1) The density of the development shall not exceed 10 dwelling units per acre. (In calculating this density, the total acreage of the tract minus the acreage of the tract within street rights-of-way shall be used.)
  - (2) The maximum building height at any point shall be 45 feet. The number of full stories exposed shall not exceed three.
  - (3) The minimum building setback from public streets shall be 50 feet.
  - (4) A system for pedestrian circulation throughout the development shall be provided.
  - (5) All structures shall be located a minimum of 50 feet from the property lines of the parcel.
  - (6) No more than 20% of the total area of the parcel shall be covered by buildings.
  - (7) No more than 20% of the total area of the parcel shall be paved surface such as streets, interior access drives, parking areas, sidewalks and courts.
  - (8) Common parking areas and interior access drives shall be located a minimum of 25 feet from the property lines of the parcel.
  - (9) All buildings shall be set back a minimum of 20 feet from all common parking areas and internal access drives and streets, except for off-

street loading areas and areas at entrances to buildings where residents will enter and leave standing vehicles.

- (10) All principal buildings shall be separated by a minimum horizontal distance of 45 feet.
- (11) No less than 30% of the total area of the parcel shall be permanently set aside for noncommercial common open space purposes, such as parks, recreation or conservation of natural features. The common open space areas shall be suitable for the designated purpose and contain no structure or parking facilities except as related to and incidental to open space uses.
- (12) All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.
- (13) Entrances to and exits from parking areas shall have a minimum width of 12 feet for each lane of traffic entering or leaving the area.
- (14) No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.
- (15) Entrances to and exits from common parking areas shall be located a minimum of 50 feet from the point of intersection of the nearest public street cartway lines and the point of intersection of the nearest interior access drives.
- (16) A system of paved walkways a minimum of four feet in width shall be provided for access between buildings and common parking areas, open space and recreation areas and other community facilities.
- (17) A landscaping plan for the planned development prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan.
- (18) No more than six townhouses shall be permitted in a continuous row and the maximum length of a continuous row of townhouses shall be 160 feet. No more than three continuous townhouses shall have the same front setback and the variations in front setback shall be at least two feet.
- (19) For buildings other than townhouses, there shall be no architecturally unbroken building face of more than 160 lineal feet. A building face shall be considered architecturally broken if there is a deflection in the building axis of at least 30° or, where there is no deflection in the building axis of at least 30°, an integral architectural feature of the

building projects from the building face a minimum of 10 feet for a minimum distance of 10 feet along the building face. Such architectural feature shall extend the entire height of the building included within stories.

- (20) Parking areas serving apartment buildings and townhouses shall not be designed or located to require cars to back into collector or arterial streets in order to leave the parking area.
- (21) Exterior storage areas for trash and rubbish shall be completely screened from view on three sides and all trash and rubbish shall be contained in vermin-proof containers.
- C. Accessory uses and structures to the above listed uses when on the same lot as the permitted use.
- D. Forestry activities including, but not limited to, timber harvesting.
- E. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- F. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.
- G. Short-Term Residential Rental Unit, subject to Section 628.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §9; as amended by Ord. 1425, 1/11/2022, §6; as amended by Ord. 1435, 6/13/2023, §10)

#### **§443. Uses Permitted by Special Exception.**

- A. Bed and Breakfast Establishment, subject to Section 629.
- B. Boarding, Rooming and Lodging House, subject to Section 630.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1430, 2/14/2023, §6; as amended by Ord. 1435, 6/13/2023, §11)

#### **§444. Area, Yard and Height Regulations.**

The following requirements shall apply to uses not otherwise specified within this district:

Maximum Permitted

Building Height: 45 feet  
Building Coverage: 25%  
Paved Area: 40%

## Minimum Requirements

Lot Size: 43,560 sq. ft.

Building Setback: 50 feet

Side Yard

Total: 100 feet

Each Side: 50 feet

Rear Yard: 50 feet

Lot Width

At Street Line: 150 feet

At Building Setback Line: 150 feet

Open Area: 35%

(Ord. 1234, 2/11/2003, §1)

## **§445. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**§450. R-3A Medium Density Residential District.****§451. Specific Intent.**

It is the purpose of this district to provide for development of multiple family dwellings at medium densities.

(Ord. 1234, 2/11/2003, §1)

**§452. Uses Permitted by Right.**

Land and buildings in an R-3A District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Single family detached dwelling.
- B. Single family semi-detached dwelling.
- C. Municipal use.
- D. A development containing townhouses and/or apartments, subject to:
  - (1) The development shall be serviced by public water supply and sewage disposal.
  - (2) All utilities shall be placed underground.
  - (3) The development shall be a minimum of five acres in size.
  - (4) All principal and accessory buildings and accessory swimming pools and tennis courts shall be set back at least 25 feet from street right-of-way lines and 50 feet from property lines of the development.
  - (5) The maximum height of all buildings shall be 30 feet. No building shall contain more than two stories.
  - (6) Where any townhouse or apartment building has a wall any portion of which faces a wall of another building, the following minimum horizontal distances between said walls shall apply:
    - (a) Where both walls contain a window or door, or windows or doors, not less than 75 feet building separation must be provided.
    - (b) Where only one wall contains a window or door, or windows or doors, not less than 50 feet building separation must be provided.

- (c) Where both walls do not contain any windows or doors, not less than 30 feet building separation must be provided.
- (7) The density of the development shall not exceed nine dwelling units per gross acre of land included within the development in the Medium Density Residential District. In making this calculation, land which is capable of further development or subdivision for additional dwellings shall not be counted unless the possibility of such development or subdivision is precluded by deed restriction or agreement in form acceptable to the Borough Solicitor and duly recorded in the Office of the Recorder of Deeds of Berks County, by transfer of development rights to the Borough or by dedication for public purposes or permanent open space to serve the development.
- (8) In determining the location, orientation and design of all buildings consideration shall be given to site terrain and other natural features.
- (9) A twenty-five-foot buffer yard shall be located along the sides and rear of any development within the R-3A Medium Density Residential District which is adjacent to an R-1, R-1A, R-2, or R-2A District. Also, a 50 feet buffer yard shall be located along the sides and rear of any development within the Medium Density Residential District which is adjacent to a Business District. This buffer yard shall be provided in accordance with the following standards:
  - (a) The buffer yard shall be measured from the District boundary line or from the street right-of-way line (where a street serves as the District boundary line). Buffer yards shall not be within an existing or future street right-of-way and shall be in addition to that right-of-way.
  - (b) The buffer yard may be coterminous with a required front, side, or rear yard, provided the larger yard requirement shall apply in case of conflict.
  - (c) The buffer yard shall be a landscaped area free of structures, materials or vehicular parking. No driveways or streets shall be permitted in the buffer yards except at points of ingress or egress.
  - (d) In all buffer yards, all areas not within the planting screen shall be planted with grass seed, sod or ground cover, and shall be maintained and kept clean of all debris, rubbish and weeds. Said grass and ground cover shall be cut on a regular basis so that it will not exceed a height of six inches.
  - (e) Each buffer yard shall include a Planting Screen of trees, shrubs and/or other plant materials extending in a staggered and overlapping fashion the full length of the District boundary line

to serve as a barrier to visibility, airborne particles, glare and noise. The noise level of normal and repetitive activity in the R-3A Medium Density Residential District detected as it comes through the screening into an adjacent R-1, R-1A, R-2, or R-2A District shall not exceed 60 dbA measured at ground level from the time a certificate of use and occupancy is issued.

Each planting screen shall be in accordance with the following requirements:

- (i) Plant materials used in the planting screen shall be of such species and size as will produce, within two years, a complete year-round visual screen of at least eight feet in height.
- (ii) The planting screen shall be permanently maintained by the landowner and any plant material that does not live shall be replaced within one year.
- (iii) The planting screen shall be so placed that at maturity it will be at least three feet from any street or property line.
- (iv) The Planting Screen shall be broken only at points of vehicular or pedestrian access.
- (v) Clear sight triangles shall be provided at street intersections in accordance with the requirements of this Chapter and the Borough's Subdivision and Land Development Ordinance [Chapter 22].
- (vi) The applicant shall submit plans showing the location and arrangement of each buffer yard and the placement, species and size of all plant materials.

(10) If any dwelling units are to be sold under homeowner's and/or condominium agreements, such agreements or documents shall be approved by Borough Council prior to recording and filed with the subdivision or land development plan at the Borough Office.

Any proposed change to a condominium declaration shall be submitted to the Borough Council for review and approval.

(11) No less than 25% of the total area of the parcel excluding street right-of-way shall be permanently set aside for noncommercial common open space purposes, such as parks, recreation or conservation of natural features. The common open space areas shall be suitable for the designated purpose and contain no structure or parking facilities except as related to and incidental to open space uses.

The proper operation and maintenance of all common open spaces shall be secured by an appropriate organization with legal responsibility therefor. If the dwellings are sold, the organization may be a condominium, cooperative, corporation, association, trust or other appropriate nonprofit organization of the dwelling unit owners, organized in a manner found by the Borough Solicitor to be legally effective and able to carry out its maintenance and operating responsibilities. It is the intention of this Chapter to authorize the remedies provided in Section 705(f)(2) and (3) of the Municipalities Planning code, and the same are hereby incorporated by reference.

- (12) Not more than 50% of the gross land area comprising a development shall be covered with buildings or other impervious ground cover, including parking areas, driveways, roads, sidewalks, recreation areas and any area covered in concrete, asphalt or other similar cover that does not absorb water.
- (13) A system of paved walkways a minimum of four feet in width shall be provided for access between buildings and common parking areas, open space and recreation areas, and other community facilities.
- (14) Parking areas shall be located at least 15 feet away from a wall containing windows and 10 feet away from a blank wall, except in cases where the parking areas are located within a building or attached garages or carports.

All parking areas, streets or driveways, except at points of ingress and egress, shall be located at least 50 feet from the boundary property line of the development.

All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.

Entrances to and exits from parking areas shall have a minimum width of 12 feet for each lane of traffic entering or leaving the areas.

No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.

The terminus of the radius of an entrance to and exit from a common parking area shall be located a minimum of 50 feet from the point of intersection of any street right-of-way lines and the point of intersection of the nearest interior access drives.

Parking areas shall not be designed or located to require cars to back into public streets in order to leave the parking area.

Parking areas shall be designed to discourage rapid through travel from one parking area to another parking area, by use of speed bumps, etc. Entrance and exit ways and interior access ways shall be designed and have a width sufficient to allow vehicles to safely enter and leave a development site without blocking other vehicles entering, leaving or traveling within the development.

- (15) A landscaping plan for the development prepared by a registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan.
- (16) All storage for other than private automobiles shall be architecturally attached to and be part of a dwelling and be structurally enclosed.
- (17) There shall be a minimum apartment unit area of 750 square feet. As used in this Section, "area" means the area of a horizontal section of the apartment unit taken at its greatest outside dimensions on the ground floor, including all attached structures.

There shall be a minimum townhouse building area of 900 square feet. As used in this Section, "townhouse building area" means the area of a horizontal section of the townhouse building taken at its greatest outside dimensions on the ground floor, including all attached structures.

- (18) For each apartment house, there shall be a yard, patio or other outdoor area immediately adjacent to the front, back or side of each dwelling of not less than 400 square feet in area for the exclusive use of the occupants of that dwelling. If a development is subdivided into lots, the same tests shall apply in determining the minimum size of the lot. For second floor apartments, there shall be a minimum external patio area of 110 square feet on the same level. For each townhouse, there shall be a yard, patio or other outdoor area immediately adjacent to the front, back or side of each dwelling of not less than 400 square feet in area for the exclusive use of the occupants of that dwelling. If a development is subdivided into lots, the same tests shall apply in determining the minimum size of the lot.
- (19) In the case of a development containing townhouses, the division of a development into lots is not required so long as the land upon which it is situated remains in a single undivided common ownership (including condominium ownership).

The minimum width of a townhouse shall be 18 feet.

A development containing townhouses shall have a minimum of 500 feet frontage on a public street or private street approved by the Borough Council.

(20) The maximum length of apartment buildings shall be 160 feet. As used in this Section, “building length” means the horizontal measurement of any continuous building wall, without regard to offsets.

The maximum length of a continuous row of townhouses shall be 160 feet. As used in this Section, “building length” means the horizontal measurement of any continuous building wall, without regard to offsets.

There shall be not less than three and not more than eight townhouses attached to each other by party walls. No more than four adjacent townhouses shall have the same back and front wall plane. The minimum variation or offset of front and back wall planes shall be five feet.

(21) Stormwater detention basins shall not retain water for more than 48 hours after a storm.

Stormwater shall be taken from the site by underground drainage after it is detained and shall not drain into street or highway cartways.

(22) Single family detached dwellings, single family semi-detached dwellings, and two family detached dwellings may be located within the development, subject to the requirements of §423 of this Chapter.

- E. Accessory uses and structures to the above listed uses when on the same lot as the permitted use.
- F. Forestry activities including, but not limited to, timber harvesting.
- G. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- H. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §10; as amended by Ord. 1425, 1/11/2022, §7)

#### **§453. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

A. Mobile Home Park.

(1) Site Requirements.

- (a) The minimum area of a mobile home park shall be 10 acres.
- (b) All mobile home parks shall be served by either a public or community sewage disposal system and by either a public or community water supply system and all must be approved by the Pennsylvania Department of Environmental Protection.

(2) Area, Density, Width, Yard and Height Regulations for Mobile Homes and Accessory Structures within Mobile Home Parks.

(a) Minimum Mobile Home Lot Size per Mobile Home.

Single-Width Mobile Home: 5,000 sq. ft.

Double-Width Mobile Home: 10,000 sq. ft.

(b) Maximum Density of Mobile Homes: eight dwelling units (Dwelling Units) per acre

(c) Minimum Mobile Home Lot Width (Measured at the Minimum Building Setback Line): 40 feet

(d) Minimum Setback Line for Mobile Homes from property line of mobile home park and street line boundary: 50 feet

(e) Front Yard – Minimum (From streets internal to the mobile home park): 20 feet

(f) Minimum Side Yards: Total: 20 feet

One Side: 10 feet

(g) Minimum Distance Between Mobile Homes and Service or Accessory Building or Common Parking Facility: 30 feet

(h) Maximum Coverage.

(i) Building Coverage: 30%

(ii) Lot Coverage: 65%

(i) Maximum Height: 35 feet

(3) Design Standards.

(a) Street Layout and Construction.

- (1) There shall be at least one street in the park which is circumstantial and from which lesser streets shall turn out so as to provide direct access to each lot and to each common space area of the tract.
- (2) Cul-de-sac shall not exceed 600 feet in length and shall terminate in a turnaround having a fifty-foot radius to the outer edge of the cartway.
- (3) There shall be at least two entrances from a public street into the park. Additional entrances may be approved by the Borough if traffic conditions would warrant additional entrances.
- (4) Street design shall meet the requirements of this Chapter.
- (5) All streets shall be hard surface and shall be constructed in accordance with Borough specifications.

(b) Entrance to Mobile Home Park.

- (1) The main park entrance shall conform to the standards of the Pennsylvania Department of Transportation when the entrance is from a state road. A PennDOT Highway Occupancy Permit shall be obtained in such cases. When the entrance is from a Borough road, it shall conform to the requirements of this Chapter.
- (2) The entrance shall take into account the traffic on the public street and that to be generated by the park residents. Acceleration and deceleration lanes may be required as well as two-lane entrances and two-lane exits.

(c) Stormwater Drainage.

Stormwater drainage shall be in accordance with the requirements set forth in the Borough of Wyomissing Subdivision and Land Development Ordinance, Ordinance No. 1125 and as amended.

(d) Pedestrian Circulation System, Service and Accessory Buildings and Landscaping.

- (1) All mobile home parks shall contain a pedestrian circulation system which shall be designed, constructed,

and maintained for safe and convenient movement from all mobile home spaces to principal destinations within the park and, if appropriate, shall provide safe and convenient access to pedestrian ways leading to destinations outside of the park. "Principal Destinations" include such uses as recreation areas, service buildings, storage areas, common parking and management offices.

- (2) All pedestrian walks shall have a minimum width of four feet.
- (3) All pedestrian walks shall be paved.
- (4) All pedestrian walks must be provided with lighting units spaced, equipped, and installed to allow safe movement of pedestrians at night.
- (5) All service and accessory buildings, including management offices, storage areas, laundry buildings and indoor recreation areas, shall conform to the requirements of the Borough Building Code. Attachments to mobile homes in the form of sheds and lean-tos are prohibited.
- (6) The mobile home park shall have a structure designed and clearly identified as the office of the mobile home park manager.
- (7) Service and accessory buildings located in a mobile home park shall be used only by the occupants of the park and their guests.
- (8) Ground surfaces in all parts of a mobile home park must be paved or covered with grass or other suitable vegetation capable of preventing soil erosion and the emanation of dust.
- (9) Park grounds must be kept free of vegetative growth which is poisonous or which may produce pollen or harbor rodents, insects or other pests harmful to man.

- (4) Solid Waste and Vector Control and Electric Distribution System.

- (a) The storage, collection and disposal of solid wastes from the mobile homes park shall be the responsibility of the mobile home park operator.

- (b) The storage, collection and disposal of solid wastes must be conducted so as to prevent insect and rodent problems.
- (c) All solid wastes must be stored in approved fly-tight, rodent-proof and watertight containers, and these containers shall be maintained in a clean condition.
- (d) Solid waste containers must be distributed throughout the mobile home park in adequate numbers and be readily accessible to the mobile home spaces in use.
- (e) Exterior storage areas for solid wastes must be a completely screened-in system to which every mobile home and service building shall be connected. Such system and connections shall be installed, inspected and maintained in accordance with the specifications and rules of the appropriate utility company, the Borough and the State. The appropriate electric utility shall inspect all transformers and underground connections to all mobile homes located within mobile home parks and shall attach its dated "tag-of-approval" to each mobile home at a visible location before any mobile home is occupied.
- (f) Underground electric distribution lines are to be installed in all mobile home parks.

(5) Required Permits and Application for Permits.

- (a) It shall be unlawful for any person to maintain, construct, alter or extend any mobile home park within the Borough, unless he holds a valid Certificate of Registration issued by the Pennsylvania Department of Environmental Protection and a valid occupancy permit issued by the Borough Council.
- (b) Proof that a valid Certificate of Registration from the Pennsylvania Department of Environmental Protection is held shall be submitted to the Borough Manager each year.
- (c) Every person holding a Certificate of Registration shall file notice in writing to the Pennsylvania Department of Environmental Protection and the Borough Manager within 10 days after having sold, transferred, given away or otherwise having disposed of interest in or control of any mobile home park.
- (d) Mobile home parks in existence upon the effective date of this Chapter shall be required to meet only the standards of the Pennsylvania Department of Environmental Protection, the Borough Zoning Ordinance and other applicable Borough

ordinances, as a prerequisite to the issuing of an occupancy permit by the Borough. The standards of the Department of Environmental Resources, the Borough Zoning Ordinance, other applicable Borough Ordinances and the standards prescribed in this Chapter shall be met before an occupancy permit is issued by the Borough for a mobile home park constructed or expanded after the effective date of this Chapter.

- (e) A representative of the Borough may inspect a mobile home park at reasonable intervals and at reasonable times to determine compliance with this Chapter.
- (f) A copy of the occupancy permit for a mobile home park issued by the Borough shall at all times be posted in the office of the mobile home park manager.
- (g) Applications for occupancy permits for mobile home parks shall be filed with the Borough Code Enforcement Officer, using application forms available from the Borough Office.
- (h) Accompanying all applications for occupancy permits shall be three copies of all information which was submitted to the Pennsylvania Department of Environmental Resources when an application for a Certificate of Registration from that body was filed.
- (i) An application for an occupancy permit for a mobile home park shall be accompanied by three copies of plans for the mobile home park and three copies of any supplemental drawings which shall contain all information necessary to allow the Borough Council to determine that all the requirements of this Chapter have been met.
- (j) The Borough Code Enforcement Officer shall act on each application for an occupancy permit for a mobile home park and shall issue an occupancy permit when the application is approved, providing proof that the Pennsylvania Department of Environmental Protection has issued a Certificate of Registration is submitted to the Borough. The occupancy permit shall be valid for a period of one year from the date it is issued.
- (k) An annual permit fee shall be required for each mobile home park. An occupancy permit must be renewed each year and will not be renewed by the Borough unless the annual permit fee is paid to the Borough and the Borough determines that all the standards of the Pennsylvania Department of Environmental Protection are met. In the case of mobile home parks constructed

or expanded after the effective date of this Chapter, the Borough must also determine that the standards of this Chapter are met.

- (l) An application for renewal of an occupancy permit for a mobile home park must be submitted each year. Application forms shall be obtained from the Borough Office. Only an application need be submitted when an occupancy permit is to be renewed. A plan of the mobile home park is not required when a permit is to be renewed.
- (m) After the effective date of this Chapter, before the area, number of mobile home spaces, road system, service facilities, sewer facilities, water facilities or any other aspect of a mobile home park which is regulated by this Chapter may be altered or expanded, this alteration or expansion must be approved by the Borough Planning Commission. Plans which indicate all proposed modifications shall be filed with the Borough Zoning Officer, who will submit the plans to the Planning Commission.

(6) Supervision of Park.

- (a) The person to whom an occupancy permit for a mobile home park is issued shall operate the park in compliance with this Chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (b) A register containing the names of all park occupants, the make, model and serial number of each mobile home, the date of arrival of each mobile home in the park, and the lot number upon which the mobile home is parked, and the date of departure from the park shall be maintained by the person to whom an occupancy permit for a mobile home park was issued. The register shall be available to any person whom the Borough Council authorizes to inspect the park and shall be kept within the office of the mobile home park manager.
- (c) A space within a mobile home park shall be rented for periods of 180 days or more.
- (d) Whenever the ownership or management of any mobile home park changes, the new owner or manager of the mobile home park shall notify the Borough Manager of the change.

(7) Notices, Hearings and Orders.

- (a) Whenever, after inspection of any mobile home park, it is determined by the Borough Code Enforcement Officer that

conditions or practices exist which are in violation of any provision of this Chapter, the Borough Manager shall give notice in writing to the person to whom an occupancy permit for a mobile home park was issued, advising such person that unless such conditions or practices are corrected within a reasonable period of time specified within the notice, the permit to operate a mobile home park in the Borough will be suspended. At the end of the specified period of time the mobile home park will be reinspected by the Borough Code Enforcement Officer. If the conditions or practices in violation of this Chapter have not been corrected, the Borough Code Enforcement Officer shall suspend the occupancy permit and give notice in writing of such suspension to the person to whom the permit was issued.

- (b) The written notice advising that conditions or practices exist which are in violation of this Chapter and that these conditions or practices may result in the suspension of an occupancy permit for a mobile home park shall:
  - (1) Be in writing.
  - (2) Include a statement of the reasons for its issuance.
  - (3) Allow a reasonable time for the performance of any act it requires.
  - (4) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter.
  - (5) Be served upon the person to whom an occupancy permit for a mobile home park was issued.
- (c) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter, or of any regulation adopted pursuant thereto, any request and shall be granted a hearing on the matter before the Borough Council provided that such a person shall file with the Borough Manager a written petition requesting such hearing and setting forth a brief statement of the grounds for the request for the hearing within 10 days after the notice was served.
- (d) Upon receipt of such petition, the Borough Council shall set a place and time for the hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner will be given an opportunity to show why the notice which was issued should be modified or withdrawn. The hearing shall be held not later than 10 days after the day on which the petition was filed. Upon written application by the petitioner, the Borough Council may

waive this ten-day requirement when in their judgment the petitioner has submitted sufficient reasons for such a postponement.

- (e) After the hearing has been held, the Borough Council shall make findings as to the compliance with the provisions of this Chapter and shall issue an order in writing sustaining, modifying or withdrawing the notice provided for in subsection (a)(7)(a) of this Section. Upon failure to comply with the conditions of the sustained or modified notice, the Borough Council shall suspend the occupancy permit for the mobile home park in question and give notice in writing of such suspension to the person to whom the permit was issued.
- (f) Any person aggrieved by the decision of the Borough Council may seek relief in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Pennsylvania.

#### B. Two-Family Detached Dwelling.

(Ord. 1234, 2/11/2003, §1)

#### **§454. Area, Height and Yard Regulations.**

<b>Maximum Permitted</b>	<b>Single Family Detached Dwelling or Nonresidential Use</b>	<b>Single Family Semi-Detached Dwelling</b>	<b>Two Family Detached Dwelling</b>
Building Height	35 feet	35 feet	35 feet
Building Coverage	30%	30%	30%
Paved Area	20%	20%	20%
Minimum Requirements			
Lot Size	10,000 sq. ft.	6,000 sq. ft. per dwelling unit	12,000 sq. ft.
Building Setback	As designated in §304.		
Side Yard			
Total	25 feet	25 feet	25 feet
Min. Either Side	10 feet	10 feet	10 feet
Rear Yard	25 feet	25 feet	25 feet

<b>Maximum Permitted</b>	<b>Single Family Detached Dwelling or Nonresidential Use</b>	<b>Single Family Semi-Detached Dwelling</b>	<b>Two Family Detached Dwelling</b>
Lot Width			
at Street Line	60 feet	40 feet per dwelling unit	40 feet per dwelling unit
at Building Setback Line	80 feet	50 feet per dwelling unit	50 feet per dwelling unit

(Ord. 1234, 2/11/2003, §1)

#### **§455. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

## **§460. R-4 Retirement Community District.**

### **§461. Specific Intent.**

It is the purpose of this district to provide for residential and physical health care facilities for elderly and disabled persons within a planned retirement community, which community is intended to include the amenities which are typical or commonly associated with such planned retirement communities.

(Ord. 1234, 2/11/2003, §1)

### **§462. Application Procedure.**

1. Any retirement community shall be considered a land development and the plan for such community is subject to review by the Borough Planning Commission and approval by the Borough Council pursuant to the provisions of the Borough's Subdivision and Land Development Ordinance [Chapter 22]. The plan for any retirement community is subject to the standards of this R-4 District and the Borough's Subdivision and Land Development Ordinance [Chapter 22].
2. In the event of any conflict between the provisions of this R-4 District and any other provisions of this Chapter or Subdivision and Land Development Ordinance [Chapter 22], the provisions of this R-4 District shall control.

(Ord. 1234, 2/11/2003, §1)

### **§463. Uses Permitted by Right.**

Land and buildings in an R-4 Retirement Community District may be used only for the purpose of a retirement community (hereafter referred to as the "community"). The community is subject to the following requirements:

A. Retirement Community. Referred to herein as the "community". The community is subject to the following requirements

1. Living units for the elderly, including single-family detached dwellings, single-family semidetached dwellings, townhouses or apartment units, shall be the principal use within the community. In addition, common facilities required to support the needs of persons living within the community, including the elderly and disabled persons regardless of age, shall be provided. Such common facilities may include the following:

(a) Dining facilities including kitchens and accessory facilities for residents and their guests.

(b) Social rooms, chapels, meeting rooms and overnight guest rooms for guests of residents.

(c) Health care facilities including, but not limited to, clinic, rehabilitation services, nursing care, convalescent care, intermediate care, extended care, personal care, laboratory and such other similar facilities required to supply the health care needs of the residents of the community.

(d) Administrative offices used in the management of the community and health care facilities.

(e) Activity, craft and hobby shops, recreation facilities, gift shops, personal service facilities and similar type uses, exclusively for the use of residents and their guests.

(f) Accessory buildings and uses customarily incidental to the above uses.

2. The minimum size parcel shall be 20 acres.

3. Maximum building height at any point shall be 45 feet. The number of full stories exposed shall not exceed four.

4. Minimum building setback from public streets shall be 50 feet.

5. All structures shall be located a minimum of 50 feet from the property lines of the parcel.

6. No more than 20% of the total area of the parcel shall be covered by buildings.

7. No more than 20% of the total area of the parcel shall be paved surface such as streets, interior access drives, parking areas, sidewalks and courts.

8. Common parking areas and interior access drives shall be located a minimum of 25 feet from the property lines of the parcel.

9. All buildings shall be set back a minimum of 20 feet from all common parking areas and internal access drives and streets, except for off-street loading areas and areas at entrances to buildings where residents will enter and leave standing vehicles.

10. All principal buildings shall be separated by a minimum horizontal distance of 45 feet.

11. No less than 30% of the total area of the parcel shall be permanently set aside for noncommercial common open space purposes, such as parks,

recreation or conservation of natural features. The common open space areas shall be suitable for the designated purpose and contain no structure or parking facilities except as related to and incidental to open space uses.

12. Each community shall be built as a single legal entity and shall be retained in single ownership. Fee simple absolute sale of units shall be prohibited. All common facilities to support the needs of the residents of the community shall remain under a single ownership.

13. All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.

14. Entrances to and exits from parking areas shall have a minimum width of 12 feet for each lane of traffic entering or leaving the areas.

15. No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.

16. Entrances to and exits from common parking areas shall be located a minimum of 50 feet from the point of intersection of the nearest public street cartway lines and the point of intersection of the nearest interior access drives.

17. Minimum parking requirements shall be as follows:

- (a) Living units for the elderly: one space per dwelling unit.
- (b) Nursing homes, personal care facilities and other care facilities: one space per employee on the largest shift plus one space for each four beds.
- (c) Gift shops, personal services facilities and similar type uses: one space for each 200 square feet of gross floor area.

18. A system of paved walkways a minimum of five feet in width shall be provided for access between buildings and common parking areas, open space and recreation areas, and other community facilities.

19. A landscaping plan for the retirement community prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan.

20. Identification signs for retirement communities are permitted provided that no more than one such sign shall be erected at each exterior public street access to the retirement community. No such sign shall be closer than 10 feet

to a lot line, and the area on one side of any such sign shall not exceed 25 square feet. No part of any sign shall exceed eight feet in height.

21. No more than six townhouses shall be permitted in a continuous row and the maximum length of a continuous row of townhouses shall be 160 feet. No more than three continuous townhouses shall have the same front setback and the variations in front setback shall be at least two feet.

22. For buildings other than townhouses, there shall be no architecturally unbroken building face of more than 160 lineal feet. A building face shall be considered architecturally broken if there is a deflection in the building axis of at least 30° or, where there is no deflection in the building axis of at least 30°, an integral architectural feature of the building projects from the building face a minimum of 10 feet for a minimum distance of 10 feet along the building face. Such architectural feature shall extend the entire height of the building included within stories.

B. Forestry activities including, but not limited to, timber harvesting shall be a use permitted by right in this district.

C. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.

D. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1425, 1/11/2022, §8)

**§470. T-C Town Center Residential/Office District.**

**§471. Specific Intent.**

It is the purpose of this district to integrate limited office development into existing residential or mixed use neighborhoods in central portions of the Borough, provided such office development is accomplished in a manner which will conserve the residential qualities of the neighborhood and surrounding neighborhoods. Such conservation is to be accomplished by consideration of the architectural characteristics of the neighborhood, providing landscaping and buffering adjoining residential areas and minimizing adverse impacts from parking, environmental factors and signage on residential areas.

(Ord. 1234, 2/11/2003, §1)

**§472. Uses Permitted by Right.**

Land and buildings in a T-C District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Single-family detached dwelling.
- B. Municipal use.
- C. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- D. Forestry activities including, but not limited to, timber harvesting.
- E. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- F. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1425, 1/11/2022, §9)

**§473. Uses Permitted by Special Exception.**

1. The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Financial institution.
- B. Business, professional or governmental office.

- C. Dwelling unit on a story above a use permitted by special exception in this district provided that the number of dwelling units shall not exceed two.
- D. Two-family detached dwelling.
- E. Church or similar place of worship.
- F. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.

2. Continuation of Uses Permitted by Special Exception in the T-C Town Center Residential/Office District. Where a special exception for a use permitted under Section 473.1 was previously approved by the Zoning Hearing Board, a new special exception use permitted under Section 473.1 may be established without a new approval from the Zoning Hearing Board if each of the following conditions are satisfied:

- A. The new use is specifically permitted by this Section.
- B. The new use is substantially similar to the previously approved use.
- C. The new use will not occupy substantially more space than the previously approved use.
- D. The new use must be applied for within one year from the previously approved use's discontinuation.
- E. The new use's hours of operation will be similar to the previously approved use.
- F. The new use will not require more employees than the previously approved use.
- G. The new use will not require more parking than the previously approved use.
- H. The services and utilities, including public water, sanitary sewers and stormwater drainage, will be adequately available to serve the new use.
- I. The public's health, safety or welfare will not be adversely affected by the new use.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1295, 5/12/2009, §1)

#### **§474. Area, Yard and Height Regulations.**

Maximum Permitted

Building Height: 35 feet  
Building Coverage: 40%  
Paved Area: 40%

Minimum Requirements

Lot Size: 10,000 sq. ft.  
Building Setback: 20 feet  
Side Yard  
Total: 20 feet  
Each Side: 10 feet  
Rear Yard: 10 feet  
Lot Width  
At Street Line: 100 feet  
At Building Setback Line: 100 feet  
Open Area: 30%

(Ord. 1234, 2/11/2003, §1)

**§475. Additional Performance Standards for Nonresidential Uses.**

1. The horizontal distance in feet at the closest place between any two principal buildings on the same lot shall not be less than the height of the highest building, measured in feet, but in no case less than 20 feet.
2. A landscaping plan for the site prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan. A landscape screen shall be required along any lot line adjacent to any zoning district which permits a residential use.

(Ord. 1234, 2/11/2003, §1)

**§476. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**PART 5****COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS****§500. C-1 Neighborhood Commercial District.****§501. Special Intent.**

It is the purpose of this district to provide an area where one and two-family dwellings and certain commercial uses which will not have an adverse impact on residential neighborhoods may locate.

(Ord. 1234, 2/11/2003, §1)

**§502. Uses Permitted by Right.**

Land and buildings in a C-1 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Single-family detached dwelling.
- B. Single-family semidetached dwelling.
- C. Two-family detached dwelling.
- D. Municipal use.
- E. Church or similar place of worship.
- F. Library or post office.
- G. Business, professional or governmental offices.
- H. Financial institution.
- I. Fire company facilities, excluding social quarters.
- J. Retail sales of goods such as antiques, appliances, auto parts, beverages, bicycles, books (except adult book stores), carpeting, clothing, confections, drugs, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, newspapers, notions, office equipment, paint, personal and household supplies, phonograph records, photographic supplies, sporting goods, stationery, toys, tobacco and other similar uses as determined by the Zoning Officer.

- K. Personal and household service establishments such as barber shops, beauty shops, laundromats, laundry and dry cleaning shops (but not laundry or dry cleaning plants), tailor and seamstress shops, shoe and appliance repair shops, rental of medical equipment and other similar uses as determined by the Zoning Officer.
- L. Standard restaurant.
- M. Dwelling unit on a story above a commercial use, provided that the number of dwelling units shall not exceed two.
- N. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- O. Forestry activities including, but not limited to, timber harvesting.
- P. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- Q. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.
- R. Short-Term Residential Rental Unit, subject to Section 628.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1425, 1/11/2022, §10; as amended by Ord. 1430, 2/14/2023, §7)

### **§503. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Club or lodge, provided that all club and lodge activities shall be conducted within buildings or structures.
- B. Commercial school for the teaching of trades, arts or skills.
- C. Studio.
- D. Funeral home.
- E. State licensed nursery school or day care center.
- F. Bed and Breakfast Establishment, subject to Section 629.
- G. Boarding, Rooming and Lodging House, subject to Section 630.

H. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1435, 6/13/2023, §12)

#### **§504. Area, Yard and Height Regulations.**

<b>Maximum Permitted</b>	<b>Nonresidentia l Use</b>	<b>Single-Family Detached Dwelling</b>	<b>Single-Family Semidetached Dwelling</b>	<b>Two-Family Detached Dwelling</b>
Building Height	40 feet	40 feet	40 feet	40 feet
Building Coverage	50%	25%	30%	25%
Paved Area	70%	20%	20%	20%
Minimum Requirements				
Lot Size				
Per Construction Site	20,000 sq. ft.	12,000 sq. ft.	8,000 sq. ft.	12,000 sq. ft.
Per Unit of Use	5,000 sq. ft.			
Minimum Requirements				
Lot Width				
At Street Line	150 feet	70 feet	50 feet	50 feet
At Building Setback Line	150 feet	80 feet	70 feet	80 feet
Building Setback	20 feet	20 feet	20 feet	20 feet
Side Yard				
Total	20 feet	30 feet	20 feet	30 feet
Each Side	10 feet	15 feet	10 feet	15 feet
Rear Yard	20 feet	40 feet	40 feet	40 feet
Open Area	20%	55%	50%	55%

(Ord. 1234, 2/11/2003, §1)

#### **§505. Additional Performance Standards.**

A landscaping plan for the site prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan. A landscape screen shall be required along any lot line adjacent to a residential use and/or any lot line adjacent to any zoning district which permits a residential use.

(Ord. 1234, 2/11/2003, §1)

**§506. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**§510. C-2 Retail Commercial District.****§511. Specific Intent.**

It is the purpose of this district to provide an area for major retail development, such as shopping centers, to locate.

(Ord. 1234, 2/11/2003, §1)

**§512. Uses Permitted by Right.**

Land and buildings in a C-2 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Retail sales of goods such as antiques, appliances, auto parts, beverages, bicycles, books (except adult book stores), carpeting, clothing, confections, drugs, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, newspapers, notions, office equipment, paint, personal and household supplies, phonograph records, photographic supplies, sporting goods, stationery, toys, tobacco and other similar uses as determined by the Zoning Officer. A bakery with baking on the premises for sale only on the premises is permitted.
- B. Personal and household service establishments such as barber shops, beauty shops, laundromats, laundry and dry cleaning shops (but not laundry or dry cleaning plants), tailor and seamstress shops, shoe and appliance repair shops, rental of medical equipment, and other similar uses as determined by the Zoning Officer.
- C. Municipal use.
- D. Indoor theater, but not an adult theater.
- E. Business, professional or governmental offices.
- F. Financial institution.
- G. Studio.
- H. Motel or hotel, including meeting rooms and auditoriums.
- I. Public or private elementary, middle, junior or senior high school and/or commercial school for the teaching of trades, arts or skills.
- J. Church or similar place of worship.

- K. Health fitness center.
- L. Fire company facilities, excluding social quarters.
- M. Library or post office.
- N. Standard restaurant, carry-out restaurant or fast-food restaurant.
- O. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- P. Forestry activities including, but not limited to, timber harvesting.
- Q. Shopping Center. (1305)
- R. Hotel – 55 or Over Apartment – Adult Day Care Mixed Use, as provided in Section 627.
- S. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- T. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1305, 09/14/2010, §1; as amended by Ord. 1417, 4/13/2021, §1; as amended by Ord. 1425, 1/11/2022, §11)

### **§513. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Motor vehicle service station, provided that:
  - (1) All automobile parts, dismantled vehicles and similar articles shall be stored within a building.
  - (2) All repair activities shall be performed within a building.
- B. Club or lodge, provided all club or lodge activities shall be conducted within buildings or structures.
- C. Bowling alley, skating rink, amusement room for the use of electronic and/or mechanical coin operated devices, and other similar indoor uses as determined by the Zoning Officer, but not including Licensed Gaming Facilities.

- D. State licensed nursery school or day care center.
- E. Nursing home, subject to:
  - (1) The maximum building height at any point shall be 45 feet. The number of full stories exposed shall not exceed three.
  - (2) The minimum building setback from public streets shall be 50 feet.
  - (3) All structures shall be located a minimum of 50 feet from the property lines of the parcel.
  - (4) No more than 20% of the total area of the parcel shall be covered by buildings.
  - (5) No more than 20% of the total area of the parcel shall be paved surface such as streets, interior access drives, parking areas, sidewalks and courts.
  - (6) Common parking areas and interior access drives shall be located a minimum of 25 feet from the property lines of the parcel.
  - (7) All buildings shall be set back a minimum of 20 feet from all common parking areas and internal access drives and streets, except for off-street loading areas and areas at entrances to buildings where residents will enter and leave standing vehicles.
  - (8) All principal buildings shall be separated by a minimum horizontal distance of 45 feet.
  - (9) No less than 30% of the total area of the parcel shall be permanently set aside for noncommercial common open space purposes, such as parks, recreation or conservation of natural features. The common open space areas shall be suitable for the designated purpose and contain no structure or parking facility except as related to and incidental to open space uses.
  - (10) All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.
  - (11) Entrances to and exits from parking areas shall have a minimum width of 12 feet for each lane of traffic entering or leaving the areas.
  - (12) No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.
  - (13) Entrances to and exits from common parking areas shall be located a minimum of 50 feet from the point of intersection of the nearest public

street cartway lines and the point of intersection of the nearest interior access drives.

- (14) A system of paved walkways a minimum of five feet in width shall be provided for access between buildings and common parking areas, open space areas and other community facilities.
- (15) A landscaping plan for the nursing home prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan.
- (16) There shall be no architecturally unbroken building face of more than 160 lineal feet. A building face shall be considered architecturally broken if there is a deflection in the building axis of at least 30° or, where there is no deflection in the building axis of at least 30°, an integral architectural feature of the building projects from the building face a minimum of 10 feet for a minimum distance of 10 feet along the building face. Such architectural feature shall extend the entire height of the building included within stories.

F. Funeral Home.

- G. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use and not detrimental to the retail commercial district.
- H. Tower Based Wireless Communication Facilities, subject to § 623 of this Chapter. [Ord. 1371]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1298, 8/29/2009, §2; as amended by Ord. 1371, 9/8/2015, § 3)

## **§514. Area, Yard and Height Regulations.**

### **Maximum Permitted**

Building Height: 60 feet

Building Coverage: 30%

Paved Area: 70%

### **Minimum Requirements**

#### **Lot Size**

Per Construction Site: 50,000 sq. ft.

Per Unit of Use: 5,000 sq. ft.

Building Setback: 40 feet

Side Yard

Total: 60 feet

Each Side: 30 feet

Rear Yard: 30 feet

Lot Width

At Street Line: 150 feet

At Building Setback Line: 150 feet

Open Area: 20%

(Ord. 1234, 2/11/2003, §1)

### **§515. Additional Performance Standards.**

1. The horizontal distance in feet at the closest place between any two principal buildings on the same lot shall not be less than the height of the highest building, measured in feet, but in no case less than 20 feet.
2. A landscaping plan for the site prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan. A landscape screen shall be required along any lot line adjacent to any zoning district which permits a residential use.
3. For every one foot in building height above 40 feet, every required front, side and rear yard shall be increased by one foot.

(Ord. 1234, 2/11/2003, §1)

### **§516. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1)

**§520. C-3 Special Commercial District.**

(Ord. 1381, 1/10/2017, §5)

**§521. Specific Intent.**

It is the purpose of this district to provide an area for special commercial and retail uses which will not adversely affect the public health, safety and general welfare of the residents and inhabitants of the Borough.

(Ord. 1381, 1/10/2017, §6)

**§522. Uses Permitted By Right.**

Land and buildings in a C-3 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Retail sales of goods such as antiques, appliances, auto parts, beverages, bicycles, books (except adult book stores), carpeting, clothing, confections, drugs, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, newspapers, notions, office equipment, paint, personal and household supplies, phonograph records, photographic supplies, sporting goods, stationery, toys, tobacco and other similar uses as determined by the Zoning Officer. A bakery with baking on the premises for sale only on the premises is permitted.
- B. Personal and household service establishments such as barber shops, beauty shops, laundromats, laundry and dry cleaning shops (but not laundry or dry cleaning plants), tailor and seamstress shops, shoe and appliance repair shops, rental of medical equipment, and other similar uses as determined by the Zoning Officer.
- C. Municipal use.
- D. Indoor theater, but not an adult theater.
- E. Business, professional or governmental offices.
- F. Financial institution.
- G. Studio.
- H. Motel or hotel, including meeting rooms and auditoriums.
- I. Public or private elementary, middle, junior or senior high school and/or commercial school for the teaching of trades, arts or skills.

- J. Church or similar place of worship.
- K. Health fitness center.
- L. Fire company facilities, excluding social quarters.
- M. Library or post office.
- N. Standard restaurant, carry-out restaurant or fast-food restaurant.
- O. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- P. Forestry activities including, but not limited to, timber harvesting.
- Q. Shopping Center.
- R. Medical Marijuana Dispensary, which must meet the following specific requirements:
  - (1) The lot or property line of such business shall not be located within 1,000 feet of the lot or property line of a public, private or parochial school or day-care center, as provided for by 35 P.S. §10231.802. Only the Department of Health through the dispensary permitting process may adjust or waive this prohibition.
  - (2) Provide a copy of the security information for the dispensary permit issued by the Pennsylvania Department of Health.
- S. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- T. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1381, 1/10/2017, §7; as amended by Ord. 1425, 1/11/2022, §12)

### **§523. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Motor vehicle service station provided that:
  - (1) All automobile parts, dismantled vehicles and similar articles shall be stored within a building.

- (2) All repair activities shall be performed within a building.
- B. Club or lodge, provided all club or lodge activities shall be conducted within buildings or structures.
- C. Bowling alley, skating rink, amusement room for the use of electronic and/or mechanical coin operated devices, and other similar indoor uses as determined by the Zoning Officer, but not including Licensed Gaming Facilities.
- D. State licensed nursery school or day care center.
- E. Nursing home, subject to:
  - (1) The maximum building height at any point shall be 45 feet. The number of full stories exposed shall not exceed three.
  - (2) The minimum building setback from public streets shall be 50 feet.
  - (3) All structures shall be located a minimum of 50 feet from the property lines of the parcel.
  - (4) No more than 20% of the total area of the parcel shall be covered by buildings.
  - (5) No more than 20% of the total area of the parcel shall be paved surface such as streets, interior access drives, parking areas, sidewalks and courts.
  - (6) Common parking areas and interior access drives shall be located a minimum of 25 feet from the property lines of the parcel.
  - (7) All buildings shall be set back a minimum of 20 feet from all common parking areas and internal access drives and streets, except for off-street loading areas and areas at entrances to buildings where residents will enter and leave standing vehicles.
  - (8) All principal buildings shall be separated by a minimum horizontal distance of 45 feet.
  - (9) No less than 30% of the total area of the parcel shall be permanently set aside for noncommercial common open space purposes, such as parks, recreation or conservation of natural features. The common open space areas shall be suitable for the designated purpose and contain no structure or parking facility except as related to and incidental to open space uses.
  - (10) All dead-end parking lots shall provide adequate areas into which cars parked in the end stalls of the lots may maneuver.

- (11) Entrances to and exits from parking areas shall have a minimum width of 12 feet for each lane of traffic entering or leaving the areas.
- (12) No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.
- (13) Entrances to and exits from common parking areas shall be located a minimum of 50 feet from the point of intersection of the nearest public street cartway lines and the point of intersection of the nearest interior access drives.
- (14) A system of paved walkways a minimum of five feet in width shall be provided for access between buildings and common parking areas, open space areas and other community facilities.
- (15) A landscaping plan for the nursing home prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan.
- (16) There shall be no architecturally unbroken building face of more than 160 lineal feet. A building face shall be considered architecturally broken if there is a deflection in the building axis of at least 30° or, where there is no deflection in the building axis of at least 30°, an integral architectural feature of the building projects from the building face a minimum of 10 feet for a minimum distance of 10 feet along the building face. Such architectural feature shall extend the entire height of the building included within stories.

- F. Funeral Home.
- G. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use and not detrimental to the retail commercial district.
- H. Tower Based Wireless Communication Facilities, subject to § 623 of this Chapter.
- I. Pawn Shop.
- J. Tattoo Parlor.
- K. Treatment Center, which in addition to meeting the standards for special exceptions in this Chapter must meet the following specific requirements:

- (1) A Treatment Center shall not be located within 800 feet of an existing Treatment Center.
- (2) Each Treatment Center shall meet the following requirements:
  - (i) Proof of adequate supervision by people qualified by training and experience in the field for which the facility is intended shall be provided.
  - (ii) The facility must comply with all applicable Fire, Housing, Building, Property Maintenance, and Health Codes, and all regulations pertaining to transient occupancy with respect to emergency lighting, smoke detectors, exit lights, and other safety devices.
  - (iii) All services provided on site shall be contained within the structure and operated by a non-profit, charitable, or for-profit organization.
  - (iv) The applicant for these facilities shall submit with its application a plan outlining in detail the management of the facility. This shall include information on personnel, supervision, hours of operation, services provided, rules and regulations, and any other information pertinent to the operation of the facility.
- (3) The applicant shall provide a written description of all conditions (such as criminal parolees, alcohol addiction) that will cause persons to occupy the use during the life the permit. Any future additions to this list shall require an additional special exception approval.
  - (i) The applicant shall prove to the satisfaction of the Zoning Hearing Board that the use will involve adequate on-site supervision and security measures to protect public safety. If any applicable County, State, Federal or professional association standards provide guidance on the type of supervision that is needed, the proposed supervision shall be compared to such standards.
  - (ii) The Zoning Hearing Board may place conditions upon the use to protect public safety, such as conditions on the types of residents and security measures.
  - (iii) This lot shall be located a minimum of 500 feet from a lot line of a lot occupied by each of the following: a school, public park or playground, day care center, college or university.

(Ord. 1381, 1/10/2017, §8)

**§524. Area, Yard and Height Requirements.**

The area, yard and height requirements for C-2 Retail Commercial District, found at §514, shall apply in the C-3 Special Commercial District unless specifically noted as not being applicable.

(Ord. 1381, 1/10/2017, §9)

**§525. Additional Performance Standards.**

The additional performance standards for C-2 Retail Commercial District, found at §515, shall apply in the C-3 Special Commercial District unless specifically noted as not being applicable.

(Ord. 1381, 1/10/2017, §10)

**§526. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1381, 1/10/2017, §11)

**§540. I-1 Office/Research Park District.**

**§541. Specific Intent.**

It is the purpose of this district to provide an area for office and research uses and certain uses designed to provide services to the employees of those uses and their business invitees.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§542. Uses Permitted by Right.**

Land and buildings in an I-1 District may be used for the following purposes and no others:

- A. Business, professional or governmental office.
- B. Financial institution.
- C. Motel or hotel, including meeting rooms and auditoriums.
- D. Municipal use.
- E. Scientific or industrial research, testing or experimental laboratory or similar establishment for research or product development; provided, that there shall be no commercial production or storage of any commodity or substance except for storage necessary for scientific research.
- F. Forestry activities including, but not limited to, timber harvesting.
- G. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
- H. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- I. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1370, 4/14/2015, §1; as amended by Ord. 1381, 1/10/2017, §4; as amended by Ord. 1425, 1/11/2022, §13)

**§543. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. State licensed nursery school or day care center.
- B. Club or lodge, provided all club or lodge activities shall be conducted within buildings or structures.
- C. Interior service and convenience uses including, but not limited to, eating and drinking places, specialized retail food sales, barber/beauty shop, photo copy service, pharmacy and optician. All interior service and convenience uses shall not occupy more than a total of 10% of the total floor area of the building in which they are located. Public entrances to interior service and convenience uses shall be from the interior of the building. No public entrance to any interior service or convenience use shall be located less than 30 feet from an exterior exit to the building that is used by the public for ingress and egress. Exterior signage shall not be permitted for any service and convenience use
- D. Tower Based Wireless Communication Facilities, subject to § 623 of this Chapter. [Ord. 1371]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1371, 9/8/2015, § 4; as amended by Ord. 1381, 1/10/2017, §4)

#### **§544. Area, Yard and Height Requirements.**

##### Maximum Permitted

Building Height: 45 feet

Building Height Within 200 Feet of Residential Zoning District: 25 feet

Total of Building Coverage and Paved Area: 60%

##### Minimum Requirements

Lot Size: three acres

Building Setback: 50 feet

Side Yard

Total: 100 feet

Each Side: 50 feet

Rear Yard: 50 feet

Lot Width

At Street Line: 200 feet

At Building Setback Line: 300 feet

Open Area: 40%

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§545. Additional Performance Standards.**

1. The horizontal distance in feet at the closest place between any two principal buildings on the same lot shall not be less than the height of the highest building, measured in feet, but in no case less than 20 feet.
2. For every one foot in building height above 40 feet, every required front, side and rear yard shall be increased by one foot.
3. Parking lots shall be a minimum of 25 feet from public streets, 20 feet from side and rear lot lines, 50 feet from any zoning district which permits a residential use and 20 feet from private roads.
4. A landscaping plan for the site prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan. A landscape screen shall be required along any lot line adjacent to any zoning district which permits a residential use.
5. Trucks and trailers shall only be permitted on the premises for a temporary period not exceeding 12 hours and shall be kept in a screened loading area.
6. Truck or trailer loading and/or unloading activity shall not occur between the hours of 9:00 p.m. and 6:00 a.m.
7. Loading areas shall not front on a public street. In addition, loading areas shall be screened from all other buildings, properties and public streets.
8. Outside storage of any goods, materials, supplies or freight is prohibited
9. All uses permitted by right or special exception shall be carried on within a building.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§546. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§550. I-2 Light Industrial District.****§551. Specific Intent.**

It is the purpose of this district to provide an area for light industrial uses which will not adversely affect the public health, safety and general welfare of the residents and inhabitants of the Borough.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§552. Uses Permitted by Right.**

Land and buildings in an I-2 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Business, professional or governmental office.
- B. Municipal use.
- C. Scientific or industrial research, testing or experimental laboratory or similar establishment for research or product development.
- D. Printing and publishing activities.
- E. Industrial operations involving the production, packaging, fabrication, processing, assembly, manufacture, compounding and bottling of foods, goods and materials, provided that all such activities shall be carried on within a building.
- F. Warehousing and distributing of manufactured foods, goods and materials.
- G. Financial institution.
- H. Motel or hotel, including meeting rooms and auditoriums.
- I. Indoor theater, but not an adult theater.
- J. Standard restaurant, carry-out restaurant or fast food restaurant. Also, drive-in restaurant provided it can be conducted with a safe and orderly traffic pattern with sufficient waiting areas for vehicles waiting to place and pick up orders, as demonstrated by traffic plans and studies submitted by the applicant and approved by the Borough.
- K. Health fitness center.
- L. Motor vehicle service station or repair garage, provided that:

- (1) All automobile parts, dismantled vehicles and similar articles shall be stored within a building.
- (2) All repair activities shall be performed within a building.
- M. Personal and household service establishments such as barber shops, beauty shops, laundromats, laundry and dry cleaning establishments, tailor and seamstress shops, shoe and appliance repair shops, rental of medical equipment and other similar uses as determined by the Zoning Officer.
- N. Retail and wholesale sales of goods such as antiques, appliances, auto parts, beverages, bicycles, books (except adult book stores), carpeting, clothing, confections, drugs, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, newspapers, notions, office equipment, paint, personal and household supplies, phonograph records, photographic supplies, sporting goods, stationery, toys, tobacco and other similar uses as determined by the Zoning Officer.
- O. Fire company, including social quarters maintained and operated by the fire company and/or its affiliated organizations.
- P. Shop of a carpenter, electrician, metal worker, cabinet maker, upholsterer, plumber, mason, painter, home builder, heating contractor or similar skilled tradesman.
- Q. Accessory structures and uses to the above permitted uses when on the same lot as the permitted use.
- R. Forestry activities including, but not limited to, timber harvesting.
- S. Shopping Center. [Ord. 1305]
- T. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- U. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §11; as amended by Ord. 1305, 09/14/2010, §1; as amended by Ord. 1381, 1/10/2017, §4; as amended by Ord. 1425, 1/11/2022, § 14)

### **§553. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Adult arcade, adult book store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage establishment, nude model studio, sexual encounter center, or other sexually oriented business or adult oriented retail, commercial service or entertainment establishment, which in addition to meeting the standards for special exceptions in this Chapter meet the following specific requirements:
  - (1) The lot or property line of such business shall not be located within 500 feet of any other district.
  - (2) The lot or property line of such business shall not be located within 500 feet of the lot or property line of any religious structure, school, playground or other recreational area, day care facility or public library.
  - (3) The lot or property line of such business shall not be located within 1,000 feet of the lot or property line of another such business.
  - (4) There shall be no display of materials which are characterized by an emphasis on matter or activities relating to, depicting, describing or displaying sexual activity or conduct or exposed male or female genital areas that can be seen from the exterior of the building.
  - (5) Not more than one such business or activity shall be permitted within any one building or lot.
  - (6) The Zoning Hearing Board shall review and approve all exterior signs for compatibility with adjacent uses. Such signs shall not be characterized by an emphasis on matter or activities relating to, depicting, describing or displaying sexual activity or conduct or exposed male or female genital areas.
  - (7) No such business or activity may change to another type of such business or activity, except upon application to and approval by the Zoning Hearing Board of such change as a special exception subject to the criteria set forth herein.
- B. State licensed nursery school or day care center.
- C. Tower Based Wireless Communication Facilities, subject to § 623 of this Chapter. [Ord. 1371]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1371, 9/8/2015, §5; as amended by Ord. 1381, 1/10/2017, §4)

#### **§554. Area, Yard and Height Requirements.**

##### **Maximum Permitted**

Building Height: 60 feet

Building Coverage: 30%

Paved Area: 60%

##### **Minimum Requirements**

Lot Size: 50,000 sq. ft.

Building Setback: 40 feet

##### **Side Yard**

Total: 60 feet

Each Side: 30 feet

Rear Yard: 30 feet

##### **Lot Width**

At Street Line: 150 feet

At Building Setback Line: 200 feet

Open Area: 20%

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

#### **§555. Additional Performance Standards.**

1. The horizontal distance in feet at the closest place between any two principal buildings on the same lot shall not be less than the height of the highest building, measured in feet, but in no case less than 20 feet.
2. For every one foot in building height above 40 feet, every required front, side and rear yard shall be increased by one foot.
3. A landscaping plan for the site prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission. Provisions for the landscaping of the perimeter and interior of all common parking areas shall be included in such plan. A landscape screen shall be required along any lot line adjacent to any zoning district which permits a residential use.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

#### **§556. General Regulations Applicable.**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§557. Conditional Uses.**

All uses not otherwise specifically provided for by right, special exception, or conditional use in any other zoning district under this Chapter shall be considered conditional uses in the I-2 Zoning District subject to the conditional use approval process set forth in Part 12 of this Chapter.

(Ord. 1305, 09/14/2010, §1; as amended by Ord. 1381, 1/10/2017, §4)

**§560. I-3 Special Light Industrial District.**

(Ord. 1381, 1/10/2017, §12)

**§561. Specific Intent.**

It is the purpose of this district to provide for an area for special industrial uses which will not adversely affect the public health and general welfare of the residents and inhabitants of the Borough.

(Ord 1381, 1/10/2017, §13)

**§562. Uses Permitted By Right.**

Land and buildings in an I-3 District may be used for the following purposes and no others, unless a special exception as provided herein is granted:

- A. Business, professional or governmental office.
- B. Municipal use.
- C. Scientific or industrial research, testing or experimental laboratory or similar establishment for research or product development.
- D. Printing and publishing activities.
- E. Warehousing and distributing of manufactured foods, goods and materials.
- F. Financial institution.
- G. Motel or hotel, including meeting rooms and auditoriums.
- H. Indoor theater, but not an adult theater.
- I. Standard restaurant, carry-out restaurant or fast food restaurant. Also, drive-in restaurant provided it can be conducted with a safe and orderly traffic pattern with sufficient waiting areas for vehicles waiting to place and pick up orders, as demonstrated by traffic plans and studies submitted by the applicant and approved by the Borough.
- J. Health fitness center.
- K. Motor vehicle service station or repair garage, provided that:
  - (1) All automobile parts, dismantled vehicles and similar articles shall be stored within a building.

(2) All repair activities shall be performed within a building.

- L. Personal and household service establishments such as barber shops, beauty shops, laundromats, laundry and dry cleaning establishments, tailor and seamstress shops, shoe and appliance repair shops, rental of medical equipment and other similar uses as determined by the Zoning Officer.
- M. Retail and wholesale sales of goods such as antiques, appliances, auto parts, beverages, bicycles, books (except adult book stores), carpeting, clothing, confections, drugs, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, newspapers, notions, office equipment, paint, personal and household supplies, phonograph records, photographic supplies, sporting goods, stationery, toys, tobacco and other similar uses as determined by the Zoning Officer.
- N. Fire company, including social quarters maintained and operated by the fire company and/or its affiliated organizations.
- O. Shop of a carpenter, electrician, metal worker, cabinet maker, upholsterer, plumber, mason, painter, home builder, heating contractor or similar skilled tradesman.
- P. Accessory structures and uses to the above permitted uses when on the same lot as the permitted use.
- Q. Forestry activities including, but not limited to, timber harvesting.
- R. Shopping Center.
- S. Non-Tower Wireless Communication Facilities outside of the Right-of-Ways per Section 623B.
- T. Small Wireless Communication Facilities within the Right-of-Ways per Section 623C.

(Ord. 1381, 1/10/2017, §14; as amended by Ord. 1425, 1/11/2022, §15)

### **§563. Uses Permitted By Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Chapter:

- A. Adult arcade, adult book store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage establishment, nude model studio, sexual encounter center, or other sexually oriented business or adult oriented retail, commercial service or entertainment establishment, which

in addition to meeting the standards for special exceptions in this Chapter meet the following specific requirements:

- (1) The lot or property line of such business shall not be located within 500 feet of any other district.
- (2) The lot or property line of such business shall not be located within 500 feet of the lot or property line of any religious structure, school, playground or other recreational area, day care facility or public library.
- (3) The lot or property line of such business shall not be located within 1,000 feet of the lot or property line of another such business.
- (4) There shall be no display of materials which are characterized by an emphasis on matter or activities relating to, depicting, describing or displaying sexual activity or conduct or exposed male or female genital areas that can be seen from the exterior of the building.
- (5) Not more than one such business or activity shall be permitted within any one building or lot.
- (6) The Zoning Hearing Board shall review and approve all exterior signs for compatibility with adjacent uses. Such signs shall not be characterized by an emphasis on matter or activities relating to, depicting, describing or displaying sexual activity or conduct or exposed male or female genital areas.
- (7) No such business or activity may change to another type of such business or activity, except upon application to and approval by the Zoning Hearing Board of such change as a special exception subject to the criteria set forth herein.

- B. State licensed nursery school or day care center.
- C. Tower Based Wireless Communication Facilities, subject to § 623 of this Chapter.
- D. Industrial operations involving the production, packaging, fabrication, processing, assembly, manufacture, compounding and bottling of foods, goods and materials, provided that all such activities shall be carried on within a building.
- E. Growing or Processing of Medical Marijuana, which in addition to meeting the standards for special exceptions in this Chapter must meet the following specific requirements:

- (1) Permit for medical marijuana growing/processing issued by the Pennsylvania Department of Health.
- (2) Provide a copy of the security information for the growing/processing permit issued by the Pennsylvania Department of Health.
- (3) Not more than one such business or activity shall be permitted within any one building or lot.
- (4) No such business or activity may change to another type of such business or activity, except upon application to and approval by the Zoning Hearing Board of such change as a special exception subject to the criteria set forth herein.

(Ord. 1381, 1/10/2017, §15)

#### **§564. Area, Yard and Height Requirements.**

The area, yard and height requirements for I-2 Light Industrial District, found at §554, shall apply in the I-3 Special Light Industrial District unless specifically noted as not being applicable.

(Ord. 1381, 1/10/2017, §16)

#### **§565. Additional Performance Standards**

The additional performance standards for I-2 Light Industrial District, found at §555, shall apply in the I-3 District unless specifically noted as not being applicable.

(Ord. 1381, 1/10/2017, §17)

#### **§566. General Regulations Applicable**

In addition to the above regulations listed for this district, the general regulations of Part 6 of this Chapter shall apply unless specifically noted as not being applicable.

(Ord. 1381, 1/10/2017, §18)

## PART 5-A

### COMMERCIAL AND INDUSTRIAL REDEVELOPMENT OVERLAY DISTRICT

#### §501A. Specific Intent.

1. In addition to the conventional commercial and industrial zoning districts established by this Part, there shall be established a Commercial and Industrial Redevelopment Overlay District.
2. The Commercial and Industrial Redevelopment Overlay District shall not be an independent zoning district, but shall be a set of special zoning regulations to be applied over and above the zoning regulations otherwise controlling upon a tract of land, as enabled by and described in Section 605 of the Pennsylvania Municipalities Planning Code. The district upon which the overlay district is superimposed is referred to herein as the "underlying district".
3. The purpose of this overlay district is to provide an incentive for the redevelopment of commercial and industrial sites within the Borough of Wyomissing by permitting certain uses or combinations of uses not otherwise permitted in the underlying district and by permitting a greater density of development than that which would be otherwise permitted in the underlying district, so as to promote the public health, safety and general welfare of the residents and inhabitants of the Borough.
4. A secondary and subordinate purpose of this overlay district is to encourage respect for the historic and architectural identity of the structures and neighborhoods in which redevelopment may occur under the terms of this Part.
5. The Commercial and Industrial Redevelopment Overlay District shall be available throughout those portions of the Commercial and Industrial Districts of the Borough of Wyomissing located to the south of the Warren Street Bypass and bounded to the north by properties located adjacent to both sides of Paper Mill Road and to the west by properties located adjacent to both sides of Woodland Road, provided the following requirements are met:
  - A. A site proposed for redevelopment shall be under single and separate ownership, or in the case of multiple ownership, the lot or lots shall be redeveloped according to a single overall plan.
  - B. The site proposed for redevelopment shall be a minimum of ten (10) acres in area. If the site is not a single, contiguous parcel, no part of the site shall be separated by more than one hundred (100) feet from another part of the site. If a site containing a minimum of ten (10) acres is approved under this Section, or was approved under a previously enacted version of a regulation on the same topic, smaller adjacent properties may qualify under this Section at a later date as long as the smaller adjacent

properties are within the boundaries of this District and the other requirements of this Section (other than minimum site acreage) are met.

- C. The site proposed for redevelopment shall be occupied by existing commercial or industrial development, and the following shall apply: (1) the majority of the existing commercial or industrial development was originally constructed at least fifty (50) years prior to the proposed redevelopment; and (2) due to changing economic or technological conditions, the existing commercial or industrial development is no longer appropriate.
- D. The site is not required to be located within a single underlying zoning district, but all portions of the site which are planned to be redeveloped in accordance with this Part shall be located within a commercial or industrial zoning district or within fifty (50) feet of such a district.
- E. Land may be added to an established redevelopment site, provided the revised redevelopment site, as modified by the addition of land, continues to meet the requirements of this Part.
- F. Plans for redevelopment shall demonstrate, to the extent practically achievable, respect for the historic and architectural identity of the structures and neighborhoods in which redevelopment may occur under the terms of this Part.
- G. Plans for redevelopment shall include a schedule for completion of the development, which schedule shall be subject to the approval of the Borough Council.

[Ord. 1397]

- 6. To the extent any regulation in this Part conflicts with any regulation in any other Part of this Chapter, the regulation in this Part shall be controlling.

(Ord. 1286, 10/14/2008, §1; as amended by Ord. 1397, 10/9/2018, §2)

#### **§502A.      Uses Permitted by Right.**

Land and buildings in the Commercial and Industrial Redevelopment Overlay District may be used for any one (1) or combination of the following purposes and no others, unless a special exception as provided in Section 553 is granted:

- A. All uses and accessory uses permitted by right in any of the underlying commercial or industrial districts which comprise the site, except as follows:

- (1) Single-family detached dwelling, single-family semidetached dwelling, and two-family detached dwelling uses shall be permitted in the C-1 Neighborhood Commercial District portion of any redevelopment site, but not within any portion of the redevelopment site located in any other underlying district.
- (2) Industrial operations involving the production, packaging, fabrication, processing, assembly, manufacture, compounding and bottling of foods, goods and materials, provided that all such activities shall be carried on within a building, shall be permitted in the I-2 Light Industrial District portion of any redevelopment site, but not within any portion of the redevelopment site located in any other underlying district.

B. Development containing apartments and/or townhouses, above one or more non-residential uses permitted in any of the underlying commercial or industrial districts which comprise the site. No new residential use under this Section 502A.B shall be allowed on the first floor level of any property in this District. Residential uses by right under this Section 502A.B shall not occupy more than thirty (30) percent of the combined area available for occupation within the redevelopment site. Development containing up to one hundred percent (100%) apartments and/or townhouses shall be permitted without regard to the percentage of the combined area available for occupation where the redevelopment site includes only a single existing building, the existing building is being renovated rather than demolished and replaced, the redevelopment site is under five (5) acres in area, the redevelopment site is adjacent to a ten (10) acres or greater mixed use redevelopment site previously approved under this Part 5-A, and pedestrian circulation in and through the redevelopment site is integrated with adjacent and adjoining existing or planned development in accordance with a sidewalk and street light plan acceptable to the Borough. [Ord. 1381]

C. Development containing apartments and/or townhouses intended to be “55 or Over Housing” within the meaning of the Fair Housing Act (42 U.S.C.A. 3601 et seq.), so as to qualify as “housing for older persons” within the meaning of the Fair Housing Act, above one or more non-residential uses permitted in any of the underlying commercial or industrial districts which comprise the site. No new residential use under this Section 502A.C shall be allowed on the first floor level of any property in this District. The following conditions shall also apply:

- (1) The restriction shall be subject to all applicable Federal and State laws concerning “housing for older persons”. Occupancy of any dwelling unit shall be restricted to persons 55 years of age or older (“age qualified”), provided, however, that a person who is age qualified may occupy such unit with such person’s spouse, regardless of age, and with a child 19 years of age or older who is

not enrolled in a secondary school. No occupancy shall be permitted by any person under the age of 19 unless such person is a handicapped dependent protected by the provisions of the Fair Housing Act. A permanent resident is a person who resides in a dwelling unit for ninety (90) or more consecutive days. Permitted visitations shall not exceed ninety (90) consecutive days.

- (2) Accompanying the plan for redevelopment shall be a declaration of restrictive covenants ("Declaration") which must be approved by the Borough Council and recorded by the developer. The Declaration's restrictions shall insure that the proposed development will function as depicted on the plan for redevelopment and be in compliance with the Federal Fair Housing Act Amendments of 1988, or as subsequently amended. The following are the minimum requirements for the Declaration:
  - (i) Residency qualifications applicable to the development shall be included in the Declaration. Residents shall be limited by deed and lease to households including one permanent resident age fifty-five (55) years or older and shall prohibit permanent occupancy by any person age nineteen (19) or younger, except as follows: (a) individual units may occasionally house persons younger than nineteen (19) years of age, such as grandchildren, provided they reside within the unit for less than ninety (90) days in any calendar year; or (b) members of a household shall not be required to vacate a dwelling unit if a resident age fifty-five (55) or older leaves the household due to death, divorce, or placement in a nursing/assisted care facility and the remaining household members would qualify for residency if the departed resident were still present in the household.
  - (ii) The applicant shall prove to the satisfaction of the Borough Council that an appropriate entity will have authority to assure compliance with the age limitation.
- (3) Residential uses by right under this Section 502A.C shall not occupy more than eighty (80) percent of the combined area available for occupation within the redevelopment site. Where uses under Section 502A.B and Section 502A.C are combined within a single redevelopment site, the eighty (80) percent combined area regulation under this paragraph shall apply to the sum of the areas of the two uses, but in no event shall the use under Section 502A.B exceed thirty (30) percent of the total combined area for occupation within the redevelopment site.
- (4) No single building may include a use under Section 502A.B and Section 502A.C. Where both uses occur within a single

redevelopment site, the uses must be located within separate buildings.

- D. Any combination of the above uses, subject to the limitations set forth in this Section 502A.

(Ord. 1286, 10/14/2008, §1; as amended by Ord. 1381, 1/10/2017, §4 and §19)

**§503A. Uses Permitted by Special Exception.**

The following uses are permitted when special exceptions are granted by the Zoning Hearing Board in accordance with the applicable provisions of this Part:

- A. All uses and accessory uses permitted by special exception in any of the underlying commercial or industrial district which comprise the site, excluding the adult uses listed in Section 553(A).
- B. Development containing apartments and/or townhouses above one or more non-residential uses permitted in any of the underlying commercial or industrial districts which comprise the redevelopment site. No new residential uses shall be allowed on the first floor level of any property in this District. Residential uses under Section 502A.B and this Section 503A.B, together, shall not occupy more than sixty (60) percent of the combined area available for occupation within the redevelopment site. Where uses under Section 502A.B and this Section 503A.B are proposed to occur along with the use under Section 502A.C, the eighty (80) percent combined area regulation under Section 502A.C(3) shall apply to the sum of the areas of the three uses, but in no event shall the use under Section 502A.B and the use under Section 503A.B, together, exceed sixty (60) percent of the total combined area for occupation within the redevelopment site. No single building may include a use under Section 502A.B or Section 503A.B with a use under Section 502A.C. Where uses under Section 502A.B or Section 503A.B occur within a single redevelopment site with a use under Section 502A.C, the uses must be located within separate buildings.

(Ord. 1286, 10/14/2008, §1)

**§504A. Area, Yard and Height Requirements.**

**Maximum Permitted**

Building Height	75 feet
Building Coverage	60% within the overall redevelopment site
Paved Area	75% within the overall redevelopment site

## Minimum Requirements

Lot Size	15,000 square feet
Building Setback	Sixty-six percent (66%) of applicable underlying zoning district setback where the building setback line is along the perimeter of the redevelopment site or along the right-of-way of a public roadway which passes through the redevelopment site; 0 feet where the building setback line is along the boundary of another lot within the redevelopment site. [Ord. 1397]
Side Yard	Sixty-six percent (66%) of applicable underlying zoning district setback as to each side yard which is along the perimeter of the redevelopment site or along the right-of-way of a public roadway which passes through the redevelopment site; 0 feet where the side yard is along the boundary of another lot within the redevelopment site. [Ord. 1397]
Rear Yard	Sixty-six percent (66%) of applicable underlying zoning district setback where the rear yard is along the perimeter of the redevelopment site or along the right-of-way of a public roadway which passes through the redevelopment site; 0 feet where the rear yard is along the boundary of another lot within the redevelopment site. [Ord. 1397]
Lot Width	
At Street Line	100 feet
At Building Setback Line	100 feet
Open Area*	10% within the overall redevelopment site.

\*For purposes of this Section, Open Area is ground upon which no principal or accessory buildings, structures, or uses and paved area are permitted; provided, however, notwithstanding anything in this Part to the contrary, Open Area shall include any area of a lot, including the area above a building or structure, covered by grass or other permeable landscape material, such as, but not limited to, mulch, gravel, landscape stone, landscaping pavers, or park benches; and provided further, at least 5% of the overall

redevelopment site shall consist of Open Area exclusive of any area above a building or structure.

(Ord. 1286, 10/14/2008, §1; as amended by Ord. 1397, 10/9/2018, §3)

**§505A. Additional Performance Standards.**

1. The horizontal distance in feet at the closest place between any principal buildings on the same lot shall not be less than twenty-five (25) feet.
2. A landscaping plan for the site prepared by a registered architect or registered landscape architect shall be submitted to the Borough, and is subject to approval by the Borough Planning Commission.
3. Within the overall redevelopment site, the regulations under Section 606C(3) shall permit wall attached signs for uses located within the redevelopment site to be placed on any building fact, regardless of whether the sign faces a street and regardless of where the advertised use is located within the redevelopment site.
4. Within the overall redevelopment site, in addition to all of the other signs permitted under this Part, one (1) sign facing each direction of travel and not exceed six (6) square feet in area shall be permitted at each street intersection and at each driveway intersection, outside of the legal right-of-way, to identify the overall redevelopment site and to provide directional information to visitors and residents of the overall redevelopment site.
5. When a part of the overall redevelopment site is separated from another by no more than one hundred (100) feet in accordance with Section 501A(5)(B) above:
  - A. Within the overall redevelopment site, the minimum distance between the centerline of a driveway where it intersects a street and the centerline of another driveway on the same lot or another lot (including another lot which is outside of the overall development sit) where that other driveway intersects the same street shall be one hundred (100) feet.
  - B. The centerline of a driveway where it intersects a street shall be a minimum of seventy-five (75) feet from a lot line, provided that it may be less than seventy-five (75) feet from a lot line if it will be at least one hundred (100) feet from the nearest driveway on the adjoining lot (including an adjoining lot which is outside of the overall redevelopment sit).
  - C. The minimum distance between the centerline of a driveway where it intersects a street and the intersection of street cartway lines (except in the case of a street intersecting the street the driveway intersects directly opposite from the driveway) shall be one hundred (100) feet.

[Ord. 1397]

6. The following off-street parking requirements shall apply to the listed uses:

- A. Townhouses 2 spaces for each unit
- B. Apartments 1.5 spaces for each unit
- C. Office 1 space for each 250 square feet of gross floor area
- D. Hotel 1 space per unit
- E. Restaurant 1 space per 3 seats plus 1 space for each employee on the shift of greatest employment
- F. Retail/Service 1 space per each 300 square feet of gross floor area
- G. Uses within the overall redevelopment site may share off-street parking spaces where the combination of uses are compatible in terms of days and hours of usage for purposes of sharing parking spaces in accordance with the following table. The following table shall be applied by determining the number of spaces needed for each land use listed in the table on an individual basis, then multiplying such number of spaces by the percentage listed for such use under each time period column, then totaling each time period column. The greatest total number for any of the time period columns shall be the minimum number of off-street parking spaces which shall be provided within the overall redevelopment site for the combination of uses listed in the table.

<b>Land Use</b>	<b>Weekdays</b>			<b>Weekends</b>		
	1 am to 7am	7am to 6pm	6pm to 1am	1am to 7am	7am to 6pm	6pm to 1am
Office	5%	100%	5%	0%	15%	0%
Retail sales and service	0%	100%	80%	0%	100%	60%
Restaurant (not 24 hours)	20%	70%	100%	30%	75%	100%
Residential	100%	60%	100%	100%	75%	95%

Hotel-Guest Rooms, with or without restaurant and/or lounge (in hotel)	100%	55%	100%	100%	55%	100%
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H. Off-street parking spaces serving a principal use are not required to be located on the same lot as the principal use, provided the lot on which the off-street parking spaces are located is within the redevelopment site, and provided the use of the parking spaces is dedicated to the lot on which the principal use is located by deed restriction, easement, or other recorded instrument.

(Ord. 1286, 10/14/2008, §1; as amended by Ord. 1397, 10/9/2018, §4)

**PART 5-B****LICENSED GAMING FACILITY OVERLAY DISTRICT****§501B. Specific Intent.**

1. In addition to the conventional commercial and industrial zoning districts established by this Chapter, there shall be established a Licensed Gaming Facility Overlay District.
2. The Licensed Gaming Facility Overlay District shall not be an independent zoning district, but shall be a set of special zoning regulations to be applied over and above the zoning regulations otherwise controlling upon a tract of land, as enabled by and described in Section 605 of the Pennsylvania Municipalities Planning Code. The district upon which the overlay district is superimposed is referred to herein as the “underlying district”.
3. One of the purposes of this overlay district is to provide regulation for Licensed Gaming Facilities within the Borough of Wyomissing by permitting such use by conditional use, so as to promote the public health, safety and general welfare of the residents and inhabitants of the Borough.
4. Another purpose of this overlay district is to accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of nonresidential uses.
5. The Licensed Gaming Facility Overlay District shall be available in the Borough of Wyomissing throughout those portions of the C-2 Commercial Retail District bounded by State Route 222, State Hill Road, and Berkshire Boulevard, provided the following requirements are met:
  - A. A site proposed for a Licensed Gaming Facility shall be under single and separate ownership.
  - B. The site proposed for a Licensed Gaming Facility shall be a minimum of ten (10) acres in area.
  - C. Plans for a Licensed Gaming Facility shall include a schedule for completion of the development, which schedule shall be subject to the approval of the Borough Council.
6. To the extent any regulation in this Part conflicts with any regulation in any other Part of this Chapter, the regulation in this Part shall be controlling. Where this Part has no regulation, the underlying Zoning District regulations shall apply.

**§ 502B. Licensed Gaming Facility.**

1. A Licensed Gaming Facility is permitted when conditional use approval is granted by Borough Council in accordance with the applicable provisions of this Chapter.
2. Applications for a Licensed Gaming Facility shall comply with all requirements set forth in Part 12 of this Chapter for Conditional Uses and the following regulations:
  - A. Off-Street Parking. The Licensed Gaming Facility shall provide at least the number of off-street parking spaces required for a Licensed Gaming Facility under Section 609 Off-Street Parking of this Chapter without any allowance for sharing of parking spaces with any other use.
  - B. Traffic Impact Study and Mitigation Plan. Applicants shall submit a traffic impact study analyzing the impact of the proposed Licensed Gaming Facility upon the surrounding road system and upon routes of access to major highways, which study and Mitigation Plan shall conform to the requirements of Section 509.5.A of the Borough of Wyomissing Subdivision and Land Development Ordinance, and including such other information as the Borough Engineer shall determine. The study shall include a Mitigation Plan addressing the identified impacts, including plans for financing required on-site and off-site traffic improvements, and a schedule for implementation of required improvements. The study and Mitigation Plan shall demonstrate that the traffic impact of the proposed Licensed Gaming Facility will not substantially and unreasonably harm the public interest. The Traffic Impact Study and Mitigation Plan shall be acceptable to and approved by Borough Council as part of the decision of the Borough Council on the conditional use application.
  - C. Fiscal Impact Study and Mitigation Plan. Applicants shall submit a fiscal impact study analyzing the impact of the proposed Licensed Gaming Facility upon the revenues and expenditures of the community where the Licensed Gaming Facility would be located, including, but not limited to, public works, administration, fire and emergency services and police, which study and Mitigation Plan shall conform to the requirements of Section 509.5.B(c) of the Borough of Wyomissing Subdivision and Land Development Ordinance. The study shall include a Mitigation Plan addressing the identified impacts and including a financing plan and an implementation schedule. The study and Mitigation Plan shall demonstrate that the fiscal impacts of the proposed Licensed Gaming Facility will not substantially and unreasonably harm the public interest. The Fiscal Impact Study and Mitigation Plan shall be acceptable to and approved by Borough Council as part of the decision of the Borough Council on the conditional use application.
  - D. Utility Services Impact Study and Mitigation Plan. Applicants shall submit a utility services impact study analyzing the impact of the proposed Licensed Gaming Facility upon the utility services, including, but not limited to, sanitary sewer, water, solid waste and drainage systems, of the community

where the Licensed Gaming Facility would be located, which study and Mitigation Plan shall conform to the requirements of Section 509.5.B(a) of the Borough of Wyomissing Subdivision and Land Development Ordinance. The study shall include a Mitigation Plan addressing the identified impacts and including a financing plan and an implementation schedule. The study and Mitigation Plan shall demonstrate that the utility services impact of the proposed Licensed Gaming Facility will not substantially and unreasonably harm the public interest. The Utility Services Impact Study and Mitigation Plan shall be acceptable to and approved by Borough Council as part of the decision of the Borough Council on the conditional use application.

(Ord. 1298, 08/29/2009, §3)

## Part 5-C

### AIRPORT DISTRICT OVERLAY

#### **Section 501C: Purpose.**

The purpose of this ordinance is to create an airport district overlay that considers safety issues around the Reading Regional Airport, regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, creates the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

#### **Section 502C: Relation to Other Zone Districts.**

The Airport District Overlay shall not modify the boundaries of any underlying zoning district. Where identified, the Airport District Overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

#### **Section 503C: Definitions.**

The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise.

**Airport Elevation:** The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the Reading Regional Airport is 344 feet MSL.

**Airport Hazard:** Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

**Airport Hazard Area:** Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

**Approach Surface (Zone):** An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on Figure 1, attached hereto and made a part hereof, is derived from the approach surface.

**Conical Surface (Zone):** An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 1, is based on the conical surface.

**Department:** Pennsylvania Department of Transportation.

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

**Height:** For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level (MSL) elevation unless otherwise specified.

**Horizontal Surface (Zone):** An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 1, is derived from the horizontal surface.

**Larger Than Utility Runway:** A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

**Nonconforming Use:** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.

**Non-Precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Ordinance.

**Precision Instrument Runway:** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Primary Surface (Zone):** An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same

as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 1, is derived from the primary surface.

**Runway:** A defined area of an airport prepared for landing and takeoff of aircraft along its length.

**Structure:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

**Transitional Surface (Zone):** An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on Figure 1, is derived from the transitional surface.

**Tree:** Any object of natural growth.

**Utility Runway:** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

**Visual Runway:** A runway intended solely for the operation of aircraft using visual approach procedures.

#### **Section 504C: Establishment of Airport Zones:**

There are hereby created and established certain zones within the Airport District Overlay, defined in Section 503C and depicted on Figure 1 and illustrated on Reading Regional Airport Hazard Area Map, hereby adopted as part of this ordinance, which include:

- 1. Approach Surface Zone**
- 2. Conical Surface Zone**
- 3. Horizontal Surface Zone**
- 4. Primary Surface Zone**
- 5. Transitional Surface Zone**

#### **Section 504C: Permit Applications.**

Except as specifically provided in (1), (2), or (3) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the

provisions of this Ordinance shall be granted unless a variance has been approved in accordance with this Section.

- (1) In the area lying within the limits of the horizontal surface zone and conical surface zone, no permit shall be required for any tree or structure less than one-hundred twenty-five feet (125') of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (2) In areas lying within the limits of the approach surface zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any tree or structure less than one-hundred twenty-five feet (125') of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such approach surface zone.
- (3) In the areas lying within the limits of the transitional surface zone, no permit shall be required for any tree or structure less than one-hundred twenty-five feet (125') of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transitional surface zone.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance, except that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

### **Section 506C: Variance.**

Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

1. No Objection - The subject construction is determined not to exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.
2. Conditional Determination - The proposed construction/alteration is determined to create some level of encroachment into an airport hazard

area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in Section 509C - Obstruction Marking and Lighting.

3. Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this ordinance.

### **Section 507C: Use Restrictions.**

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

### **Section 508C: Pre-Existing Non-Conforming Uses.**

The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

### **Section 509C: Obstruction Marking and Lighting.**

Any permit or variance granted pursuant to the provisions of this Article may be conditioned according to the process described in Section 506C to require the owner of the structure or object of natural growth in question to permit Wyomissing Borough, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

### **Section 510C: Violations and Penalties.**

Subject to Wyomissing Borough Zoning Ordinance, Part 8, entitled "Administration and Enforcement".

**Section 511C: Appeals.**

Subject to the process in the Wyomissing Borough Zoning Ordinance, Part 8, entitled "Administration and Enforcement".

**Section 512C: Conflicting Regulations.**

Where a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulation applicable to the same area exists, the more stringent limitation or requirement shall govern and prevail.

(Ord. 1313, 1/11/2011, §1)

## PART 5-D

### REDEVELOPMENT AREA MIXED USE INCENTIVE OVERLAY DISTRICT

#### Section 501D: Specific Intent.

1. In addition to the conventional residential, commercial and industrial zoning districts, and existing special purpose overlay districts, established by this Part, there shall be established a Redevelopment Area Mixed Use Incentive (“RAMUI”) Overlay District.
2. The RAMUI Overlay District shall not be an independent zoning district, but shall be a set of special zoning regulations to be applied over and above the zoning regulations otherwise controlling upon a tract of land, as enabled and described in Section 605 of the Pennsylvania Municipalities Planning Code. The district upon which the overlay district is superimposed is referred to herein as the “underlying district”.
3. The purpose of the RAMUI Overlay District is to promote redevelopment in certain designated areas through residential and commercial real estate development while protecting the welfare of the public in such redevelopment areas.
4. One of the intended outcomes is to encourage structured parking as a tool to increase density, meet realistic off-street parking needs, and minimize paving.
5. Incentives for the desired development include, but are not limited to, allowance for uses not otherwise permitted in the underlying district or districts, greater density, greater height, and reduced setbacks.
6. The RAMUI Overlay District regulations shall apply in those geographic locations depicted as Redevelopment Area 1, Redevelopment Area 2, Redevelopment Area 3, and State Hill Road Redevelopment Area on the attached Zoning Map of the Borough of Wyomissing, prepared by McCarthy Engineering, dated January 26, 2024, attached hereto as Exhibit “A”.
7. A project seeking to utilize the RAMUI Overlay District regulations shall elect such regulations at the time of application to the Borough of Wyomissing for land development plan approval. In the event of such election, the RAMUI Overlay District regulations shall apply to the project to the extent such regulations are inconsistent with the regulations otherwise applicable in the underlying zoning district. To the extent the RAMUI Overlay District regulations are silent on a specific topic of regulation, the regulations of the underlying zoning district shall apply.
8. Parcels which are part of an approved project under the regulations of the Commercial and Industrial Redevelopment Overlay District under Part 5-A of this Chapter 27 shall not be eligible for inclusion in a project under this Part 5-D.

(Ord. 1416-2021, 3/9/2021, §1; as amended by Ord. 1440, 6/11/2024, §1)

### **Section 502D: Permitted Uses.**

In addition to the uses permitted in the underlying zoning district, land and buildings in the RAMUI Overlay District may be used for the following purposes:

1. Redevelopment Area 1:
  - i. Within Redevelopment Area 1, apartment building use shall be permitted by right above the ground floor of a mixed use building, in which the ground floor shall be used for one or more of the following: office, retail, professional services, and restaurant (other than drive-in restaurant) uses; in addition, one or more of office, retail, professional services and restaurant (other than drive-in restaurant) uses are permitted without apartment building use.
  - ii. In a multistory structure which includes structured parking, structured parking shall be permitted on the ground floor, provided that the ground floor structured parking shall be fronted (except for the structured parking driveway entrance) by office, retail, professional services, or restaurant use; for purposes of this regulation, ground level paved parking under a podium supported structure shall be considered structured parking.
  - iii. If a multistory structure which includes structured parking is constructed on a corner lot, at least fifty percent (50%) of the frontage on both streets must be office, retail, professional services, or restaurant use; and the structured parking access must be at least fifty feet (50') from the intersection; the fifty feet (50') dimension shall be measured from the point of tangency of the proposed or existing curb radius at the intersection.
  - iv. If a multistory structure which includes structured parking is constructed on a corner lot along Penn Avenue, all structured parking access shall be located on the non-Penn Avenue frontage.
  - v. Apartment building use without ground floor office, retail, professional services or restaurant use shall be permitted by conditional use, pursuant to Part 12 of this Chapter; the standard for approval of the conditional use shall be substantial evidence that the property can't be developed economically as a mixed-use project based on a written report including a current market analysis which shall be submitted with the conditional use application.
  - vi. Accessory uses to the above principal uses shall also be permitted, by right.
2. Redevelopment Area 2

- i. Within Redevelopment Area 2, apartment building use shall be permitted by right as the sole use of a building; in addition, apartment building use shall be permitted by right above the ground floor of a mixed use building, in which the ground floor shall be used for one or more of the following: office, retail, professional services, and restaurant (other than drive-in restaurant) uses; in addition, one or more of office, retail, professional services and restaurant (other than drive-in restaurant) uses are permitted without apartment building use.
- ii. In a multistory structure which includes structured parking, structured parking shall be permitted on the ground floor, provided that the ground floor structured parking shall be fronted (except for the structured parking driveway entrance) by apartment use (in an apartment use building), or by office, retail, professional services, or restaurant use (in a mixed use building); for purposes of this regulation, ground level paved parking under a podium supported structure shall be considered structured parking.
- iii. If a multistory structure which includes structured parking is constructed on a corner lot, at least fifty percent (50%) of the frontage on both streets must be office, retail, professional services, or restaurant use; and the structured parking access must be at least fifty feet (50') from the intersection; the fifty feet (50') dimension shall be measured from the point of tangency of the proposed or existing curb radius at the intersection.
- iv. Accessory uses to the above principal uses shall also be permitted, by right.

3. Redevelopment Area 3:
  - i. Within Redevelopment Area 3, apartment building use shall be permitted by right above the ground floor of a mixed use building, in which the ground floor shall be used for one or more of the following: office, retail, professional services, and restaurant (other than drive-in restaurant) uses; in addition, one or more of office, retail, professional services and restaurant (other than drive-in restaurant) uses are permitted without apartment building use; in addition, urban-oriented retirement community use shall be permitted; an urban-oriented retirement community use may, but is not required, to include ground floor retail, professional services and restaurant (other than drive-in restaurant) supporting the residents of the urban-oriented retirement community use.
  - ii. “Urban-oriented retirement community use” means a retirement community providing residential, recreational, fitness, medical and food service amenities for retired residents within an urban campus design.
  - iii. “Urban campus design” means a dense, vertically oriented design, rather than sprawling, with sidewalk connections, landscaping and lighting between buildings and between public sidewalks and buildings which encourages pedestrian movement; amenities, restaurants and services are

accessible to residents without the need for motor vehicle transportation and are distributed along internal or external street frontage of the community in a manner resembling a main street.

- iv. In a multistory structure which includes structured parking, structured parking shall be permitted on the ground floor, provided that the ground floor structured parking shall be fronted (except for the structured parking driveway entrance) by urban-oriented retirement community use (in an urban-oriented retirement community use building) or by office, retail, professional services, or restaurant use (in a mixed use building); for purposes of this regulation, ground level paved parking under a podium supported structure shall be considered structured parking.
- v. If a multistory structure which includes structured parking is constructed on a corner lot, at least fifty percent (50%) of the frontage on both streets must be office, retail, professional services, or restaurant use; and the structured parking access must be at least fifty feet (50') from the intersection; the fifty feet (50') dimension shall be measured from the point of tangency of the proposed or existing curb radius at the intersection.
- vi. Apartment building use without ground floor office, retail, professional services or restaurant use shall be permitted by conditional use, pursuant to Part 12 of this Chapter; the standard for approval of the conditional use shall be substantial evidence that the property can't be developed economically as a mixed-use project based on a written report including a current market analysis which shall be submitted with the conditional use application.
- vii. Accessory uses to the above principal uses shall also be permitted, by right.

4. State Hill Road Redevelopment Area:

- i. Within the State Hill Road Redevelopment Area, apartment building use shall be permitted by conditional use as the sole use of a building; in addition, apartment building use shall be permitted by conditional use above the ground floor of a mixed-use building, in which the ground floor shall be used for one or more of the following: office, retail, professional services, and restaurant (other than drive-in restaurant) uses.
- ii. In a multistory structure which includes structured parking, structured parking shall be subterranean. Structured parking, if not subterranean, must be screened from view by louvers or other screening technique acceptable to the Borough Council.
- iii. For a multistory structure containing mixed uses, screened parking permitted on the ground floor shall be fronted (except for the structured parking driveway entrance) by office, retail, professional services, or restaurant (other than drive-in restaurant) use; for purposes of this

regulation, ground level paved parking under a podium supported structure shall be considered structured parking.

- iv. If a multistory structure which includes structured parking is constructed on a corner lot, at least fifty percent (50%) of the frontage on both streets must be office, retail, professional services, or restaurant (other than drive-in restaurant) use; and the structured parking access must be at least fifty feet (50') from the intersection; the fifty feet (50') dimension shall be measured from the point of tangency of the proposed or existing curb radius at the intersection.
- v. For any structure containing ground floor office, retail, professional services or restaurant (not drive-in restaurant) use, the off-street parking area must be on the same side of the building as the access to the office, retail, professional services or restaurant (not drive-in restaurant) use is located.
- vi. If a multistory structure which includes structured parking is constructed on a corner lot along State Hill Road, all structured parking access shall be located on the non-State Hill Road frontage.
- vii. The standard for approval of a conditional use under this regulation, in addition to the standards set forth in Part 12 of this Chapter, shall be a determination by the Borough Council that the proposed use, including the appearance of the proposed building or buildings, would be compatible with the surrounding neighborhood, with particular concern for adjacent and nearby existing residential development. Factors for determining compatibility shall include architecture, landscaping, and proximity; compatibility does not mean the uses and their appearance are the same but rather that the uses and their appearance are complementary. The conditional use application shall include site plans, elevation drawings of the proposed building or buildings, and an artist's rendering showing the proposed building or buildings in the context of the surrounding neighborhood.
- viii. Accessory uses to the above principal uses shall also be permitted, by right.

(Ord. 1416-2021, 3/9/2021, §1; as amended by Ord. 1440, 6/11/2024, §1)

### **Section 503D: Area, Yard and Height Requirements.**

#### Maximum Permitted

Building Height	Redevelopment Area 1, 75 feet Redevelopment Area 2, 75 feet Redevelopment Area 3, 100 feet State Hill Road Redevelopment Area, 20 feet
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maximum with option to increase height by 1 foot for each additional 1 foot of setback greater than the minimum setback for any side or rear yard adjacent to a residential use on the lot adjoining such yard, up to a maximum building height of 55 feet

**Building Coverage**

Redevelopment Area 1, 80% (any portion of the horizontal surface area which includes structured parking at any elevation of a building or structure on the lot shall be included in the calculation of building coverage)

Redevelopment Area 2, 80% (any portion of the horizontal surface area which includes structured parking at any elevation of a building or structure on the lot shall be included in the calculation of building coverage)

Redevelopment Area 3, 80% (any portion of the horizontal surface area which includes structured parking at any elevation of a building or structure on the lot shall be included in the calculation of building coverage)

State Hill Road Redevelopment Area, 80% (any portion of the horizontal surface area which includes structured parking at any elevation of a building or structure on the lot shall be included in the calculation of building coverage)

**Paved Area**

Redevelopment Area 1, 10%

Redevelopment Area 2, 10% (greater Paved Area permitted by conditional use; provided, none of the area in excess of 10% may be used for surface parking; paved parking under a podium supported structure shall not be considered surface parking for purposes of this regulation)

Redevelopment Area 3, 10% (greater Paved Area permitted by conditional use; provided, none of the area in excess of 10% may be used for surface parking; paved parking under a podium supported structure shall not be considered surface parking for purposes of this regulation)

State Hill Road Redevelopment Area, 10% (greater Paved Area permitted by conditional use; provided, none of the area in excess of 10% may be used for surface parking; paved parking under a podium supported structure shall not be considered surface parking for purposes of this regulation)

#### Minimum Requirements

Open Area	Redevelopment Area 1, 10% Redevelopment Area 2, 10% Redevelopment Area 3, 10% State Hill Road Redevelopment Area, 10%
Lot Area	Redevelopment Area 1, 2 acres (pre-existing lots less than 2 acres in area qualify for this Part 5-D, but shall meet the dimensional regulations for the underlying zoning district) Redevelopment Area 2, 2 acres Redevelopment Area 3, 2 acres State Hill Road Redevelopment Area, 2 acres
Building Setback (all yards)	Redevelopment Area 1, 5 feet Redevelopment Area 2, adjacent to single-family detached dwelling use or single family semidetached dwelling use, 30 feet; otherwise, 5 feet Redevelopment Area 3, adjacent to single family detached dwelling use or single family semidetached dwelling use, 30 feet; otherwise, 5 feet State Hill Road Redevelopment Area, 20 feet

#### Section 504D: Additional Requirements.

Projects electing to be subject to the RAMUI Overlay District regulations shall also comply with the following requirements:

1. For each project, a sealed landscaping improvements plan prepared by an architect or registered landscape architect shall be submitted to the Borough and approved by the Wyomissing Borough Planning Commission. Such landscaping plan shall include the following: landscaping of the perimeter of the project site and the interior of all non-covered ground level parking areas; a 20 foot wide vegetative buffer adjacent to any single-family detached dwelling use or single-family semidetached dwelling use; accessibility improvements, including but not limited to, curb ramps; sidewalks from curb to building with trees planted in non-grated tree wells at fifty foot (50') intervals, with benches centered between each

pair of trees; and multimodal design features, such as but not limited to, pedestrian connectivity to adjoining properties; bus stop shelters; bicycle racks; bike share stations; and bike repair stations, as shall be required by the Wyomissing Borough Planning Commission.

2. Building treatments such as façade articulation are encouraged, and mid-building pedestrian passages are encouraged to be incorporated into the building design.
3. For each project, street lights meeting the Borough standard shall be installed.
4. For each project which includes dwelling units, a recreation impact fee in an amount per residential unit established from time to time by resolution of the Borough Council pursuant to Section 509.1.B of the Subdivision and Land Development Ordinance shall be paid to the Borough of Wyomissing at the time of land development plan approval; provided, however, that installation of on-site recreation improvements as part of the project shall not reduce the developer's obligation to pay such fee.
5. For each project which includes structured parking, unless otherwise approved by the Borough Engineer, each space within the parking structure shall be at least 8 feet six inches wide and 18 feet long. The design of structured parking facilities shall be approved by the Borough Engineer.
6. The following off-street parking requirements shall apply to the listed uses:
  - A. Apartments 1.5 non-structured parking spaces for each unit, or 1.2 structured parking spaces for each unit (where a combination of non-structured parking and structured parking is used, the total number of required off-street parking spaces shall be calculated on the basis of the number of each type of parking space provided and the total number of units)
  - B. 55 or Over Housing 1 space for each unit  
(“55 or Over Housing” shall be housing which qualifies as “housing for older persons” within the meaning of the Fair Housing Act (42 U.S.C.A. 3601 et seq.))
  - C. Retirement Community 1 space per 3 beds, plus 1 space  
For each employee on the shift of greatest employment
  - D. Office 1 space for each 350 square feet

E. Restaurant	of gross floor area 1 space per 3 seats plus 1 space for each employee on the shift of greatest employment
F. Retail/Service	1 space per each 300 square feet of gross floor area

G. Uses on the same lot may share off-street parking spaces where the combination of uses is compatible in terms of days and hours of usage for purposes of sharing parking spaces in accordance with the following table. The following table shall be applied by determining the number of spaces needed for each land use listed in the table on an individual basis, then multiplying such number of spaces by the percentage listed for such use under each time period column, then totaling each time period column. The greatest total number for any of the time period columns shall be the minimum number of off-street parking spaces which shall be provided within the lot for the combination of uses listed in the table.

<u>Land Use</u>	<u>Weekdays</u>			<u>Weekends</u>		
	1 am to 7am	7am to 6pm	6pm to 1am	1am to 7am	7am to 6pm	6pm to 1am
Office	5%	100%	5%	0%	15%	0%
Retail sales and service	0%	100%	80%	0%	100%	60%
Restaurant (not 24 hours)	20%	70%	100%	30%	75%	100%
Residential/Retirement Community	100%	60%	100%	100%	75%	95%

H. Off-street parking spaces serving a principal use are not required to be located on the same lot as the principal use, provided the off-street parking spaces are located within five hundred feet (500') of the lot on which the principal use is located, and provided the use of the parking spaces is dedicated to the lot on which the principal use is located by deed restriction, easement, or other recorded instrument.

(Ord. 1416-2021, 3/9/2021, §1; as amended by Ord. 1435, 6/13/2023, §13; as amended by Ord. 1440, 6/11/2024, §1)

#### **Section 505D: Modification of Certain Regulations.**

The regulations of §503D and/or §504D may be modified upon application and approval of a conditional use pursuant to Part 12 of this Chapter; the standard for approval of the conditional use shall be substantial evidence that the property can't be developed in accordance with the literal requirements of §503D and/or §504D due to topographic features of the property, storm water related characteristics of the site, lot size, lot shape, proximity to a street intersection, and safe sight distance requirements; a written report including an engineering analysis of such substantial evidence shall be submitted with the conditional use application. In the case of a conditional use application seeking to modify the required dimensions of parking spaces or the required number of parking spaces under §504D, the standard for approval of the conditional use shall be substantial evidence that literal compliance with the requirements of §504D is not necessary due to mitigating factors based on the availability of multimodal transportation alternatives; the application for conditional use shall include a study prepared by a land planner or traffic engineer showing how non-automobile transportation alternatives can effectively meet a portion of the transportation needs for the residents and/or other users of a property, including incorporation into the project design of multimodal facilities such as bicycle and motorcycle parking.

(Ord. 1416-2021, 3/9/2021, §1; as amended by Ord. 1440, 6/11/2024, §1)

## Part 5-E

### HISTORIC TOURISM OVERLAY DISTRICT

#### **Section 501E: Specific Intent.**

1. In addition to the conventional residential, commercial and industrial zoning districts, and existing special purpose overlay districts, established by this Part, there shall be established a Historic Tourism Overlay District.
2. The Historic Tourism Overlay District shall not be an independent zoning district, but shall be a set of special zoning regulations to be applied over and above the zoning regulations otherwise controlling upon a tract of land, as enabled and described in Section 605 of the Pennsylvania Municipalities Planning Code. The district upon which the overlay district is superimposed is referred to herein as the “underlying district”.
3. The purpose of the Historic Tourism Overlay District is to promote history based tourism to support the economic viability of the preservation of historic structures, to cultivate the cultural awareness of current and future generations of residents and visitors by increasing their knowledge of the history of the Wyomissing community, and by contributing to the development of tourism as an integral part of the wider regional economy, in locations of the Borough which contain historically significant structures and where tourism activities are compatible with the use and enjoyment of adjoining properties.
4. An applicant seeking to utilize the Historic Tourism Overlay District regulations for a specific property shall elect such regulations at the time of application to the Borough of Wyomissing for a zoning permit for such property. In the event of such election, the Historic Tourism Overlay District regulations shall apply to the property to the extent such regulations are inconsistent with the regulations otherwise applicable in the underlying zoning district. To the extent the Historic Tourism Overlay District regulations are silent on a specific topic of regulation, the regulations of the underlying zoning district shall apply.

#### **Section 502E: Specific Intent.**

In addition to the uses permitted in the underlying zoning district, land and buildings in the Historic Tourism Overlay District may be used for the following purposes:

1. History Museum (an establishment where collections of historical objects and historical structures of permanent value are kept and displayed).
2. Private tours of historic structures.
3. Festivals (annual public celebrations commemorating a person, season or event, at which food, music, and other entertainment is offered to guests).

4. Fundraising special events (a festival or similar public celebration, a primary purpose of which is the collection of funds to support the programming or facilities of the property at which the event is being held).
5. One accessory caretaker apartment.
6. One short term residential rental unit for history based regional tourism guests (one week maximum stay).
7. Barn weddings (a rustic setting, located in or adjacent to a barn or other agricultural structure, used on a temporary basis as a location for a wedding ceremony and/or wedding reception).
8. Corporate conference meeting space (one day rentals).

**Section 503E: Specific Intent.**

Properties for which election has been made to be subject to the Historic Tourism Overlay District regulations shall also comply with the following requirements:

1. The principal structure on the property must have been constructed no later than the 18th century (i.e., no later than 1799).
2. The property must be adjacent to an existing Berks County public park.
3. The property must have some off street parking on site.
4. The property must have a plan, approved by the Borough Zoning Officer, which provides for sufficient off street parking to meet the requirements of Section 609 of the Zoning Ordinance for all of the uses on the property; the plan may provide that off street parking on adjoining properties shall be utilized to satisfy the Section 609 off street parking requirement, with the agreement of the owner or owners of such adjoining properties. If offstreet parking is provided on an adjoining property, a written and recorded agreement is required, which shall be subject to the review and approval of the Borough Zoning Officer, and the terms of the agreement must include a requirement that the agreement may not expire or be terminated without prior written notice to the Borough of Wyomissing.

(Ord. 1421-2021, 10/12/2021, §1)

## **PART 6**

### **GENERAL REGULATIONS**

#### **§600. Compliance with Other Borough Regulations.**

In addition to complying with the requirements of this Chapter, the requirements of all other Borough ordinances and regulations including, but not limited to, the Borough Subdivision and Land Development Ordinance [Chapter 22], the Borough Building Code [Chapter 4], the Borough Plumbing Code [Chapter 4], the Borough ordinance controlling flood boundary areas [Chapter 8] and the Borough ordinance requiring fences or enclosures around swimming pools [Chapter 23] shall be applicable.

(Ord. 1234, 2/11/2003, §1)

#### **§601. Access to Structures.**

1. Every building and structure hereafter erected or moved shall be on a lot adjacent to a public street or a private street approved by the Borough Council, or on a lot for which a legally recorded right of access to a public street or approved private street exists. After the effective date of this Chapter, no lot shall be created unless it abuts a public street or a private street approved by the Borough Council.
2. No more than one (1) principal building, structure or use of land shall be permitted or erected on a single lot, unless each such principal building, structure or use independently meets the use, dimensional and other requirements of this Chapter, unless otherwise specifically provided in this Chapter. [1305]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1305, 09/14/2010, §1)

#### **§602. Residential Accessory Buildings, Structures and Uses.**

1. General. The following general regulations shall apply to residential accessory structures, regardless of zoning district:
  - A. No accessory building or structure shall be permitted within any required front or side yard and within five feet of the rear lot line. The minimum distance between an accessory building or structure and a side lot line shall be the side yard requirement of the applicable zoning district, except that an accessory building or structure no greater than 100 square feet in area and no greater than 10 feet in height may be placed no less than five feet from the side lot line. In the case of a lot on which a principal building existed on the effective date of this Chapter, an accessory building greater than 100 square feet in area or greater than 10 feet in height may be located closer to a side lot line than the side yard requirement of applicable zoning district, provided

that the accessory building is not located closer to the side lot line than the principal building or five feet, whichever is greater. (1308)

- B. The maximum height of any accessory building or structure shall be 15 feet. No such building or structure shall exceed one story in height.
- C. The minimum distance between any accessory buildings or structures shall be five feet. The minimum distance between any accessory building or structure and a principal building on the same lot shall be five feet, except for detached garages.
- D. No permanent accessory building or structure shall be constructed on any lot prior to the commencement of construction of the principal building to which it is accessory.
- E. The horizontal surface area at grade level of all residential accessory buildings and structures, combined, on a lot, shall not exceed sixty (60) percent of the horizontal surface area at grade level of the principal building on the same lot. [Ord. 1397]
- F. Accessory uses shall include, but not be limited to, a detached garage, shed, pavilion, gazebo, swimming pool or other similar use. The horizontal surface area occupied by a single residential accessory use shall not exceed sixty (60) percent of the horizontal surface area at grade occupied by the principal structure on the same lot. [Ord. 1397]

G. Outdoor storage.

- (1) Outdoor storage of any type shall not be permitted unless such storage is consistent with and necessary to the uses conducted on the premises. Outdoor storage of any type is prohibited if such storage would be unsightly, malodorous, or hazardous to the environment and would be detrimental to the health and safety of the adjacent property owners.
- (2) If required by the Borough, the materials to be stored outdoors shall be enclosed by a fence and planting screen to conceal the storage structure(s) or area from the view of adjacent properties. The fence and planting screen shall be subject to the review and approval of the Borough.
- (3) The location of the permitted materials to be stored outside as well as any required fence enclosure shall comply with the minimum setback provisions of the zoning district in which it is located.
- (4) Portable Outdoor Storage Containers are prohibited on residential property except as follows:

- (a) Up to 72 hours for loading or unloading for residential building contents or residential building materials, and
- (b) In connection with construction and/or renovation while a building permit is issued for the property as provided in Section 611.2. [1305]

2. Use Regulations. The following specific use regulations shall apply to residential accessory uses, regardless of zoning district:

- A. Swimming Pool.
  - (1) A screen planting shall be established and maintained between the pool and lot lines within 20 feet of the pool.
  - (2) Each person owning or occupying land on which there is situated a swimming pool designed to contain a water depth of 24 inches or more at any point shall erect and maintain thereon an adequate barrier entirely enclosing the swimming pool as required by the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended from time to time. [1305]
- B. Detached Garages and Carports. The maximum length of any side of the garage or carport serving a single-family dwelling shall be 36 feet. Detached garages and carports shall be located at least 10 feet from a dwelling.
- C. Apartment and Townhouse Accessory Uses. Shall be restricted to uses designed solely for residents of the apartment and townhouse units. One office per project for the purposes of administering and renting dwelling units may be established. One "sample" apartment or townhouse for display purposes shall be permitted for each type of dwelling unit to be constructed.
- D. Tennis Courts. Shall have permanent fences at least 10 feet in height behind each baseline, extending at least the full width of the playing area. A permanent fence at least 10 feet in height and a screen planting shall be established and maintained between the tennis court and lot lines within 20 feet of the tennis court.
- E. Keeping of Animals. The keeping of domestic farm animals such as a horse, pig, goat, cow, steer, sheep, buffalo or a chicken, duck, rooster, goose, pigeon or other fowl shall not be considered a permitted accessory use.
- F. Earth Satellite Receiving Dishes. Shall not be roof mounted. Not more than one such dish shall be placed on any one lot and all such dishes shall be screened from adjoining properties and streets in accordance with the applicable provisions of this Chapter.

G. Yard and Garage Sales. Yard and garage sales shall only be allowed as accessory to a dwelling unit on the same lot. Customarily incidental accessory yard and garage sales are permitted, provided the following requirements are met:

- (1) Yard and garage sales shall occur not more than once in any 3-month period for a duration of no more than two days. Properties where sales are held more frequently than once per 3-month period shall only be allowed if they meet the requirements for a retail store.
- (2) Only used items may be sold.
- (3) Hours of operation shall be between 8:00 a.m. and 6:00 p.m.
- (4) At no time shall any part of the sale activity obstruct pedestrian and wheelchair access along a public sidewalk. [Ord. 1347]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §12; as amended by Ord. 1305, 09/14/2010, §1; as amended by Ord. 1308, 11/9/2010, §3; as amended by Ord. 1347, 12/11/2012, §1; and as amended by Ord. 1397, 10/9/2018, §5)

### **§603. Nonresidential Accessory Buildings, Structures and Uses.**

1. General. The following general regulations shall apply to nonresidential accessory structures, regardless of zoning district:
  - A. No building or structure shall be located within any required front, side and rear yard unless otherwise permitted by this Chapter.
  - B. The minimum distance between any accessory buildings or structures shall be five feet. The minimum distance between any accessory building or structure and a principal building shall be five feet. Notwithstanding the above, any detached garage or carport shall be separated from any other building or structure by a minimum of 10 feet.
2. Use Regulations. The following specific use regulations shall apply to nonresidential accessory uses, regardless of zoning district:
  - A. Storage Facilities.
    - (1) All storage facilities shall be located in areas which have direct access to a street or driveway. The outdoor storage of materials shall be screened from view from adjoining properties and streets. Such storage shall be limited to the normal operations conducted on the premises and shall not exceed 16 feet in height. Storage areas shall not be located within required front, side and rear yards.

- (2) All outdoor storage facilities for fuel, raw materials and products; and all fuel, raw materials and products stored outdoors shall be enclosed by a fence adequate for the protection of the public, as approved by the Borough.
- (3) No materials shall be deposited upon a lot in such a form or manner that they may be transferred off the lot by natural causes or forces.
- (4) All materials capable of causing fumes or dust or which constitute a fire hazard or which are edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.
- (5) Tractor trailer trucks shall not be used for storage and/or sales of materials.

B. Recreation Facilities. Such facilities shall not be located within required front, side and rear yards.

C. Earth Satellite Receiving Dishes. Not more than one such dish shall be placed on any one lot and all such dishes shall be screened from adjoining properties and streets in accordance with the applicable provisions of this Chapter.

#### **§604. Landscaping.**

1. Where district regulations require buffer yards, screening, planting strips and the like, these shall be subject to approval of the Zoning Officer prior to planting, unless approval power is otherwise designated by this Chapter. The type and density of planting shall adequately provide the required screening effect year-round.
2. Plant materials used in screen planting shall be at least five feet in height when planted.
3. The screen planting shall be maintained permanently and plant material which does not live shall be replaced.
4. Plantings shall be placed so they will not infringe upon street rights-of-way or adjoining properties upon maturity.
5. Screen plantings shall be broken only at points of vehicular or pedestrian access.

(Ord. 1234, 2/11/2003, §1)

#### **§605. Lighting.**

A. General.

When any property is illuminated at night, such illumination shall be so designed and located that the light sources are shielded from adjoining properties and streets. No direct beams of light shall be directed toward adjacent properties or roads. No lighting shall be utilized in such a manner to produce a noxious glare or a light intensity greater than one footcandle beyond the lot boundaries.

B. Residential Zoning Districts.

Outdoor lighting shall not be installed at a height greater than twenty (20') feet above the ground for any nonresidential use in any Residential District in the Borough. This prohibition shall be applicable to both permanent and temporary outdoor lighting.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1330, 1/10/2012, §2)

**§606. Signs.**

Signs may be erected and maintained only when in compliance with the provisions of this Chapter and all other ordinances and regulations of the Borough relating to the erection, alteration and maintenance of signs.

A. General.

- (1) Except in the case of school warning signs, traffic control signs and similar municipal signs, signs shall not contain moving parts nor use flashing or intermittent illumination and the source of light shall be steady and stationary.
- (2) No sign shall be placed in such a position, or have such a source of illumination, that it will cause any danger to pedestrians or vehicular traffic.
- (3) No signs other than school warning signs, official traffic signs and similar municipal signs shall be erected within the right-of-way lines of any street or extend over any street right-of-way.
- (4) Every sign shall be kept in good condition. Peeling paint shall be repaired and replaced, broken letters or other parts shall be repaired or replaced, broken lights shall be replaced and similar maintenance tasks shall be performed when necessary.
- (5) No sign shall be utilized in a manner which produces a noxious glare or a light intensity greater than one foot-candle beyond the lot boundaries. No direct beams of light shall be directed toward adjacent

properties or public roads and all light sources shall be shielded from adjoining properties and streets.

- (6) The distance from the ground to the highest part of any freestanding sign shall not exceed six feet in R-1, R-1A, R-2, R-2A, R-3, R-3A R-4, T-C and C-1 Zoning Districts. The distance from the ground to the highest part of any free standing sign in a C-2, C-3, I-2, and I-3 District shall not exceed 30 feet; and 20 feet in I-1 Districts. No portion of a sign which is attached to a building, supported by a building or which projects from a building shall extend above the height of the building.
- (7) No sign shall be erected or located as to prevent free ingress to or egress from any window, door or fire escape.
- (8) No sign which emits smoke, visible vapors or particulates, sound or odor shall be permitted.
- (9) No portion of any sign shall project over any lot line.
- (10) Red, green or amber lights, except those contained within a school warning sign, traffic control sign or similar municipal sign, shall not be so located that they could create a danger by being construed as traffic lights.
- (11) The area immediately surrounding each sign shall be kept in a clean, sanitary and healthful condition. No accumulations of loose paper, bottles, cans, garbage or similar items shall be permitted.
- (12) Any sign which becomes dilapidated or which creates a hazard to the public health, safety or welfare shall be removed at the expense of the owner or lessee. The Borough Zoning Officer shall make such determination as to state of repair.
- (13) No sign shall project more than twelve inches (12") from the building wall to which it is attached, except that in T-C, C-1, C-2, C-3, I-1, I-2 and I-3 Districts, signs may project from the front of a building perpendicularly to the front of the building a distance of not more than four feet (4') provided that such signs are no more than fifteen (15) square feet in area on any one side, and the lowest portion of all sign facings are at least eight feet (8') above the ground. [Ord. 1347]
- (14) Signs shall be erected on the property on which the use or event referred to in the sign is conducted.
- (15) A sign shall be removed when the use or event to which it refers is terminated.

- (16) Signs on mobile stands which can be moved from place to place are prohibited.
- (17) A sign affixed to any vehicle or other object in such a manner that the carrying of such sign or signs no longer is incidental to the primary purpose of the vehicle or object but becomes a primary purpose in itself, shall be prohibited.
- (18) Banner, inflatable, A-frame, tent, and other types of nonpermanent signs, are prohibited with the following exceptions:
  - (a) Those approved and issued a temporary zoning permit by the Zoning Officer, but in no case for longer than 30 days and not to exceed one approval each 6 months.
  - (b) A-frame and tent signs located on properties adjacent to Penn Avenue and State Hill Road that are used for commercial purposes, during business hours only and removed at all other times, and not exceeding four feet on a side without lighting. Such temporary signs may only be placed on sidewalk, yard and parking areas, but must have a minimum clearance area of five feet for pedestrians. Such temporary signs may not be used in weather conditions likely to cause the sign to blow over or become unstable. No permit shall be required for signs used under this paragraph.

Permitted banner, inflatable, A-frame, tent, and other nonpermanent signs shall comply with all pertinent regulations applicable to permanent signs. [Ord. 1305]

- (19) Any sign that has a message that can change, whether manually, mechanically or electrically, must obtain special exception approval from the Zoning Hearing Board, provided that:
  - (a) Electronic signs must provide a minimum change interval of at least thirty (30) seconds. A change interval is defined as the time period in which the display of an electronic sign must remain static and during which the display may not transition to display another advertisement.
  - (b) Segmented or traveling messages are prohibited.
  - (c) At no point on the electronic sign shall the luminance exceed 340cd/m<sup>2</sup> before sunrise or after sunset. [Ord. 1305]

B. Signs Permitted in all Zoning Districts. The following signs are permitted in all zoning districts provided that they comply with all general sign regulations in subsection (A) above:

- (1) Official traffic or street name signs and other official Federal, State, County or Borough government signs. Height and area for these signs shall be as determined by the respective Federal, State, County or Borough governing body.
- (2) Identification sign or bulletin or announcement boards for schools, churches, municipal buildings or similar permitted uses; provided, that:
  - (a) No more than two of these signs shall face any one street.
  - (b) No side of any sign, excluding signs consisting of open lettering attached to a building, shall exceed 25 square feet in area. A sign consisting of open lettering attached to a building shall not have a height exceeding 10 feet nor an area exceeding 10% of the building wall to which it is attached.
  - (c) No sign shall be located within 10 feet of a front lot line or within the side yard requirement of a side lot line, except signs attached to existing buildings.
- (3) Signs advertising the rental or sale of premises, the sale or development of a residential subdivision, the work of contractors, charitable events and political elections and candidates, temporary in nature; provided, that:
  - (a) Except as provided in paragraph (d), no side of any sign shall exceed 25 square feet in area.
  - (b) No more than one sign shall be posted to advertise the rental or sale of any one property, except for one additional sign advertising an "open house" for a period of no more than four days.
  - (c) Deleted. Reserved.
  - (d) No side of any sign under this paragraph (3) being placed in a residential district of the Borough shall exceed six (6) square feet in area.
  - (e) No permit shall be required for signs advertising rental or sale of premises, the work of contractors, and political elections and candidates.
- (4) Signs advertising a lawful nonconforming use; provided, that:
  - (a) No side of any sign shall exceed 25 square feet in area.

- (b) No more than one sign shall face any one street.
- (c) No sign shall be located within 10 feet of a front lot line or within the side yard requirement of a side lot line, except signs attached to existing buildings.

(5) Signs necessary for the identification and protection of public utility facilities; provided that no side of any sign shall exceed 10 square feet in area.

(6) Signs within a residential development to direct persons to a rental office or sample unit within that development; provided, that no side of any sign shall exceed four square feet in area

(7) Identifying signs for the purpose of indicating the name of residential development, provided that no more than one sign shall be allowed for each entrance to the development from a public street and no sign shall exceed 25 square feet in area.

(8) Trespassing signs and signs indicating the private nature of premises. No side of any sign shall exceed two square feet in area.

C. Requirements for Signs in C-2, C-3, I-1, I-2 and I-3 Districts. In addition to signs permitted in all zoning districts by subsection (B), above, signs advertising a business or other permitted use are permitted, provided that they comply with all general sign regulations in subsection (A), above, and the following:

- (1) In the case where a lot contains only one use, the total area of all signs (exclusive of signs consisting of open lettering attached to a building) placed on or facing any one street shall not exceed 100 square feet.
- (2) In the case where a lot contains more than one use, exclusive of the signs permitted to be attached to the building as noted below, the total area of all signs placed on or facing any one street shall not exceed 100 square feet; provided, that the total area may be increased to a maximum of 160 square feet if the street frontage on which the signs are placed or face is at least 300 feet. No more than 100 square feet of such sign area shall be devoted to one use.
- (3) No more than one freestanding sign or one wall attached sign shall face any one street; except that in the case of a lot containing more than one commercial or industrial use, for each commercial or industrial use located within that lot, one sign may be attached to that portion of the building housing the use.

- (4) A sign attached to a building wall (including open lettering) shall not have an area exceeding 10% of the building wall to which it is attached, or two square feet of area for each one foot of building height plus two square feet of area for each one foot of building length of the wall to which it is attached, whichever is less. A sign attached to a building wall shall not have a height exceeding 10 feet.
- (5) In the case of a corner lot, the number of freestanding signs shall be limited to one sign facing each street, provided that each such street frontage equals or exceeds the minimum lot width required in the applicable zoning district.
- (6) A sign consisting of open lettering attached to a building shall include only the name of the business or industry to which it applies and shall face a street.
- (7) No portion of a freestanding sign shall be located closer than 10 feet to a street line nor closer than the side yard requirement to a side lot line.

D. Requirements for Signs in T-C and C-1 Districts. In addition to signs permitted in all zoning districts by subsection (B), above, signs advertising a business or other permitted use are permitted provided that they comply with all general sign regulations in subsection (A), above, and the following:

- (1) The total area of all signs placed on or facing any one street shall not exceed 25 square feet. No single sign shall exceed 15 square feet in area. (In the case of a two-sided sign, the area maximum applies to one side of the sign.)
- (2) No more than one freestanding sign or one wall attached sign shall face any one street.
- (3) A sign attached to a building wall (including open lettering) shall not have an area exceeding 10% of the building wall to which it is attached, or two square feet of area for each one foot of building height plus two square feet of area for each one foot of building length of the wall to which it is attached, whichever is less. The total area limitation of subsection (1), above, shall apply. A sign attached to a building wall shall not have a height exceeding 10 feet.
- (4) In the case of a corner lot, the number of freestanding signs shall be limited to one sign facing each street, provided that each such street frontage equals or exceeds the minimum lot width required in the applicable zoning district.

- (5) A sign consisting of open lettering attached to a building shall include only the name of the business or industry to which it applies and shall face a street.
- (6) No portion of a freestanding sign shall be located within a street right-of-way nor within the required side yard.

E. Outdoor Advertising Controls.

- (1) “Outdoor advertising sign” shall mean a sign whose surface is provided gratis, leased or purchased:
  - (a) To advertise goods, products, services, etc., that are not sold, created, produced, manufactured or distributed on the premises where the sign is located; or,
  - (b) To communicate messages of a nonadvertising or a noncommercial purpose that do not relate to the premises where the sign is located.
- (2) Standards. Within 660 feet of the outward edge of the right-of-way lines of any street and its ramps, outdoor advertising signs shall be permitted as follows in the I-2 and I-3 Light Industrial District:
  - (a) Spacing Requirements. Outdoor advertising signs shall not be permitted within 500 feet of any other outdoor advertising sign, including existing nonconforming signs on the same side of the right-of-way line and facing in the same direction of any street, bridges or bridge approachways; provided, that this spacing requirement shall not apply to on-premises or accessory signs, public service signs, highway directional signs or any other advertising sign which is within the six-hundred-sixty-foot boundary.
  - (b) Distances From Residentially Zoned Property. No sign face of 1,000 square feet or more in area shall be erected within 100 feet of any residentially zoned property.
  - (c) Area Regulations. The maximum sign area of any outdoor advertising sign shall be 1,000 square feet per face, not to exceed 2,000 square feet per face for back-to-back or V-shaped signs.
  - (d) Height Regulations. The top edge of any outdoor advertising sign shall not be located more than 25 feet above the road surface from which the advertising message is principally visible or intended to be visible.

- (e) Sign Face Regulations. No more than two sign faces or advertising messages shall be permitted on any one lot.
- (f) Illuminated, Animated, Flashing and Revolving Sign Regulations.
  - (1) Signs may be illuminated; provided, that the illumination shall be focused upon the sign itself to prevent glare upon the surrounding areas.
  - (2) Flashing signs or signs with intermittent illumination shall not be permitted.
  - (3) Signs which revolve shall not be permitted.
  - (4) Outdoor advertising signs shall not be illuminated between the hours of 1:00 a.m. and 6:00 a.m.
  - (5) No outdoor advertising sign shall be permitted which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of any street or highway or in a residential property within the Borough or which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or which interferes with any driver's operation of a motor vehicle.
  - (6) No outdoor advertising sign shall be illuminated in such a way that interferes with the effectiveness of or obscures any traffic sign, device or signal.
- (g) Illustration and Occupancy.
  - (1) No outdoor advertising sign shall be used to illustrate any lewd, pornographic or lascivious acts.
  - (2) No outdoor advertising sign shall be occupied by any person(s) except for construction or maintenance of the outdoor advertising sign.
- (h) Construction.
  - (1) All outdoor advertising signs shall be constructed and maintained in accordance with standards established by ordinance or resolution of Borough Council or, if none, by the Borough Zoning Officer.

(2) All outdoor advertising signs shall be constructed in such a manner as to avoid physical interference with Borough traffic signs, signals and devices and to avoid obstruction of motor vehicle drivers' view of approaching, merging or intersecting traffic.

(i) Abandonment.

(1) An outdoor advertising sign which does not have bona fide advertising for 12 consecutive months shall be deemed abandoned and shall be removed by applicant within 30 days after written notice from the Borough.

(2) Prior to any construction of an outdoor advertising sign, the applicant shall post a bond or other security in amount and form acceptable to the Borough Zoning Officer for the removal of all outdoor advertising signs in the event that the outdoor advertising signs are abandoned and not removed by the applicant in accordance with subsection (i)(1).

(j) Conformance to Federal and State Law.

(1) All outdoor advertising signs shall conform to any and all laws of the United States and the Commonwealth of Pennsylvania regarding outdoor advertising signs.

(Ord. 1234, 2/11/2003, §1; as added by Ord. 1254, 4/12/05, §1 as amended by Ord. 1283, 8/12/2008, §13; as amended by Ord. 1295, 5/12/09 §2; as amended by Ord. 1305, 09/14/2010, §1; as amended by Ord. 1347, 12/11/2012, §1; as replaced by Ord. 1381, 1/10/2017, §20; as amended by Ord. 1439, 02/13/2024, §1)

### **§607. Acceleration and Deceleration Lanes.**

1. All areas for off-street parking, off-street unloading and loading and the storage or movement of motor vehicles shall be physically separated from public streets or highways by a raised curb or planting strip to serve as a barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways for entrance to and egress from such parking, loading or storage areas.
2. Acceleration and deceleration lanes shall be provided by the developer when required by the Borough or the Pennsylvania Department of Transportation.

(Ord. 1234, 2/11/2003, §1)

### **§608. Loading Areas.**

1. Paved off-street loading and unloading spaces, with proper access from a street, driveway or alley, shall be provided on any lot on which a building for trade, business, industry or warehousing, or other use similarly involving large volume receipt of or distribution of materials or merchandise by motor vehicle is hereafter erected or expanded. All such areas for the loading and unloading of vehicles, and for the servicing of establishments by refuse collection, fuel and other service vehicles, shall be of such size, design and arrangement that they may be used without blocking or otherwise interfering with the use of automobile accessways, parking facilities and pedestrian ways. Loading areas shall not be located within required front yards and shall not be located within 10 feet of any side or rear lot line. All loading and unloading shall be conducted within or adjacent to a building.
2. The number and size of loading spaces provided shall be appropriate for the use to be conducted on the premises and sufficient to accommodate all vehicles serving the use. At least one loading space shall be provided for each use. When a zoning approval or building permit is applied for, the application shall show all provisions for off-street loading and include supporting data (data on number, frequency and size of vehicles which will use the loading facilities) which justify the number and size of spaces provided. Number and size of spaces required shall be approved by the Zoning Officer unless otherwise indicated in this Chapter.
3. All areas for off-street unloading and loading shall be physically separated from public streets or highways by a raised curb or planting strip to serve as a barrier against unchanneled motor vehicle entrance or exit, except for necessary accessways for entrance to and egress from such loading areas.

(Ord. 1234, 2/11/2003, §1)

#### **§609. Off-Street Parking.**

1. In all zoning districts, off-street parking facilities shall be provided whenever:
  - A. A building is constructed or a new use established.
  - B. The use of an existing building or a lot is changed to a use requiring more parking facilities.
  - C. An existing building or use is altered so as to increase the amount of parking spaces required.
2. Each parking space shall have minimum dimensions of nine feet by 18 feet. In addition, appropriate driveways, aisles and maneuvering space shall be provided for parking purpose. Proper access from a street, alley or driveway shall be provided. When parking spaces are provided parallel to a driveway or aisle, the minimum dimensions of the spaces shall be 10 feet by 22 feet.

3. Parking spaces for residential uses shall be located on the same lot as the use served and shall be located behind the street right-of-way line. Parking spaces for other uses shall be provided for on the same lot as the use being served or in parking facilities within 300 feet of the building served, except in the case of a shopping center or similar grouping of buildings on a lot, in which case all parking areas shall be provided within the lot boundaries.
4. Joint parking facilities for two or more uses may be established, provided that the number of spaces provided is not less than the sum of the spaces required for each individual use.
5. All parking spaces and means of access, other than those relating to a dwelling, shall be illuminated during night hours of use.
6. All common parking areas and access drives shall be paved, shall be graded to provide convenient vehicular access and proper drainage and shall be maintained in usable condition. The maximum grade of areas used for parking shall not exceed 6% and the maximum grade of access drives shall not exceed 10%. Surface water shall not be concentrated onto public sidewalks or other lots.
7. Areas necessary to fulfill the off-street parking requirements of this Chapter shall be used solely for that purpose. All off-street parking areas shall be paved. [Ord. 1344]
8. Off-street parking facilities existing at the effective date of this Chapter shall not be subsequently reduced to an amount less than that required under this Chapter for a similar new building or use.
9. The width of aisles in parking areas shall be no less than listed in the following table:

Angle of Parking	One-Way	Aisle Width Two-Way
90°	20 feet	24 feet
60°	18 feet	Not Permitted
45°	15 feet	Not Permitted
30°	12 feet	Not Permitted

10. When the required number of parking spaces is computed and a fraction of a parking space results, any fraction below  $\frac{1}{4}$  may be disregarded and any fraction  $\frac{1}{4}$  or greater shall necessitate the provision of a full parking space.
11. Parking areas for nonresidential uses shall be designed such that vehicles will not back out onto public streets.
12. The design of parking areas shall be such to prevent to the greatest extent possible the stack-up of vehicles on a public street at entrance to parking areas.

13. Where parking requirements are determined by the number of seats and only temporary seats are provided, the number of parking spaces to be provided shall be based upon the capacity for temporary seats in normal usage.
14. Parking areas shall be arranged so that no portion of any vehicle parked within a designated parking space can extend over any lot line of the lot on which it is parked.
15. Parking areas for nonresidential uses which are designed to contain more than four vehicles shall be screened from the view of any lands zoned R-1, R-1A, R-2, R-2A, R-3 or R-4 and residential uses within T-C Districts which are adjacent to the land on which the nonresidential parking area is located.
16. Parking areas and access drives for nonresidential uses shall be located a minimum of 10 feet from a street right-of-way line or lot line, unless otherwise specified in this Chapter, and the area between the parking area or access drive and the lot line or street right-of-way line shall be landscaped.
17. Maneuvering areas shall be provided to facilitate leaving the end spaces in parking areas.
18. For purposes of traffic channelization, definition of parking areas and the reduction of visual monotony, an area equivalent, at minimum, to 10% of all surface parking areas shall be devoted to interior parking lot vegetative cover. Such areas shall be in addition to any other landscaping or buffering requirements of this Chapter. To further assist in traffic channelization, raised islands shall be placed at the ends of parking bays on an alternating basis, such that the end of the bay adjacent to the driving aisle or road is clearly delineated. The island surface, preferably covered with vegetative material, shall be designed so as not to impair visibility needed for traffic flow and turning movements. The alternate bays without raised islands shall be defined by pavement markings.
19. All areas for off-street parking shall be physically separated from public streets or highways by a raised curb or planting strip to serve as a barrier against un channeled motor vehicle entrance or exit, except for necessary accessways or access roads which supply entrance to and egress from such parking areas.
20. The number of off-street parking spaces to be provided for each use shall be sufficient to accommodate all employee, visitor and customer parking. One parking space shall be provided per company vehicle to be parked on the premises. Minimum off-street parking requirements shall be as follows, unless otherwise established in this Chapter:
  - A. Residential Uses Two parking spaces per dwelling unit.

B.	Industrial, Wholesaling or Warehousing Establishment, Laboratory, Research Center	One space per employee on the shift of greatest employment or one space per 1,000 square feet of gross floor area, whichever results in more parking spaces.
C.	Restaurant, Tavern or Similar Use	One space for each three seats plus one space for each employee on the shift of greatest employment.
D.	Retail and Service Establishments	One space for each 200 square feet of net floor area.
E.	Office Buildings	One space for each 250 square feet of net floor area.
F.	Medical, Dental and Paramedical Offices and Clinic	One space per employee, five spaces for each person engaged in practice.
G.	Nursing Home, Personal Care Facilities and Similar Uses	One space per employee on largest shift plus one space for each four beds.
H.	Funeral Home	One space for each three seats
I.	Auditorium, Theatre, Municipal Building, Place of Worship, Club or Lodge, or Other Place of Public Assemblage	One space for each three seats plus one space per employee
J.	Library or Museum	One space per 300 square feet of gross floor area.
K.	Nursery Schools and Day Care Centers	One space per employee plus one space for loading and unloading of children for each three children accommodated in the school.
L.	Schools	Two spaces per each administrative staff member, plus 1 2/10 spaces per each additional staff member, plus $\frac{1}{4}$ space per seat in gymnasium.
M.	Motel or Hotel	One space for each rental unit plus one space for each employee on the shift of greatest.

	Motel or Hotel with multipurpose event space	One space for every 5 persons allowed per maximum occupancy of multipurpose event space. [Ord. 1397]
N.	Motor Vehicle Service Station or Repair Garage	Two parking spaces per service bay, plus one space per employee on the shift of greatest employment.
O.	Bowling Alley	Five spaces per alley plus one space for each employee on the shift of greatest employment.
P.	Outdoor Recreational Facility	One space per employee on the largest shift plus one space per three people of total capacity.
Q.	Shopping Center	Four spaces per 1,000 square feet of gross leasable area.
R.	Indoor Recreational Facility or Place of Amusement	One space per 50 square feet devoted to patron use.
S.	Licensed Gaming Facility	Each component activity area of the facility shall separately meet the off-street parking requirement under this section for such activity (i.e., hotel or motel activity, restaurant activity, banquet activity, nightclub activity, retail activity, etc.), and in addition thereto off-street parking spaces shall be provided with respect to the licensed gaming activity area as follows: one and one-half parking spaces per gaming position.
T.	Health Fitness Center	One space per 200 square feet of net floor area, including, but not limited to, locker rooms, bathrooms, instruction areas, and all other areas used by members of the Health Fitness Center.
U.	Short-Term Residential Rental Unit	One space per bedroom for buildings and structures initially constructed for use as a Short-Term Residential Rental Unit; for buildings and structures originally

permitted as a single-family dwelling, the existing off-street parking, if any, shall not be diminished and additional off-street parking shall be added to the lot, if feasible under the dimensional regulations applicable to the lot, so as to provide at least one space per bedroom.

V. **Mixed Use Lifestyle Center.** Where a use includes a combination of at least five of the following seven uses: (1) office with ancillary storage, (2) personal services with ancillary retail, (3) personal fitness training studio or gym, (4) restaurant with or without bar, (5) recreation use, (6) amusement use, and (7) light manufacturing of personal service goods, the number of required spaces for the mixed use shall be determined by the Zoning Officer, in consultation with the Borough's appointed traffic engineer, based upon a parking plan prepared by a traffic engineer and submitted to the Zoning Officer on behalf of the developer of the Center, taking into consideration the mix of uses, hours of operation of each use, days of operation of each use, number of employees of each use, seating in restaurants and bars, and gaming positions for amusement activities. The Zoning Officer shall not require additional parking spaces for a use proposed by a new owner or tenant within a Mixed Use Lifestyle Center if (i) such new owner or tenant proposes to use the subject premises for the same use as the prior owner or tenant and such new owner or tenant provides a written statement as part of an application for a Certificate of Occupancy that provides the hours and days of operation, and number of employees, for both the existing/prior activity and proposed/new activity, so the Zoning Officer may make a comparison to determine whether the intensity of the new activity is substantially similar, or less intensive, than the prior activity, or (ii) the new owner or tenant provides to the Zoning Officer reasonably sufficient evidence from a traffic engineer showing that the activity proposed by the new owner or tenant requires equal or less parking spaces as compared to the activity engaged in by the prior owner or tenant.

For any building or use not covered above, the Zoning Officer shall apply the standard for off-street parking spaces in the above schedule deemed to most closely approximate the proposed building or use.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §14; as amended by Ord. 1298, 8/29/2009, §4; as amended by Ord. 1312, 12/14/2010, §1; as amended by Ord. 1338, 6/12/2012, §2; as amended by Ord. 1344, 9/11/2012, §2; as amended by Ord. 1397, 10/9/2018, §6; and as amended by Ord. 1430, 2/14/2023, §8, 10; as amended by Ord. 1435, 6/13/2023, §14)

## **§610. Driveways.**

1. The following standards shall apply to all driveways:
  - A. No driveway shall be constructed in such a manner so as to create a drainage or sedimentation problem on an adjacent property or street.
  - B. Driveways shall be paved.
  - C. Two-way driveway entrances shall not intersect streets at angles of less than 60° nor more than 120°.
  - D. All requirements of applicable Borough ordinances shall be complied with.
  - E. The location and width of exit and entrance driveways shall be planned to interfere as little as possible with the flow of vehicular traffic on adjacent streets. Driveways shall not be located in such a manner that they will cause a hazard to the movement of normal traffic or cause areas of undue traffic congestion on streets or highways.
2. The following standards shall apply to residential driveways:
  - A. Driveway entrances or exits into a street from a corner lot on which a single-family or two-family dwelling is constructed shall be located at least 40 feet from the intersection of any street right-of-way lines.
  - B. No driveway serving a dwelling shall be located within two feet of any side lot line, except in the case of driveways which adjoin one another or shared driveways.
3. The following standards shall apply to nonresidential driveways:
  - A. The minimum distance between the center line of a driveway where it intersects a street and the center line of another driveway on the same lot or another lot where that other driveway intersects the same street shall be 150 feet. The center line of a driveway where it intersects a street shall be a minimum of 75 feet from a lot line, provided that it may be less than 75 feet from a lot line if it will be at least 150 feet from the nearest driveway on the adjoining lot. The minimum distance between the center line of a driveway where it intersects a street and the intersection of street cartway lines (except in the case of a street intersecting the street the driveway intersects directly opposite from the driveway) shall be 150 feet. In the case of a use containing between 100,000 and 300,000 square feet of gross leasable area, the distance shall be increased to 200 feet. In the case of a use containing more than 300,000 square feet of gross leasable area, the distance shall be increased to 250 feet.

- B. No use shall have more than two accessways to any one street for each 500 feet of frontage.
- C. The width, excluding radii, of entrances to and exits from parking areas, measured at the street line, shall conform to the following schedule:

**Width in Feet**

	<b>Minimum</b>	<b>Maximum</b>
One Way	12	24
Two Way	24	36

Each lane provided shall be a minimum of 12 feet in width. The radius of the edge of the driveway apron shall be at least 15 feet and no more than 35 feet, unless otherwise required by Borough ordinance. Provided, that along State legislative routes, if these standards are in conflict with Pennsylvania Department of Transportation requirements, driveways shall be designed to conform as closely as possible to the requirements of this Chapter, while conforming to the requirements of the Pennsylvania Department of Transportation.

(Ord. 1234, 2/11/2003, §1)

**§611. Storage or Parking of Vehicles.**

- 1. Automotive vehicles and recreational vehicles of any type without current license plates and required inspection stickers, shall not be parked or stored on any property within an R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4, C-1 or T-C District other than in completely enclosed buildings. Except for storage in completely enclosed buildings, plus one (1) such vehicle not stored in a completely enclosed building, recreational vehicles, including but not limited to boats and trailers, may be parked on a lot for no more than forty-eight (48) hours for loading and unloading purposes and are otherwise not permitted in the zoning districts in this provision.
- 2. No tractor or trailer from a tractor trailer truck, other than a vehicle used in conjunction with a lawful conforming or nonconforming use, shall be parked or stored on any property within an R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4, C-1 or T-C District unless it is parked or stored within a completely enclosed building.
- 3. The above subsections notwithstanding, moving vans, construction vehicles, delivery vehicles and similar vehicles may be parked temporarily (not to exceed 24 hours) within R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4, C-1 and T-C Districts outside completely enclosed buildings during the conduct of business of serving lawful uses within the districts.
- 4. The installation or parking of tents, trailers, or any other facility that may in any way restrict or hamper parking or the flow of vehicles in or around parking areas

are prohibited except that the Zoning Officer may issue temporary zoning approval for such use upon approval of the Borough Manager at the time of application, but in no case longer than 90 days. The fee for granting the temporary permit granting approval shall be set by Borough Council and may be changed from time to time by resolution.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §15; as amended by Ord. 1386, 1/9/2018, §1)

### **§612. Prohibited Uses.**

No building or structure may be erected, altered or used, and no lot or premises may be used for any activity which is noxious, injurious or offensive by reason of dust, smoke, odor, fumes, noise, vibration, gas, effluent discharge, illumination or similar substances or conditions.

(Ord. 1234, 2/11/2003, §1)

### **§613. Front Yard Exceptions.**

1. When an unimproved lot is situated between two improved lots with front yard dimensions less than those required for the zoning district in which the unimproved lot is located, the front yard required for the unimproved lot may be reduced to a depth equal to the average of the two adjoining lots; provided, however, that this provision shall only apply in such cases where the improved lots in question are improved as of the time of the adoption of this Chapter. For the purpose of this Section, an unimproved lot shall be the same as a vacant lot and an improved lot shall be one on which a principal building is erected.

2. When an unimproved residential lot, or an improved residential lot upon which a building addition is proposed, is situated adjacent to at least one (1) improved residential lot with a front yard dimension greater than the minimum required for the zoning district in which the unimproved residential lot, or improved residential lot upon which a building addition is proposed, is located, the front yard required for the unimproved residential lot, or improved residential lot upon which a building addition is proposed, shall be increased (but not decreased) to a depth equal to the actual front yard of the adjoining improved residential lot which is nearest to the required front yard setback. For the purpose of this Section, an unimproved residential lot shall be the same as a vacant lot (including a residential lot which has become vacant due to the demolition of existing improvements on the residential lot) and an improved residential lot shall be one on which a dwelling is erected.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §16)

### **§614. Fences, Walls and Hedges.**

1. Except as otherwise provided in this Chapter, fences, walls and hedges may be placed within front, rear and side yards; provided, that no fence, wall or hedge shall be erected or planted within the right-of-way lines of any street, nor shall they encroach upon any street right-of-way at any time.
2. Fences, walls and hedges shall comply with the corner lot restrictions of this Chapter.
3. No fence or wall, except a retaining wall, shall exceed six feet in height, unless otherwise required by this Chapter.
4. Fences shall be constructed of wood, chain link or similar appropriate materials approved by the Zoning Officer, be of uniform construction and be constructed in a workmanlike manner.

(Ord. 1234, 2/11/2003, §1)

### **§615. Corner Lot Restrictions.**

1. On every corner lot, a yard equal in depth to the front yard requirement of the zoning district in which the corner lot is located shall be provided on each side of the lot which is adjacent to a street.
2. Clear sight triangles shall be provided at all street intersections and intersections of driveways with streets. Within such triangles nothing, except street signs, traffic lights or signs, utility poles and mailboxes, which impedes vision beyond 2 1/2 feet above the center line grades of the intersecting streets shall be erected, placed, planted or allowed to grow. Such triangles shall be established from a distance of 75 feet from the point of intersection of the center lines of the intersecting streets, except that a clear sight triangle of 150 feet shall be provided for all intersections with arterial highways. At driveway intersections with streets, a triangle shall be established by connecting points a distance of 15 feet from the point of intersection of cartway lines.
3. Upon presentation of an application for establishment of a use on a corner lot, the Borough Zoning Officer shall designate which yard abutting a street will be considered the front yard. The yard opposite that yard shall meet the rear yard requirements of the applicable zoning district. Any yard adjoining a street which was not designated the front yard must meet the front yard requirements of the applicable zoning district, and the yard opposite that yard shall meet the side yard requirements of the applicable zoning district. In the case of a building to be placed on a corner lot such that the front of the building will not be parallel to a street line, yards shall be provided so that no portion of the building will be placed closer to a street than the front yard requirement of the applicable zoning district, so that no portion of the rear of the building will be placed closer to a lot than the rear yard requirement of the applicable zoning district, and so that no portion of a side of the

building will be placed closer to a lot line than the side yard requirement of the applicable zoning district.

(Ord. 1234, 2/11/2003, §1)

### **§616. Projecting Into Yards.**

The following projections shall be permitted into required yards and shall not be considered in the determination of yard size or lot coverage:

- A. Terraces, patios, or open porches, provided that such terraces or patios or are not roofed or otherwise enclosed by any wall exceeding 36 inches in height, are not closer than five feet to any lot line (except a lot line which is the projection of a party wall), and do not project further than eight (8) feet into any required front yard.
- B. Open balconies or fire escapes and projecting architectural features such as bay windows, cornices, eaves, roof overhang, chimneys and window sills; provided, that all such features shall project no more than five feet into any required yard, and shall not be located closer than five feet to any lot line (except lot lines which are the projection of party walls).
- C. Uncovered stairs and landings; provided, such stairs or landings do not exceed three feet six inches in height, do not project more than four feet into any required yard, and are not located closer than five feet to any lot line (except lot lines which are the projection of party walls).
- D. HVAC systems including, but not limited to, the following similar units: air conditioning, heat pumps, condensers, solar collectors, may project into a side yard or rear yard in residential zoning districts a maximum of four feet and may project into a side yard or rear yard in nonresidential zoning districts a maximum of six feet and are limited to a maximum height of six feet. All HVAC systems located outside of any building in any zoning district shall be properly screened with appropriate material as approved by the Zoning Officer.
- E. Temporary accessibility improvements for disabled persons, subject to Section 801.
- F. At the primary entrance to the dwelling a single roofed terrace, patio or porch provided that it does not project further than eight (8) feet into any required front yard.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1386, 1/9/2018 §2; and as amended by Ord. 1397, 10/9/2018, §7)

**§617. Accessory Building Setback Exceptions.**

On any lot on which a principal building existed at the effective date of this Chapter, an accessory building to such existing principal building which is constructed after the effective date of this Chapter does not have to be set back further from any street right-of-way than that principal building.

(Ord. 1234, 2/11/2003, §1)

**§618. Height Exceptions and Maximums.**

1. The building height limitations contained within this Chapter shall not apply to chimneys, spires, cupolas, antennas, elevator shafts, HVAC systems and other similar appurtenances usually required to be placed above the roof level; provided, they are not intended for human occupancy and comply with the other subsections of this Section.
2. No part of any airport hazard structure as herein defined shall exceed 125 feet in height above mean ground level, whether freestanding, affixed to, supported by, on the roof of, or in any way a part of any building.
3. Wireless Communications Facilities are subject to the applicable requirements of this Ordinance. [Ord. 1371]
4. Refer to Part 5-C pertaining to height limitations due to the Reading Regional Airport. [Ord. 1371]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1313, 1/11/2011, §2; as amended by Ord. 1371, 9/8/2015, §6)

**§619. Removal of Natural Resources.**

Natural resources such as topsoil and wooded areas shall be preserved. The removal of natural resources shall be permitted only as part of construction activities and in connection with normal lawn preparation and maintenance. Any earthmoving shall be conducted in accordance with the regulations of the Pennsylvania Department of Environmental Protection.

(Ord. 1234, 2/11/2003, §1)

**§620. Floodplain Controls.**

Floodplains shall be established and regulated in accordance with applicable ordinances of the Borough and other applicable governmental regulations.

(Ord. 1234, 2/11/2003, §1)

### **§621. Standards for Public Utility Uses.**

If adjoining land is zoned R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4 or T-C, all public utility facilities, storage or activities outside a building, including parking and loading, shall be screened from view from public streets and adjoining lots.

(Ord. 1234, 2/11/2003, §1)

### **§622. Home Occupations.**

1. Class I Home Occupations: By Right, Permit Required, No Special Exception Required. A residence in the R-1 “Low Density Residential District,” R-1A, “Low Density Residential District,” R-2 “Suburban Residential District,” R-2A “Suburban Residential District,” R-3 “Medium Density Residential District,” R-3A “Medium Density Residential District,” R-4 Retirement Community District,” may be used for a Class I Home Occupation. A Class I Home Occupation is a “No-impact home-based business”, which is a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. A Class I Home Occupation shall satisfy all of the following conditions:
  - A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  - B. The business shall employ no employees other than family members residing in the dwelling.
  - C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
  - D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
  - E. The business activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
  - F. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.

- G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
2. Class II Home Occupation: By Right, Permit Required, No Special Exception Required. A residence in the R-1 "Low Density Residential District," R-1A, "Low Density Residential District," R-2 "Suburban Residential District," R-2A "Suburban Residential District," R-3 "Medium Density Residential District," R-3A "Medium Density Residential District," R-4 Retirement Community District," may be used for a Class II Home Occupation. A Class II Home Occupation is a nonprofessional or professional business use that shall be conducted in a nonobtrusive manner entirely within a residence located in the applicable residential zoning district that does not change or affect the residence's physical character or have any exterior evidence of the home occupation as an incidental or secondary use, except as provided herein. A Class II Home Occupation shall meet all of the following conditions:
  - A. A "Structure" is defined to include a single or multifamily residence.
  - B. For purposes of this subsection, the primary use of the structure shall be a single-family residence.
  - C. Only a resident of the structure shall practice the home occupation within the structure.
  - D. A "resident" shall include an owner or a tenant in privity of contract with an owner, who lives, cooks, and sleeps in the structure.
  - E. No employees other than the resident or residents practicing the home occupation shall be engaged either on a noncompensatory or compensatory basis for the home occupation.
  - F. The home occupation shall be incidental or secondary to the structure's primary use as a residence and shall be limited to a nonprofessional or professional business. Examples of permissible home occupations include, but are not limited to, attorneys, realtors, insurance agents, financial planners, salespersons, artists, engineers, architects, tutors, music instructors, tailors, seamstresses, dressmakers or persons collecting, selling and/or creating crafts, dry goods, including retail sales of clothing, jewelry, food, linens or similar household items by home shows only, with no more than 4 home shows at the residence occupied by the home occupation per calendar year, items of personal adornment, or preparation of food and beverages. General and mechanical contractors shall be considered permissible home occupations, but shall be permitted to have only one business vehicle located at the property where the home occupation is located and may not include workshops, repair facilities, equipment trailers, excavation or other heavy equipment, or parking of vehicles with more than 2 axles or greater than 9,000 pounds of gross vehicle weight except in an enclosed structure. Nonpermissible home occupations

shall include, but are not limited to, doctors, dentists, chiropractors, undertakers, veterinarians, barbers, beauticians, boarding houses, vehicle repair or inspection, printing, the sale of hard goods, building supplies, home and garden supplies, office supplies and equipment, or animal raising, training or boarding.

- G. The home occupation shall only be conducted in the structure's residential areas, attic, basement, or attached garage, and shall not be conducted in structures not attached to the residence.
- H. Not more than 30% of the total useable square footage of the structure's residential area, excluding attics, basements and garages, or other storage areas, unless those areas are personally used by the resident for sleeping, cooking or living purposes, shall be used for the home occupation.
- I. No outside structural modifications shall be made to accommodate the home occupation, except for exhaust ductwork or fans necessary to comply with applicable building, health, fire or safety codes; however, minor structural modifications may be made inside the structure to accommodate the home occupation.
- J. The home occupation shall not be visibly carried on outside of the structure's physical space or area.
- K. The practice of the home occupation shall not be visible from the structure's exterior, except for the single contractor's business vehicle permitted under paragraph F and the business identification information on a business vehicle permitted under paragraph M.
- L. No on-street or off-street parking shall be increased that alters the structure's primary use as a residence.
- M. No signs or advertisements shall exist on the structure or the property, other than business identification information typically painted on, or attached to, vehicles used in the operation of the business to notify the public of the home occupation.
- N. No public advertisement of the address of the home occupation shall be made through newspapers, radio, or television to notify the public of the home occupation's existence. However, the use of internet advertising, business cards, the listing of the home occupation in a directory or in the publications of nonprofit institutions, or mailed announcements of the home occupation are permitted.
- O. No display of products related indirectly or directly to the home occupation shall be visible from the structure's exterior.

- P. No storage of material or products related indirectly or directly to the home occupation shall be permitted outside of the structure or in open areas.
- Q. No noise, odor, dust, vibration, electromagnetic interference, smoke, heat or glare shall be perceptible at or beyond the property's boundaries; i.e., the metes and bounds description of the property contained in the applicable deed within which the residence is situated.
- R. No potentially dangerous or dangerous effluent from the home occupation shall be discharged into the air, storm or sanitary sewer, or otherwise.
- S. The home occupation shall comply with all permit, license or regulatory requirements of any Federal, State or local agency.

3. Class III Home Occupation: Permit Required, Special Exception Required. A residence in the R-2 "Suburban Residential District", R-2A "Suburban Residential District", R-3 "Medium Density Residential District" and R-3A "Medium Density Residential District", may be used as a "Class III Home Occupation". A Class III Home Occupation is a nonprofessional or professional business use that shall be conducted within a residence located in the applicable residential zoning district that does not change or affect the residence's physical character or have any exterior evidence of the home occupation as an incidental or secondary use, except as provided herein. Before operating the Class III Home Occupation, a special exception shall be obtained that meets all of the following conditions:

- A. A "Structure" is defined to include a single or multifamily residence.
- B. For purposes of this subsection, the primary use of the structure shall be a single-family residence.
- C. A resident of the structure shall practice the home occupation within the structure.
- D. A "resident" shall include an owner or a tenant in privity of contract with an owner, who lives, cooks, and sleeps in the structure.
- E. One non-resident employee, on either a compensatory or noncompensatory basis, may be employed by the resident to provide secretarial, clerical or other similar assistance. Any resident of the residence occupied by the home occupation may be engaged in the home occupation.
- F. The home occupation shall be incidental or secondary to the structure's primary use as a residence and shall be limited to a nonprofessional or professional business. Examples of permissible home occupations include, but are not limited to, doctors, dentists, chiropractors, attorneys, realtors, insurance agents, financial planners, salespersons, artists, engineers, architects, tailors, seamstresses, dressmakers or persons collecting, selling and/or creating crafts, dry goods or items of personal adornment, preparation

of food and beverages, barbers or beauticians. General and mechanical contractors shall be considered permissible home occupations, but shall be permitted to have only one business vehicle located at the property where the home occupation is located and may not include workshops, repair facilities, equipment trailers, excavation or other heavy equipment, or parking of vehicles with more than 2 axles or greater than 9,000 pounds of gross vehicle weight except in an enclosed structure. Non-permissible home occupations shall include, but are not limited to, undertakers, veterinarians, boarding houses, vehicle repair or inspection, printing, the sale of hard goods, building supplies, home and garden supplies, office supplies and equipment, or animal raising, training or boarding.

- G. The home occupation shall only be conducted in the structure's residential areas, attic, basement, or attached garage, and shall not be conducted in structures not attached to the residence.
- H. Not more than 30% of the total useable square footage of the structure's residential area, excluding attics, basements and garages, or other storage areas, unless those areas are personally used by the resident for sleeping, cooking or living purposes, shall be used for the home occupation.
- I. No outside modifications shall be made to the structure, except for exhaust ductwork or fans necessary to comply with applicable building, health, fire or safety codes; however, minor structural modifications may be made inside the structure to accommodate the home occupation.
- J. The home occupation shall not be visibly carried on outside of the structure's physical space or area.
- K. The practice of the home occupation shall not be visible from the structure's exterior, except for the single contractor's business vehicle permitted under paragraph F and the business identification information on the small sign and business vehicle permitted under paragraph N.
- L. No display of products related indirectly or directly to the home occupation shall be visible from the structure's exterior.
- M. One off-street parking space shall be provided for each 150 square feet of floor area devoted to the home occupation's use, except in the case of dental, medical or paramedical offices and one off-street parking space shall be provided for each non-resident employee. In addition, four off-street parking spaces each shall be provided for the resident and any employee engaged in a dental, medical or paramedical practice.
- N. There shall be no outside advertising other than one one-sided sign of no more than two square feet in area identifying the home occupation and business identification information typically painted on, or attached to, vehicles used in the operation of the business.

- O. No storage of material or products related indirectly or directly to the home occupations shall be permitted outside of the structure or in open areas.
- P. No noise, odor, dust, vibration, electromagnetic interference, smoke, heat or glare shall be perceptible at or beyond the property's boundaries; i.e., the metes and bounds description of the property contained in the applicable deed within which the residence is situated.
- Q. No potentially dangerous or dangerous effluent from the home occupation shall be discharged into the air, storm or sanitary sewer, or otherwise.
- R. The home occupation shall comply with all permit, license or regulatory requirements of any Federal, State or local agency.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1288, 11/11/2008, §1)

### **§623. Wireless Communications Facilities.**

- A. General Requirements for All Tower-Based Wireless Communications Facilities. The following regulations shall apply to all tower-based wireless communications facilities:
  - (1) Development Regulations.
    - (a) Prohibited in Residential Zones. No tower-based WCF shall be located in a right-of-way or a district zoned residential or within 500 feet of a lot in residential use or a residential district boundary. The distance from the base of a proposed tower-based WCF to the nearest point on any lot line, lease line and license line shall not be less than the full height of the tower structure. No more than one tower-based WCF shall be placed on any one lot, or leased or licensed parcel, nor within one thousand feet (1,000') of another tower-based WCF. Tower-based WCFs are permitted only in C-2, I-1 and I-2 Zoning Districts as specified.
    - (b) Gap in Coverage. An applicant for a tower-based WCF must demonstrate that a significant gap in wireless coverage exists with respect to all wireless operators in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or non-existence of a gap in wireless coverage shall be a factor in the Borough's decision on an application for approval of tower-based WCFs.
    - (c) Sole Use on a Lot. A tower-based WCF is permitted as a sole use on a lot subject to the minimum lot area and yards complying with the

requirements for the applicable zoning district. A subdivision plan shall be required for any lot or lease parcel created for occupancy by a tower-based WCF and telecommunications equipment building. A land development plan shall be required prior to construction of any tower-based WCF and telecommunications equipment building.

- (d) Combined with Another Use. A tower-based WCF may be permitted on a property with an existing use or on a vacant parcel in combination with another industrial, commercial, institutional or municipal use, subject to the following conditions:
  - (1) The existing use on the property may be any permitted use in the applicable district, and need not be affiliated with the communications facility.
  - (2) Minimum Lot Area. The minimum lot shall comply with the requirements for the applicable district and shall be the area needed to accommodate the tower-based WCF and guy wires, the equipment building, security fence, and buffer planting.
  - (3) Minimum Setbacks. The tower-based WCF and accompanying equipment building shall comply with the requirements for the applicable zoning district, provided that no tower-based WCF shall be located within 500 feet of a lot in residential use or a residential district boundary.
- (2) Notice. Upon receipt of an application for a tower-based WCF, the Borough shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
- (3) Co-location. An application for a new tower-based WCF shall not be approved unless the Borough finds that the wireless communications equipment planned for the proposed tower-based WCF cannot be accommodated on an existing or approved structure or building. Any application for approval of a tower-based WCF shall include a comprehensive inventory of all existing towers and other suitable structures within a 2-mile radius from the point of the proposed tower, unless the applicant can show to the satisfaction of the Borough that a different distance is more reasonable, and shall demonstrate conclusively why an existing tower or other suitable structure cannot be utilized.
- (4) Standard of Design and Care. Any tower-based WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the

American National Standards Institute (ANSI) Code, the Uniform Construction Code (UCC), National Electric Safety Code, National Electric Code, as well as the accepted and responsible workmanlike industry practices of the National Association of Tower Erectors. Structure design certification from a Pennsylvania registered professional engineer is required and the tower capacity shall be indicated. Detailed construction and elevation drawings, indicating antenna locations and mounting design, shall be submitted by the applicant. Any tower-based WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.

(5) Design Regulations.

(a) The WCF shall employ the most current stealth technology available in an effort to appropriately blend into the surrounding environment and minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.

(b) Any height extensions to an existing tower-based WCF shall require prior approval of the Borough. The Borough reserves the right to deny such requests based upon aesthetic and land use impact, or any other lawful considerations related to the character of the Borough.

(c) Any proposed tower-based WCF shall be designed structurally, electrically, and in all respects to accommodate both the WCF applicant's antennas and comparable antennae for future users.

(d) Any Tower-Based WCF over forty (40) feet in height shall be equipped with an anti-climbing device, as approved by the manufacturer. [Ord. 1376]

(6) Wind. Any tower-based WCF structures shall be designed to withstand the effects of wind according to the standard design by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).

(7) Height. Any tower-based WCF shall be designed at the minimum functional height and shall not exceed a maximum total height of 125 feet, which height shall include all subsequent additions or alterations. All tower-based WCF applicants must submit documentation to the Borough justifying the total height of the structure.

(8) Lighting. Tower-based WCF shall not be artificially lighted, except as required by law and as may be approved by the Borough. If lighting is

required, the applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

(9) Surrounding Environs.

- (a) The WCF applicant shall ensure that the existing vegetation, trees and shrubs located within proximity to the WCF structure shall be preserved to the maximum extent possible.
- (b) The WCF applicant shall submit a soil report to the Borough complying with the standards of Appendix I: Geotechnical Investigations, ANSI/ETA 222-B, as amended, to document and verify the design specifications of the foundation of the tower-based WCF.

(10) Visual or Land Use Impact. The Borough reserves the right to deny an application for the construction or placement of any tower-based WCF based upon visual and/or land use impact.

(11) Fence / Screen.

- (a) A security fence having a maximum height of eight feet (8') shall completely surround any tower-based WCF or any building housing WCF equipment.
- (b) An evergreen screen that consists of a hedge or a row of evergreen trees shall be located along the perimeter of the security fence.
- (c) The WCF applicant shall submit a landscape plan for review and approval by the Borough Planning Commission for all proposed screening.

(12) Identification. All tower-based WCF's shall post a notice in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency, subject to approval by the Borough.

(13) Historic Buildings or Districts. No tower-based WCF may be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and / or historic districts list maintained by the Borough, or has been designated by the Borough as being of historic significance.

(14) Appearance. Towers shall be galvanized and / or painted with rust-preventive paint of an appropriate color to harmonize with the surroundings.

(15) Accessory Equipment.

- (a) Ground-mounted equipment associated to, or connected with, a tower-based WCF shall be underground or enclosed in a structure. In the event that an applicant can demonstrate that the equipment cannot be located underground to the satisfaction of the Borough Engineer, then the ground mounted equipment shall be screened from public view using stealth technologies, as described above.
- (b) All utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated and shall meet the minimum setback requirements of the underlying zoning district.
- (c) The telecommunications equipment building shall comply with the required yards and height requirements of the applicable Zoning District for a principal structure. No building may be used as an office or as a broadcast studio. Employees are permitted to visit the site as often as necessary for maintenance and inspection of the building and facility. No building or WCF may be used for long term vehicle storage or for other outdoor storage.

(16) Additional Antennae. As a condition of approval for all tower-based WCFs, the WCF applicant shall provide the Borough with a written commitment that it will allow other service providers to co-locate antennae on tower-based WCFs where technically and economically feasible. The owner of a tower-based WCF shall not install any additional antennae without obtaining the prior written approval of the Borough.

(17) Public Safety Communications. No tower-based WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.

(18) Radio Frequency Emissions. No tower-based WCF may, by itself or in conjunction with other WCF's, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields", as amended.

(19) Noise. Tower-based WCF's shall be operated and maintained so as not to produce noise in excess of applicable noise standards under State law and the Borough Code, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

(20) Aviation Safety. Tower-based WCFs shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for

tower-based WCF's shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the tower-based WCF complies with applicable regulations or is exempt from these regulations.

- (21) Access Road. A paved access road, of at least ten feet (10') in width, in an easement of at least twenty feet (20') in width, turnaround space and a minimum of one off-street parking space shall be provided to ensure adequate emergency and service access to tower-based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion. Where applicable, the WCF owner shall present documentation to the Borough that the property owner has granted an easement for the proposed facility.
- (22) Bond. Prior to the issuance of a permit, the owner of a tower-based WCF outside the ROW shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond or other form of security acceptable to the Borough Solicitor, in an amount of \$100,000 to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file the bond with the Borough.
- (23) License and Insurance. In addition, The applicant shall submit a copy of its current Federal Communications Commission (FCC) license; the name, address and emergency telephone number for the operator of the communications tower or antennae; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower or antenna.
- (24) Timing of Approval. Within 30 calendar days of the date that an application for a tower-based WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. All applications for tower-based WCFs shall be acted upon within 150 days of the receipt of a fully completed application for the approval of such tower-based WCF and the Borough shall advise the applicant in writing of its decision. If additional information was requested by the Borough to complete an application, the time required by the applicant to provide the information shall not be counted toward the 150-day review period.

- (25) **Permit Fees.** The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a tower-based WCF, as well as related inspection, monitoring and related costs pursuant to a fee schedule adopted and as amended from time to time by Council for the Borough.
- (26) **Retention of Experts.** The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the tower-based WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (27) **Nonconforming Uses.** Nonconforming tower-based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location, but must otherwise comply with the terms and conditions of this Chapter.
- (28) **Maintenance.** The following maintenance requirements shall apply:
  - (a) Any tower-based WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (b) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
  - (c) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (29) **Inspection.** The Borough reserves the right to inspect any tower-based WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Borough Code or State or Federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.
- (30) **Removal.** In the event that use of a tower-based WCF is planned to be discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:

- (a) All unused or abandoned tower-based WCFs and accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Borough.
- (b) If the WCF and/or accessory facility is not removed within 6 months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and accessory facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (c) Any unused portions of tower-based WCFs, including antennas, shall be removed within six (6) months of the time of cessation of operations. The Borough must approve all replacements of portions of a tower-based WCF previously removed.

(31) Applicable Codes. Conformance and compliance and continual compliance with all other applicable Borough Codes or Ordinances including obtaining and maintaining the required permits, including, but not limited to, IFC permits and inspections for liquid fueled generators

## B. General Requirements for All Non-Tower Wireless Communications Facilities.

- (1) The following regulations shall apply to all non-tower wireless communications facilities that do not substantially change the physical dimensions of the wireless support structure to which they are attached:
  - (a) Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones outside of the right-of-way subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough. Applicants proposing installations on existing buildings or towers shall submit evidence of agreements and / or easements necessary to provide access to the existing building or tower so that installation and maintenance of the equipment can be accomplished. Non-tower WCFs shall not be permitted within any right-of-way.
  - (b) Upon receipt of an application for any non-tower based WCF, the Borough shall mail notice thereof to the owner or owners of every adjacent property of the proposed facility. [Ord. 1386]
  - (c) Standard of Design and Care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, Pennsylvania Construction Code Act and Regulations and National Electrical

Code and not affect pedestrian or vehicular traffic. Design certification from a Pennsylvania registered professional engineer is required to attest that the existing structure can adequately support the proposed equipment installation. Detailed construction and elevation drawings, indicating antenna locations and mounting design, shall be submitted by the applicant. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.

- (d) Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
- (e) Public Safety Communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
- (f) Aviation Safety. Non-tower WCF's shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for non-tower WCF's shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the non-tower WCF complies with applicable regulations or is exempt from these regulations.
- (g) Radio Frequency Emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.
- (h) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - (i) All abandoned or unused WCFs and accessory facilities shall be removed within three (3) months of the cessation of operations at the site unless a time extension is approved by the Borough.

- (ii) If the WCF or accessory facility is not removed within three (3) months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (i) Timing of Approval. Within ten (10) calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision.
- (j) Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF. Such permit fees shall be established by resolution adopted by the Council for the Borough, as amended from time to time

(2) The following regulations shall apply to all non-tower wireless communications facilities that substantially change the wireless support structure to which they are attached:

- (a) Permitted in All Zones Subject to Regulations. Non-tower WCFs are permitted in all zones outside of the right-of-way subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough.
- (b) Upon receipt of an application for any non-tower-based WCF, the Borough shall mail notice thereof to the owner or owners of every property zoned residential on the same street within 500 linear feet of the parcel or property of the proposed facility and of every property zoned residential not on the same street within 500 feet of the parcel or property of the proposed facility.
- (c) Standard of Care. Any non-tower WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including, but not limited to, the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, Pennsylvania Construction Code Act and Regulations and National Electrical Code and not affect vehicular or pedestrian traffic. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the Borough.

- (d) Wind. Any non-tower WCF structures shall be designed to withstand the effects of wind according to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSFEINTIA-222-E Code, as amended).
- (e) Public Safety Communications. No non-tower WCF shall interfere with public safety communications or the reception of broadband, television, radio or other communications services enjoyed by occupants of nearby properties.
- (f) Historic Buildings. Non-tower WCFs may not be located on a building or structure that is listed on either the National or Pennsylvania Registers of Historic Places or the official historic structures and/or historic districts lists maintained by the Borough, or has been designated by the Borough as being of historic significance.
- (g) Aviation Safety. Non-tower WCFs shall comply with all Federal and State laws and regulations concerning aviation safety. Applications for non-tower WCFs shall be submitted to the Reading Regional Airport Authority for comments. The WCF applicant shall furnish a statement from the FCC, FAA and Commonwealth Bureau of Aviation that the non-tower WCF complies with applicable regulations or is exempt from these regulations.
- (h) Maintenance. The following maintenance requirements shall apply:
  - (i) The non-tower WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
  - (ii) Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the Borough's residents.
  - (iii) All maintenance activities shall utilize nothing less than the best available technology for preventing failures and accidents.
- (i) Radio Frequency Emissions. No non-tower WCF may, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including, but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for

Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

- (j) Removal. In the event that use of a non-tower WCF is discontinued, the owner shall provide written notice to the Borough of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned WCFs or portions of WCFs shall be removed as follows:
  - (i) All abandoned or unused WCFs and accessory facilities shall be removed within 3 months of the cessation of operations at the site unless a time extension is approved by the Borough.
  - (ii) If the WCF or accessory facility is not removed within 3 months of the cessation of operations at a site, or within any longer period approved by the Borough, the WCF and/or associated facilities and equipment may be removed by the Borough and the cost of removal assessed against the owner of the WCF.
- (k) Timing of Approval. Within ten (10) calendar days of the date that an application for a non-tower WCF is filed with the Borough, the Borough shall notify the applicant in writing of any information that may be required to complete such application. Within sixty (60) calendar days of receipt of a complete application, the Borough shall make its final decision on whether to approve the application and shall advise the applicant in writing of such decision.
- (l) Retention of Experts. The Borough may hire any consultant(s) and/or expert(s) necessary to assist the Borough in reviewing and evaluating the application for approval of the WCF and, once approved, in reviewing and evaluating any potential violations of the terms and conditions of this Chapter. The applicant and/or owner of the WCF shall reimburse the Borough for all costs of the Borough's consultant(s) in providing expert evaluation and consultation in connection with these activities.
- (m) Bond. Prior to the issuance of a permit, the owner of each individual non-tower WCF shall, at its own cost and expense, obtain from a surety licensed to do business in Pennsylvania and maintain a bond, or other form of security acceptable to the Borough Solicitor, in an amount of \$25,000 for each individual non-tower WCF, to assure the faithful performance of the terms and conditions of this Chapter. The bond shall provide that the Borough may recover from the principal and surety any and all compensatory damages incurred by the Borough for violations of this Chapter, after reasonable notice and opportunity to cure. The owner shall file a copy of the bond with the Borough.

- (n) License and Insurance. In addition, the applicant shall submit a copy of its current Federal Communications Commission (FCC) license; the name, address and emergency telephone number for the operator of the communications tower or antennae; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower or antenna.
- (o) Permit Fees. The Borough may assess appropriate and reasonable permit fees directly related to the Borough's actual costs in reviewing and processing the application for approval of a non-tower WCF, as well as related inspection, monitoring and related costs pursuant to a fee schedule adopted by resolution and as amended from time to time by Council for the Borough.

(3) The following regulations shall apply to all non-tower wireless communications facilities whether or not they substantially change the physical dimensions of the wireless support structure to which they are attached.

- (a) Preferred Concealment Techniques. All applicants should, to the extent feasible, propose new non-tower wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, when integration with existing building features is not feasible, the applicant should propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions. Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.
- (b) Facade-Mounted Equipment. When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the Zoning Officer may approve facade-mounted equipment in accordance with this subsection. All facade-mounted equipment must be concealed behind screen walls and mounted as flush to the facade as practicable. The Zoning Officer may not approve "pop-out" screen boxes unless the design is architecturally consistent with the original building or support structure. Except in manufacturing zones, the Zoning Officer may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible.

- (c) **Rooftop-Mounted Equipment.** All rooftop-mounted equipment must be screened from public view with concealment measures that match the underlying structure in proportion, quality, architectural style and finish. The Zoning Officer may approve unscreened rooftop equipment only when it expressly finds that such equipment is effectively concealed due to its low height and/or setback from the roofline.
- (d) **New Support Structures.** The Zoning Officer shall not approve any new, non-replacement support structures unless: (i) the applicant demonstrates that above-ground support structures within the intended service area either do not exist, are not potentially available to the applicant, or would materially inhibit the applicant's deployment due to cost, technical feasibility and time to deployment; or (ii) the Zoning Officer specifically finds that a new, nonreplacement support structure would be more aesthetically desirable and consistent with the objectives in this section than installations on existing structures near the project site. The Zoning Officer shall have the discretion to require that any new support structure must be a streetlight that conforms to the Borough's streetlight standards and specifications, which the Borough shall maintain for street illumination and public safety purposes.
- (e) **Pole-Mounted Equipment.** All pole-mounted equipment must be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation between the equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must face toward the street or otherwise placed to minimize visibility from adjacent sidewalks and structures to the extent feasible. All cables, wires and other connectors must be routed through conduits within the pole whenever possible, and all conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.
- (f) A non-tower WCF may not be installed within 125 feet of another non-tower WCF unless it is collocated on a structure on which a non-tower WCF is already installed.
- (g) A non-tower WCF may not be installed on a structure less than 14 feet in height.
- (h) An antenna may not be installed at a height of less than 14 feet from the ground surface.
- (i) A non-tower WCF may not be installed on a structure whose

combined height exceeds 35 feet in a residential zoning district.

- (j) A non-tower WCF may not advertise products or contain pictorial drawings or written messages unrelated to the equipment's functionality, except for a 4 inch by 6 inch sign plate which shall be required to be permanently fixed to the non-tower WCF's enclosure or shroud with the wireless provider's name, location identifying information, and emergency telephone number, and which shall be updated whenever the information contained in the sign plate changes.
- (k) Deleted. Reserved.
- (l) Photographic "before and after" simulations of the proposed location of the non-tower WCF demonstrating concealment efforts shall be provided to the Borough as part of the zoning permit application, and shall, if technically feasible, be modified according to reasonable requests of the Borough to better blend with the surrounding area.
- (m) New non-tower WCF support structures shall be designed to accommodate 2 carriers/antennas.
- (n) Development Regulations. Non-tower WCFs shall be co-located on existing structures, such as existing buildings subject to the following conditions:
  - (i) Such WCF does not exceed a maximum height of 125 feet.
  - (ii) If the WCF applicant proposes to locate the communications equipment in a separate building, the building shall comply with the minimum requirements for the applicable zoning district.
  - (iii) A minimum eight foot (8') high security fence shall surround any separate communications equipment building. Vehicular access to the communications equipment building shall not interfere with the parking or vehicular circulations on the site for the principal use.
- (o) Design Regulations:
  - (i) Non-tower WCFs shall employ stealth technology and be treated to match the supporting structure in order to minimize aesthetic impact. The application of the stealth technology chosen by the WCF applicant shall be subject to the approval of the Borough.
  - (ii) Non-tower WCFs, which are mounted to a building or similar structure, may not exceed a height of 15 feet above the roof or parapet, whichever is higher, unless the WCF applicant obtains a special exception from the Borough's Zoning Hearing Board.

(iii) All non-tower WCF applicants must submit documentation to the Borough justifying the total height of the non-tower structure. Such documentation shall be analyzed in the context of such justification on an individual basis.

(iv) Antennae, and their respective accompanying support structures, shall be no greater in diameter than any cross-sectional dimension than is reasonably necessary for their proper functioning.

(v) Noncommercial Usage Exemption. The design regulations enumerated in this paragraph shall not apply to direct broadcast satellite dishes installed for the purpose of receiving video and related communications services at residential dwellings.

(vi) Replacement Support Structures. Existing above-ground structures may be replaced with structurally hardened, fitted or reinforced support structures so long as the replacement structure is, in the approval authority's discretion, substantially similar to the existing structure being replaced.

(p) Removal, Replacement, Modification:

(i) The removal and replacement of non-tower WCFs and/or accessory equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not increase the overall size of the WCF or the numbers of antennae.

(ii) Any material modification to a wireless telecommunication facility shall require a prior amendment to the original permit or authorization.

(q) Visual or Land Use Impact. The Borough reserves the right to deny an application for the construction or placement of any non-tower WCF based upon visual and/or land use impact.

(r) Inspection. The Borough reserves the right to inspect any WCF to ensure compliance with the provisions of this Chapter and any other provisions found within the Borough Code or State or Federal law. The Borough and/or its agents shall have the authority to enter the property upon which a WCF is located at any time upon reasonable notice to the operator, to ensure such compliance.

(4) The regulations set forth herein for non-tower wireless communications facilities shall not apply to non-commercial communications non-tower wireless communications facilities.

(5) Applicable Codes. Conformance and compliance and continual compliance with all other applicable Borough Codes or Ordinances including obtaining and maintaining the required permits, including, but not limited to, IFC permits and inspections for liquid fueled generators.

C. Small Wireless Facilities

(1) Use of right-of-way for small wireless facilities and utility poles with small wireless facilities attached

(a) Permitted in All Zones Subject to Regulations. Small WCFs are permitted in all zones within the right-of-way subject to the restrictions and conditions prescribed below and subject to the prior written approval of the Borough. Applicants proposing installations on existing poles shall submit evidence of agreements and / or easements necessary to provide access to the existing pole so that installation and maintenance of the equipment can be accomplished.

(b) Applicability. -- The provisions of this section shall only apply to activities of a wireless provider within the right-of-way to deploy small wireless facilities and associated new utility poles with small wireless facilities attached.

(c) Right-of-way rates and fees. -- Subject to the fee adjustment requirements hereunder, the Borough shall have the right to charge an annual fee for the use of the right-of-way. An annual right-of-way fee shall not exceed \$270 per small wireless facility or \$270 per new utility pole with a small wireless facility unless the Borough demonstrates all of the following:

(i) The annual right-of-way fee is a reasonable approximation of the Borough's costs to manage the right-of-way.

(ii) The Borough's costs under paragraph (C)(1)(c)(i) are reasonable.

(iii) The annual right-of-way fee is nondiscriminatory.

(d) Right of access. —

(i) Under the provisions of this act, in accordance with applicable codes, and with the permission of the owner of the structure, a wireless provider shall have the right to perform the following within the right-of-way:

(A) Collocate.

(B) Replace an existing utility pole or install a new utility pole with attached small wireless facilities.

(ii) All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the Borough and utilities.

(e) Size limits. --

(i) Each new or modified small wireless facility installed in the right-of-way shall be installed on an existing utility pole or a new utility pole subject to the following:

(A) The installation of a small wireless facility on an existing utility pole shall not extend more than five feet (5') above the existing utility pole.

(B) If collocation on an existing utility pole cannot be achieved hereunder, a small wireless facility may be installed on a new or replacement utility pole. The maximum permitted height of the facility, which shall include the utility pole and small wireless facility, shall not be taller than 50 feet above ground level.

(ii) Subject to the provisions of this act, a wireless provider may collocate or install a new utility pole with small wireless facilities attached that exceeds these height limits by including a height limit variance in the application. Variances shall be processed in accordance with the provisions of the Zoning Ordinance.

(f) Underground district. -- A wireless provider shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers from placing or installing structures in the right-of-way in an area designated solely for underground or buried cable facilities and utility facilities if the Borough :

(i) Requires all cable facilities and utility facilities, other than municipal poles and attachments, to be placed underground by a date certain that is three months prior to the submission of the application.

(ii) Does not prohibit the replacement of municipal poles in the designated area.

(iii) Provides for a waiver of the underground requirements for the installation of a new utility pole to support small wireless facilities for which a public hearing may be required and with the approval of the property owner allow for a waiver that shall be addressed in

a nondiscriminatory manner and in accordance with applicable codes.

- (g) Historic district or building. --Except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4) (relating to actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared), the Borough may require reasonable, technically feasible, nondiscriminatory and technologically neutral design or concealment measures in a historic district or on historic buildings. Any design or concealment measures may not have the effect of prohibiting any provider's technology or be considered a part of the small wireless facility for purposes of the size restrictions of small wireless facilities.
- (h) Design guidelines. —The Borough may develop objective design guidelines for a small wireless facility regarding the minimization of aesthetic impact in accordance therewith which the Applicant shall comply with or request a modification.
- (i) Damage and repair. --A wireless provider shall repair all damage to the right-of-way or any other land so disturbed, directly caused by the activities of the wireless provider or the wireless provider's contractors and return the right-of-way in as good of condition as it existed prior to any work being done in the right-of-way by the wireless provider. If the wireless provider fails to make the repairs required by the Borough within 30 days after written notice, the Borough may perform those repairs and charge the wireless provider the reasonable, documented cost of the repairs plus a penalty not to exceed \$500. The Borough may suspend the ability of an Applicant to receive a new permit from the Borough until the Applicant has paid the amount assessed for the repair costs and the assessed penalty. The Borough may not suspend the ability of an Applicant to receive a new permit that has deposited the amount assessed for the repair costs and the assessed penalty in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
- (j) Communications services. --The approval of the installation, placement, maintenance or operation of a small wireless facility under this section shall not authorize the provision of any communications services without compliance with all applicable laws or the installation, placement, maintenance or operation of any communications facilities other than wireless facilities and associated utility poles in the right-of-way.

(2) Permitting process for small wireless facilities and utility poles within right-of-way.

(a) Applicability. --The provisions of this section shall apply to the Borough's permitting of small wireless facilities by a wireless provider or the installation, modification and replacement of utility poles with small wireless facilities attached by a wireless provider within the right-of-way.

(b) Review. --An application under this section shall be treated as a permitted use in all zoning districts of the Borough , except underground districts in accordance with this Ordinance, and reviewed by Borough staff or appointed officials for conformance with applicable codes. Such applications shall not be subject to discretionary zoning review, including conditional use or special exception requirements.

(c) Permits. —

(i) An Applicant shall submit an application to obtain one or more permits of general applicability to perform the following within the right-of-way:

(A) Collocate, maintain and modify small wireless facilities.

(B) Replace existing utility poles for collocation.

(C) Install new utility poles with attached small wireless facilities.

(ii) The Borough shall receive applications for collocation or for installation, modification or replacement of utility poles with small wireless facilities attached and process and issue permits, subject to the requirements of applicable codes.

(A) An Applicant shall not be required to provide justification for capacity or radio frequency.

(B) An Applicant shall be required to:

(1) Include documentation with an Application that includes construction and engineering drawings, demonstrates compliance with the criteria specified hereunder and includes all necessary approvals from the pole owner.

(2) Self-certify that the filing and approval of the application is required by the wireless provider to provide additional capacity or coverage for wireless services.

(3) Include documentation showing compliance with design guidelines established by the Borough.

(d) Completed application. --Within ten (10) business days of receiving an Application, the Borough shall determine and notify the Applicant in writing whether the Application is incomplete. If the Borough determines an application is incomplete, it shall advise the Applicant, with specificity, of the missing information. The processing deadline shall restart at zero on the date the Applicant provides the missing information. The Borough and Applicant may agree to toll the processing deadline.

(e) Deadlines. --An Application shall be processed on a nondiscriminatory basis and deemed approved if the Borough fails to approve or deny the application within 60 days of receipt of a complete application to collocate and within 90 days of receipt of a complete application to replace an existing utility pole or install a new utility pole with small wireless facilities attached. A permit associated with an application deemed approved under this subsection shall be deemed approved if the Borough fails to approve or deny the permit within seven (7) business days after the date of filing the permit application with the Borough unless there is a public safety reason for the delay.

(f) Denial. —

(i) The Borough may deny an Application under this section only if any of the following apply:

(A) The small wireless facility materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement.

(B) The small wireless facility fails to comply with applicable codes.

(C) The small wireless facility fails to comply with the requirements specified under Act 50 of 2021 of the Commonwealth of Pennsylvania or an amendment thereof. .

(D) The Applicant fails to submit a report by a qualified engineering expert which shows that the small wireless facility will comply with applicable FCC regulations.

(ii) Within the time frame established under subsection (e), the Borough shall document the basis for a denial, including the specific

provisions of applicable codes on which the denial was based, and send the documentation to the Applicant within five (5) business days of the denial.

(iii) The Applicant may cure the deficiencies identified by the Borough and resubmit the application within 30 days of receiving the written basis for the denial without being required to pay an additional application fee. The Borough shall approve or deny the revised application within 30 days of the Application being resubmitted for review or the resubmitted Application shall be deemed approved 30 days after resubmission. Any subsequent review shall be limited to the deficiencies cited in the denial. If the resubmitted Application addresses or changes other sections of the Application that were not previously denied, the Borough shall be given an additional 15 days to review the resubmitted application and may charge an additional fee for the review.

(g) Consolidated application. --An Applicant seeking to collocate within the Borough shall be allowed at the Applicant's discretion to file a consolidated application for collocation of multiple small wireless facilities as follows:

- (i) The consolidated application does not exceed twenty (20) small wireless facilities.
- (ii) The denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application.
- (iii) A single applicant may not submit more than one consolidated or twenty (20) single applications in a 30-day period. If the Borough receives more than one consolidated application or 20 single applications within a 45-day period, the processing deadline shall be extended 15 days in addition to the processing deadline specified under subsection (e) to allow the Borough to complete its initial review under subsection (e).

(iv) The following apply:

(A) For the purpose of counting the number of small wireless facilities each applicant has before the Borough at a given time, small wireless facilities and poles that a wireless provider Applicant has requested a third party to deploy and that are included in a pending application by the third party shall be counted as pending requests by the wireless provider applicant.

(B) An Application tolled hereunder shall count towards the total number of applications included in a consolidated application unless the application is withdrawn by the Applicant. As the processing of applications are completed, the Borough shall begin processing previously tolled applications in the order in which the tolled applications were submitted, unless the applicant specifies a different order.

(h) Time limit for work. --The proposed collocation, the modification or replacement of a utility pole or the installation of a new utility pole with small wireless facilities attached for which a permit is granted under this section shall be completed within one (1) year of the permit issuance date unless the Borough and the Applicant agree in writing to extend the period.

(i) Utility poles. --When applying to install a new utility pole under this Ordinance, the Borough may require the wireless provider to demonstrate that it cannot meet the service reliability and functional objectives of the Application by collocating on an existing utility pole or municipal pole instead of installing a new utility pole. The Borough may require the wireless provider to self-certify that the wireless provider has made this determination in good faith and to provide a documented summary of the basis for the determination. The wireless provider's determination shall be based on whether the wireless provider can meet the service objectives of the application by collocating on an existing utility pole or municipal pole on which:

- (i) The wireless provider has the right to collocation.
- (ii) The collocation is technically feasible and would not impose substantial additional cost.
- (iii) The collocation would not obstruct or hinder travel or have a negative impact on public safety.

(j) Replacement of Existing Street Light Poles. Except where street light installation is required hereby above, the following standards apply when replacing an existing street light pole with a combination small WCF and street light pole. Such replacements should only be located where an existing street light pole can be removed and replaced, or at a new location where it has been identified that a street light is necessary. All such replacements shall meet the following standards:  
(i) replacement street light poles shall be an equal distance from other street light poles based upon the average distance between existing street light poles within the immediate neighborhood; (ii) replacement street light poles shall have at least a 5 year manufacturer's replacement warranty; (iii) replacement street light poles shall be

owned by the Borough at the Borough's discretion; (iv) the centerline of a new small WCF support structure shall be in alignment with existing utility poles where present, or with street trees along the same side of the ROW; (v) pole shall be located a minimum of 12 feet from driveway aprons; (vi) pole shall be sited a minimum of 15 feet away from trees to prevent disturbance within the critical root zone of existing trees having a 6 inch diameter at breast height located in the immediate vicinity.

(k) Approval. --Approval of an Application authorizes the Applicant to:

- (i) Collocate on an existing utility pole, modify or replace a utility pole or install a new utility pole with small wireless facilities attached as identified in the initial application.
- (ii) Subject to the permit requirements and the Applicant's right to terminate at any time, operate and maintain small wireless facilities and any associated equipment on a utility pole covered by the permit for a period of not less than five (5) years, which shall be renewed for two (2) additional five-year periods if the Applicant is in compliance with the criteria set forth in Act 50 of 2021 or applicable codes consistent with this Ordinance and the Applicant has obtained all necessary consent from the utility pole owner.

(l) Removal of equipment. —

- (i) Within 60 days of suspension or revocation of a permit due to noncompliance with this Ordinance or applicable codes consistent herewith, the Applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole, after receiving adequate notice and an opportunity to cure any noncompliance.
- (ii) Within 90 days of the end of a permit term or an extension of the permit term, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole.

(m) An Application for maintenance: —

- (i) The Borough shall not require an application for:
  - (A) Routine maintenance or repair work.

- (B) The replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller and still qualify as a small wireless facility.
- (C) The installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles by or for a communications service provider authorized to occupy the right-of-way, in compliance with the National Electrical Safety Code.

(ii) The Borough shall require a permit to perform work within the right-of-way for the activities hereunder or other applicable subsection for work that involves excavation, closure of a sidewalk or closure of a vehicular lane. Permits shall be subject to the requirements provided herein or applicable codes consistent with Act 50 of 2021.

(n) Application fees. --Subject to the fee adjustment requirements under this Ordinance, the Borough shall have the right to charge an application fee for the review of a permit application and plans submitted for the work to be done within the right-of-way. The Borough may charge a one-time application fee of up to the following:

- (i) Five hundred dollars for an application seeking approval for no more than five collocated small wireless facilities and up to \$100 for each collocated small wireless facility beyond five.
- (ii) One thousand dollars for an application seeking approval of a small wireless facility that requires the installation of a new or replacement utility pole.

(3) Access to municipal poles within right-of-way.

(a) Applicability. --The provisions of this section shall apply to activities of the wireless provider within a right-of-way.

(b) Collocation. --Collocation on municipal poles using the process required under this Ordinance and applicable codes shall be allowed unless the small wireless facility would cause structural or safety deficiencies to the municipal pole, in which case the Borough and Applicant shall work together for any make-ready work or modifications or replacements that are needed to accommodate the small wireless facility. All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way.

(c) Rates. —A fee shall not be charged to collocate on municipal poles subject to the fee adjustments under section (4)(a).

(d) Implementation and make-ready work. —

(i) The Borough may charge for make ready work to collocate on a municipal pole.

(ii) The Borough shall provide a good faith estimate for any make-ready work necessary to enable the municipal pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application.

(iii) Make-ready work, including pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the applicant.

(iv) The Borough demonstrates that the collocation would make the municipal pole structurally unsound and shall not require more make-ready work than required to meet applicable codes or industry standards.

(v) Fees for make-ready work on a nonplacement municipal pole shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including replacement, shall not exceed actual costs or the amount charged to other similarly situated communications service providers for similar work and shall not include any consultant fees or expenses that are charged on a contingency basis.

(e) Future use. —The Borough may reserve space on an existing municipal pole for future public safety or transportation uses in a documented and approved plan as adopted at the time an application is filed. A reservation of space shall not preclude collocation, the replacement of an existing utility pole or the installation of a new utility pole. If the replacement of a municipal pole is necessary to accommodate collocation and the reserved future use, the wireless provider shall pay for the replacement municipal pole and the municipal pole shall accommodate the future use.

(4) Rate or fee adjustments. —

(a) If the FCC adjusts its levels for fees for small wireless facilities, a Borough may adjust any impacted rate or fee hereunder, on a pro rata basis, and consistent with the FCC's adjustment.

(b) If, in a final adjudication not subject to further appeal or to review by the United States Supreme Court, a Federal court reviewing Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, et al., Declaratory Ruling and Third Report and Order, WT Docket No. 17-79 and WC Docket No. 17-84, FCC 18-133 (released September 27, 2018), reverses or repeals the rates outlined in that FCC order, then the monetary caps hereunder may increase 3% annually beginning January 1, 2021, at the discretion of the Borough.

(5) **Indemnification.** Except for a wireless provider with an existing agreement to occupy and operate in a right-of-way, a wireless provider shall fully indemnify and hold the Borough and its officers, employees and agents harmless against any claims, lawsuits, judgments, costs, liens, expenses or fees or any other damages caused by the act, error or omission of the wireless provider or its officers, agents, employees, directors, contractors or subcontractors while installing, repairing or maintaining small wireless facilities or utility poles within the right-of-way. A wireless provider shall not be required to indemnify for an act of negligence or willful misconduct by the Borough, its elected and appointed officials, employees and agents.

(6) **Insurance.** The Borough shall be named as an additional insured on all applicable insurance policies.

(7) **General requirements for uses of rights-of-way.**

The following apply:

(a) **Structures and facilities deployed by a wireless provider under this Ordinance** shall be constructed, maintained and located in a manner as to not obstruct, endanger or hinder the usual travel or public safety on a right-of-way, damage or interfere with other utility facilities located within a right-of-way or interfere with the other utility's use of the utility's facilities located or to be located within the right-of-way.

(b) The construction and maintenance of structures and facilities by the wireless provider shall comply with the 2017 National Electrical Safety Code and all applicable laws, ordinances and regulations for the protection of underground and overhead utility facilities.

(c) An applicant or the applicant's affiliate shall ensure that a contractor or subcontractor performing construction, reconstruction, demolition, repair or maintenance work on a small wireless facility deployed under this act meets and attests to all of the following requirements:

(i) Maintain all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or a local government entity that is necessary to do business or perform applicable work.

- (ii) Maintain compliance with the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, and bonding and liability insurance requirements as specified in the contract for the project.
- (iii) Has not defaulted on a project, declared bankruptcy, been debarred or suspended on a project by the Federal Government, the Commonwealth or a local government entity within the previous three years.
- (iv) Has not been convicted of a misdemeanor or felony relating to the performance or operation of the business of the contractor or subcontractor within the previous 10 years.
- (v) Has completed a minimum of the United States Occupational Safety and Health Administration's 10-hour safety training course or similar training sufficient to prepare workers for any hazards that may be encountered during their work on the small wireless facility.
- (d) Time, Place and Manner. The Borough shall determine the time, place and manner of construction, maintenance, repair and/or removal of all small WCFs in the ROW based on public safety, traffic management, physical burden on the ROW, relocation requirements for public utilities, and related considerations.
- (e) Any graffiti on the WCF or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
- (f) Antennae and all support equipment shall be treated to match the supporting structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the support structure upon which they are mounted.
- (g) Relocation or Removal of Facilities. Within 60 days following written notice from the Borough, or such longer period as the Borough determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the Borough, consistent with its police powers and applicable Public Utility Commission regulations, shall have determined that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:
  - (i) The construction, repair, maintenance or installation of any Borough or other public improvement in the right-of-way.

- (ii) The operations of the Borough or other governmental entity in the right-of-way.
- (iii) Vacation of a street or road or the release of a utility easement.
- (iv) An emergency as determined by the Borough.

(8) Construction of Ordinance. Nothing in this Ordinance shall be construed to impact, modify or supersede any construction standard, engineering practice, tariff provision, collective bargaining agreement, contractual obligation or right, Federal or State law or regulation relating to facilities (defined in 66 Pa.C.S. § 102) or equipment owned or controlled by an electric distribution company (defined in 66 Pa.C.S. § 2803) or its affiliate, a telecommunications carrier (defined in 66 Pa.C.S. § 3012), an electric cooperative or an independent transmission company that is not a wireless provider.

D. Deleted. Reserved.

(Ord. 1234, 2/11/2003, §1, entitled “Regulations Governing Communication Towers and Antennas” was deleted in its entirety by Ord. 1371, 9/8/2015, §7; replaced in its entirety by Ord. 1371, 9/8/2015, §§ 8 and 9; as amended by Ord. 1376, 12/8/2015, §§ 2 and 3; as amended by Ord. 1386, 1/9/2018, §3; as amended by Ord. 1418, 4/13/2021, §1; as amended by Ord. 1425, 1/11/2022, § 16)

**§624. Colocation of Wireless Communications Facilities.**

To the extent the regulations provided for in Section 623 are applicable to co-location of wireless communications facilities and the regulations are inconsistent with the Wireless Broadband Collocation Act, 53 P.S. §11702.1 et seq., the Act regulations set forth in the statute shall control.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1344, 9/11/2012, §3, entitled “Standard for Communications Towers and Antennae as Special Exceptions” was deleted in its entirety by Ord. 1371, 9/8/2015, §10; replaced in its entirety by Ord. 1371, 9/8/2015, §§ 11 and 12)

**§625. Family Day Care and Group Homes.**

The following general regulations shall apply to use of single-family detached dwellings as permitted by special Exception in the R-1 and R-1A Low Density Residential Districts:

A. State licensed family day care home, subject to:

- (1) All State licensing requirements shall be met.

- (2) In addition to a minimum of two off-street parking spaces for the dwelling, one off-street parking space shall be provided for each nonresident employee.
- (3) Provision shall be made for safe pickup and delivery of those being cared for such that those being cared for do not have to cross traffic areas to reach the car waiting to pick them up.
- (4) No sign for the family day care home shall be displayed.
- (5) There shall be no alteration to the outside of the dwelling that will alter the single family character of the dwelling, be inconsistent with the basic architecture of the dwelling or be incompatible with surrounding dwellings.

B. Group Home for the Handicapped, subject to:

- (1) No more than one group home shall be located in any one dwelling.
- (2) The premises where the group home is located shall be owned or leased by the sponsoring agency sponsoring the group home.
- (3) A licensed physician, licensed psychologist, counselor or social worker in the employ of or under contract to the sponsoring agency shall be responsible for the assignment of residents to the group home.
- (4) By design and intent, the group home shall provide for the long-term housing needs of its residents, not for the needs of transient individuals.
- (5) No less than one and no more than two live-in supervisors shall reside in the group home and at least one of those supervisors shall be on the premises during all hours in which any resident of the group home is on the premises.
- (6) No group home shall be located within 750 feet of another group home.
- (7) The dwelling unit shall not be altered in any manner that would change the single-family dwelling character of the group home.
- (8) One off-street parking space shall be provided for each supervisor assigned to the group home and two parking spaces shall be provided for visitors.
- (9) The sponsoring agency shall document to the Borough Council that all plumbing, heating, electrical, sanitary sewer, storm sewer and similar facilities meet the applicable ordinances, rules, regulations and laws of the Borough and/or the Commonwealth of Pennsylvania.

(Ord. 1234, 2/11/2003, §1)

### **§626. Sound.**

Amplified sound emitting equipment shall not be operated outdoors for any use, other than residential uses, in any Residential District earlier than thirty (30) minutes before sunrise nor later than thirty (30) minutes after sunset in the Borough as calculated by the United States Naval Observatory (“USNO”) or any successor agency providing the same information at the same or better level of accuracy. This limitation shall be applicable to both permanent and temporary outdoor amplified sound emitting equipment.

(Ord. 1330, 1/10/2012, §3)

### **§627. Hotel – 55 or Over Apartment – Adult Day Care Mixed Use Regulations.**

In the C-2 Retail Commercial District, a combination of hotel, 55 or over apartment, and adult day care uses may be located on a single parcel subject to the following regulations:

- A. The combination of uses permitted to be located on a single parcel shall be a hotel use, as defined in Section 201, an apartment use for “55 or Over Housing” within the meaning of the Fair Housing Act (42 U.S.C.A. 3601 et seq.), and an adult day care use as defined in Subsection C.
- B. The apartment use shall require long term residential occupancy (one year minimum lease term). The apartment use shall include common space facilities such as, but not limited to, a community room, exercise room, pool or spa area, outside sitting garden, or similar indoor and outdoor passive and active recreational areas.
- C. For purposes of this Section 627, an adult day care use shall be a use, not contained in a dwelling unit, providing supervised care and assistance to persons who need such assistance on a daily basis because of their age or disabilities; this use shall not include persons who need oversight because of behavior that is criminal, violent or related to substance abuse or involve typical stays of more than sixty (60) hours per week per person.
- D. The combination of the three (3) uses shall be located in an existing structure formerly used in its entirety as a hotel. The uses are not required to be located on separate lots, and no setbacks or buffering is required between the uses.
- E. At least forty (40) percent of the gross floor area of the former hotel shall continue to be used as a hotel.
- F. Off street parking requirements shall be as follows: hotel use - 1 space per hotel unit; apartment use - 1.5 spaces per apartment unit; adult day care use - 1 space per

employee on the largest shift plus 1 space for loading and unloading each three persons served by the adult day care.

- G. The parcel shall have a minimum area of 9 net acres.
- H. Signage shall be as provided in Section 606, except that one (1) sign for each use shall be allowed on each of up to two (2) road frontages of the parcel; directional signs not greater than six (6) square feet each shall be permitted at each driveway entrance to the parcel; and internal directional signs not greater than four and one-half (4.5) square feet each shall be permitted to manage internal traffic flow.
- I. Lighting and landscaping plans prepared by a registered architect, professional engineer or registered landscape architect shall be submitted to the Borough and are subject to approval by the Borough Council. Provisions for the lighting and landscaping of the perimeter and interior of all parking areas shall be included in the plans.
- J. Sidewalks and curbs shall be repaired and replaced to comply with Chapter 21, entitled Streets and Sidewalks, of the Code of the Borough of Wyomissing.
- K. Paving shall be repaired and replaced where necessary, as determined by the Borough, to a like new condition.

(Ord. 1417, 4/13/2021, §2)

#### **§628. Short-Term Residential Rental Unit**

- A. No more than one short-term residential rental unit may be located in a structure, and a short-term residential rental unit may not be located in a structure which contains more than one dwelling unit.
- B. The applicant for a zoning permit for a Short Term Residential Rental Unit shall demonstrate that the proposed short-term residential rental unit meets the Pennsylvania Uniform Construction Code as adopted by the Borough. The applicant shall submit a report by the Building Code Official demonstrating that the short-term residential rental unit meets the requirements of the Uniform Construction Code prior to the issuance of a zoning permit.
- C. The applicant shall prepare and present to the Borough a notice which shall be prominently and continuously posted at the short-term residential rental unit which shall contain all of the following information:
  - 1. The name of the local contact person or owner of the short-term residential rental unit and a telephone number at which that party may be reached with an expectation by the Borough of a prompt reply ('prompt reply' means as soon as practicable, but in no event greater than 24 hours).

2. The 911 address of the property.
3. The maximum number of occupants permitted to stay in the short-term residential rental unit.
4. The maximum number of all vehicles allowed to be parked on the property and the requirement that parking is not permitted on any public road right-of-way.
5. Notification that trash and refuse shall not be left or stored on the exterior of the property except in secure, water-tight metal or plastic cans or similar containers designed for such storage with a limit of three (3) secured containers.
6. Notification that an occupant may be cited and fined for creating a disturbance or for violating other provisions of applicable Borough Ordinances.

D. The applicant shall designate a local contact person who shall have access and authority to assume management of the short-term rental unit and take remedial measures. An owner who resides within the Borough or within 30 miles of the short-term residential rental unit may designate him/herself as the local contact person. If the application is approved, the local contact person shall respond to the Borough or to a police officer within one (1) hour after being notified by such official of the existence of a violation of this ordinance or any disturbance requiring immediate remedy or abatement. If the local contact person is not the owner, the local contact person shall immediately advise the owner of any notification of a violation. There shall be a local contact person at all times the short-term residential rental unit is operated. The owner may change the local contact person only after written notice to the Zoning Officer, and any new local contact person shall meet all requirements of this subsection.

E. If the application is granted, the applicant shall provide the Zoning Officer with confirmation that the applicant has taken all action required to register with the Berks County Treasurer to enable the applicant to pay any hotel and/or room taxes imposed by Berks County. The Zoning Officer shall not issue a certificate of occupancy for the short-term residential rental unit until the applicant presents such confirmation of registration.

F. The maximum occupancy of the short-term residential rental unit shall be based on the number of bedrooms. Occupancy means all persons located within the short-term residential rental unit, not just people sleeping in such unit. A short-term residential rental unit may have no more than six bedrooms. Each bedroom shall be occupied by no more than two persons, excluding children under the age of five. The applicant shall provide the Zoning Officer with a plan of the structure proposed to contain the short-term residential rental unit identifying the rooms on each floor of the structure

to enable the Zoning Officer to determine the number of bedrooms and the maximum occupancy of the short-term residential rental unit.

- G. A short-term residential rental unit may be rented only to a person 21 years of age or older.
- H. The owner shall use his/her best efforts to assure that the occupants of the short-term residential rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of Borough Ordinances or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding short-term residential rental units and responding when notified that occupants are violating laws regarding their occupancy.
- I. The owner shall, upon notification that occupants of the short-term residential rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of Borough Ordinances or state law pertaining to noise, or disorderly conduct, promptly use his or her best effort to prevent a recurrence of such conduct by those occupants or guests.
- J. The owner of the short-term residential rental unit shall submit an application each year for a permit to authorize continued operation of the short-term residential rental unit, accompanied by any fee which the Council for the Borough may establish by resolution. The application shall require that the owner provide sufficient information for the Zoning Officer to confirm the name and contact information for the local contact person, confirm that the short-term residential rental unit meets all requirements of this Section, and confirm that the short-term residential rental unit meets all other applicable Borough Ordinances. The Zoning Officer may inspect the short-term residential rental unit to confirm compliance with this Section and other applicable Borough Ordinances. If the Zoning Officer confirms that the short-term residential rental unit meets such requirements, the Zoning Officer may issue a permit to authorize continued operation of the short-term residential rental unit for a one-year period. Operation of a short-term residential rental without the required annual permit is a violation of this Ordinance.
- K. Owner shall apply for and obtain annually a Business Privilege License and be responsible for submission of the applicable Business Privilege Tax forms and payment per Borough Ordinances.

(Ord. 1430, 2/14/2023, §9; as amended by Ord. 1435, 6/13/2023, §15)

## **§629. Bed and Breakfast Establishment**

- A. A maximum of 5 rental rooms shall be provided and no more than 3 adults may occupy one rental room.

- B. One off-street parking space shall be provided for each rental room, plus two for the resident family, plus nonresident employee parking. To the maximum extent feasible, off-street parking spaces for the bed and breakfast establishment shall be: a) located either to the side or rear of the principal building and b) screened from the street and abutting dwellings by landscaping. Off-street parking spaces shall be setback a minimum of 10 feet from lot lines.
- C. There shall not be any signs, show windows or any type of display or advertising visible from outside the premises, except for a single sign with a maximum sign area of 8 square feet on each of 2 sides and with a maximum height of 8 feet. No internal lighting of the sign shall be permitted.
- D. Within a residential district, the use shall have a residential appearance and character.
- E. The use shall be owned, operated or managed by permanent residents of the lot.
- F. There shall not be separate cooking facilities in any guest room. Food shall only be served to guests who are staying overnight, unless a restaurant is also permitted as a separate use on the same lot.
- G. No guest shall stay for more than 14 days in any month.
- H. The owner of the bed and breakfast establishment shall submit an application each year for a permit under Chapter 11, Part 2, of the Wyomissing Code to authorize continued operation of the bed and breakfast establishment, accompanied by any fee which the Council for the Borough may establish by resolution. The application shall require that the owner provide sufficient information for the Zoning Officer to confirm that the bed and breakfast establishment meets all requirements of this Section, and confirm that the bed and breakfast establishment meets all other applicable Borough Ordinances. The Zoning Officer may inspect the bed and breakfast establishment to confirm compliance with this Section and other applicable Borough Ordinances. If the Zoning Officer confirms that the bed and breakfast establishment meets such requirements, the Zoning Officer may issue a permit to authorize continued operation of the bed and breakfast establishment for a one-year period. Operation of a bed and breakfast establishment without the required annual permit is a violation of this Ordinance.

(Ord. 1435, 6/13/2023, §16)

### **§630. Boarding, Rooming and Lodging House**

- A. The lot shall not serve more than 20 residents.
- B. One off-street parking space shall be provided for each rental room, plus 2 for any resident family, plus any nonresident employee parking.

- C. Each bedroom shall be limited to 2 adults each.
- D. No separate cooking facilities shall be permitted in the rented room.
- E. A buffer yard with screening in accordance with Section 604 shall be provided between the boarding, rooming and lodging house structure or building and any abutting dwelling.
- F. Signs shall be limited to 2 wall signs with a maximum of 2 square feet each.
- G. Rooms shall be rented for a minimum period of 30 consecutive days.
- H. The owner of the boarding, rooming and lodging house shall submit an application each year for a permit under Chapter 11, Part 2, of the Wyomissing Code to authorize continued operation of the boarding, rooming and lodging house, accompanied by any fee which the Council for the Borough may establish by resolution. The application shall require that the owner provide sufficient information for the Zoning Officer to confirm that the boarding, rooming and lodging house meets all requirements of this Section, and confirm that the boarding, rooming and lodging house meets all other applicable Borough Ordinances. The Zoning Officer may inspect the boarding, rooming and lodging house to confirm compliance with this Section and other applicable Borough Ordinances. If the Zoning Officer confirms that the boarding, rooming and lodging house meets such requirements, the Zoning Officer may issue a permit to authorize continued operation of the boarding, rooming and lodging house for a one-year period. Operation of a boarding, rooming and lodging house without the required annual permit is a violation of this Ordinance.

(Ord. 1435, 6/13/2023, §17)

**PART 7****NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS****§700. Statement of Intent.**

1. The purpose and objective of the provisions established under this Part is to establish specific regulations pertaining to nonconforming uses, lots, land areas, building and/or structures.
2. As part of the establishment of zoning districts through the enactment of this Chapter, there exists or will exist certain nonconformities which, if lawful before this Chapter was enacted or amended, may be continued, subject to certain limitations, although such nonconformities would be otherwise prohibited, regulated or restricted under the terms of this Chapter or subsequent amendments thereto.
3. To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of this Chapter or subsequent amendment thereto and on which actual building construction has been diligently conducted.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1295, 5/12/2009, §3)

**§701. Nonconforming Lots of Record.**

1. Any lot shown on a recorded subdivision or land development plan on the effective date of this Chapter which does not meet the minimum size or width requirements of the zoning district in which it is located, may be used for a use permitted by the regulations of that zoning district, provided that all yard, height, coverage and open space requirements of the zoning district shall be met. However, when a developer or applicant has had an application for approval of a preliminary or final subdivision plan, which has been approved prior to the effective date of this Chapter, no provision and/or regulation in this Chapter shall be applied to affect adversely the right of the developer or applicant to commence and complete any aspect of the approved preliminary or final plan within such time periods as are established within the Pennsylvania Municipalities Planning Code.
2. Any lot held in single and separate ownership on the effective date of this Zoning Ordinance, which does not meet the minimum size or width requirements of the zoning district in which it is located may be used for any use permitted in that zoning district, provided that all yard, height, coverage and open space requirements of the district are met. However, if two (2) or more lots, combination of lots, or portions of lots, which are adjacent and held under single ownership are of record at the time of passage or amendment of this Chapter, and if all or part of the lots do not meet the requirements established for lot width and/or area, the

land involved shall be considered to be an undivided parcel for the purpose of this Chapter.

3. No portion of a nonconforming lot or parcel of land shall be used or sold in a manner which diminishes compliance with lot width and/or lot area requirements established by this Chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Chapter.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1295, 5/12/2009, §3)

### **§702. Registration.**

After the enactment of this Chapter, the Zoning Officer may assemble and maintain a listing of nonconforming uses, structures and lots, together with the reasons why the Zoning Officer identified them as nonconformities.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1295, 5/12/2009, §3)

### **§703. Nonconforming Uses of Land.**

1. Lawful uses of land, which at the effective date of this Chapter, or subsequent amendments thereto, became nonconforming, may be continued by the present or any subsequent owner so long as the use remains otherwise lawful, subject to the provisions listed within this Part of this Chapter.
2. A nonconforming land use shall not be enlarged, increased and/or extended in order to occupy a greater area of land than was occupied at the effective date of enactment or amendment of this Chapter.
3. Whenever a nonconforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished, except if the owner of such property files within thirty (30) days of the date of initial discontinuance a certificate of intention to maintain such use. If such certificate is filed within the said time, the right to reestablish such nonconforming use shall be extended by an additional twelve (12) month period.
4. A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use.
5. A nonconforming use may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Such determination shall be made through a special exception application to the Zoning Hearing Board, which shall take into consideration the following issues: the intent of the provisions for the zoning district; the ability to change the use to a conforming use; traffic generation and congestion; noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration,

or other nuisances; external storage; solid waste disposal; sewer and water facilities; and the general impact of the use compared to the uses within five hundred (500) feet of the property lines.

6. No additional structures which do not conform to the requirements of this Chapter shall be erected in connection with such nonconforming use of land.

(Ord. 1295, 5/12/2009, §3)

#### **§704. Nonconforming Buildings or Structures.**

1. Lawful nonconforming buildings or structures, which at the effective date of this Chapter became nonconforming by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the buildings or structures, may be continued so long as they remain otherwise lawful, subject to the provisions listed in the following subsections.
2. A nonconforming building or structure shall not be enlarged or increased upon land not owned, leased or under option to purchase at the time of the enactment of this Chapter.
3. A nonconforming building or structure shall not be enlarged, increased, repaired, maintained or modified in any manner, which will further violate any applicable dimensional requirements imposed by this Chapter. Where a portion of an existing building or structure encroaches into a setback area or exceeds a height limit under this Chapter, an addition to such existing building or structure may be constructed only where all portions of the addition are located within all of the applicable setbacks and below the height limit required under this Chapter.
4. Total future expansion of a nonconforming building or structure shall not exceed the following provisions:
  - A. The expansion may be permitted by right, provided that such expansion does not exceed fifty (50) percent of the gross floor area or ground area occupied by the building or structure at the time of the effective date of this Chapter.
  - B. The expansion may be permitted to exceed fifty (50) percent of the gross floor area or ground area occupied by the building or structure at the time of the effective date of this Chapter, provided that a special exception application is approved by the Zoning Hearing Board.
5. 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:
  - A. The reconstructed building or structure shall not exceed the height, area or volume of the damaged or destroyed building or structure.

B. Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

(Ord. 1295, 5/12/2009, §3)

**§705. Nonconforming Uses of Buildings or Structures.**

1. Lawful nonconforming structures or buildings, or structures or buildings and land in combination, which exist at the effective date of this Chapter that would not be allowed in the district under the terms of this Chapter, may be continued so long as they remain otherwise lawful, subject to the provisions contained within this Part of this Chapter.
2. An existing structure devoted to a use not permitted by this Chapter within the zoning district where it is located may be enlarged, extended, constructed, reconstructed or structurally altered up to but not more than fifty (50) percent of its gross floor area and/or use area as it existed at the time of the passage of this Chapter or subsequent amendment, provided that the lot or lots upon which the nonconforming structure is situated were held under single ownership or long-term lease (10 years or more) and purchased or leased prior to the enactment of this Chapter.
3. Any enlargement, extension, construction, reconstruction or structural alteration must conform to all other regulations of the zoning district in which it is located.
4. Any nonconforming use may be extended throughout a building or structure which was in use for the nonconforming use at the time of adoption of this Chapter, but no such use shall be extended to occupy any land outside such building or structure unless provided for under this Part of this Chapter.
5. A nonconforming use of a structure, or premises and structure, may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Such determination shall be made through a special exception application to the Zoning Hearing Board, which shall take into consideration the following issues: the intent of the provisions for the zoning district; the ability to change the use to a conforming use; traffic generation and congestion; noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, or other nuisances; external storage; solid waste disposal; sewer and water facilities; and the general impact of the use compared to the uses within five hundred (500) feet of the property lines.
6. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the

structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

7. Where a building or structure occupying a nonconforming use is involuntarily damaged or destroyed, the status of the nonconforming use shall be eliminated at that point in time. For the purpose of this subsection, damage or destruction shall be defined as a loss of more than seventy-five (75) percent of the market value at the time of the damage or destruction.

(Ord. 1295, 5/12/2009, §3)

#### **§706. Movement and Replacement.**

A building or structure containing a nonconforming use or a nonconforming building or structure may be voluntarily replaced by a new building or moved to another location on the same lot; provided, that the building or structure shall comply with all area, yard and height regulations and general regulations applicable to the zoning district in which it is located.

(Ord. 1295, 5/12/2009, §3)

## PART 8

### ADMINISTRATION AND ENFORCEMENT

#### **§800. Zoning Officer.**

1. Appointment. A Zoning Officer and/or Assistant Zoning Officer(s) shall be appointed by Borough Council to administer and enforce this Chapter. The Zoning Officer shall not hold any elective office in the Borough. The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning.
2. Duties and Powers. It shall be the duty of the Zoning Officer to enforce the provisions of this Chapter and the amendments thereto and he/she shall have such duties and powers as are conferred on him/her by this Chapter and as are reasonably implied for that purpose. The Zoning Officer's duties shall include, but are not limited to, the following:
  - A. Review applications for zoning approval and building permits as set forth in this Chapter. Applicants must also submit to zoning officer for approval any stormwater and/or drainage plans when required by any of the Borough's stormwater management ordinances. Whenever a proposed improvement to a residential use property is proposed which will add more than thirty (30) percent to the horizontal surface area at grade level of any existing principal use structure, or add any new building or structure with a horizontal surface area at grade level greater than 1,000 square feet, or add any new or enlarged building or structure which would be located within five (5) feet of a required Building Setback or other Yard, the applicant is required to attach to the zoning permit application a grading plan, and a spot survey sealed by a licensed surveyor locating the lot boundaries adjacent to the proposed construction, the location of any Building Setback or other Yard adjacent to the proposed construction, and the location of the proposed new construction on the property; and, the proposed building or structure must be staked out on the property before the zoning permit is issued; provided, however, that such grading plan and spot survey shall not be required for the installation on a residential use property of a portable shed (a shed on skids and not permanently attached to the ground) with dimensions of 100 square feet or less. (1308)
  - B. Keep a record of all official business and activities, including complaints of a violation of any of the provisions of this Chapter and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. File copies of all applications received, approvals issued and reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as the structures, etc., remain in existence.

- C. Make inspections as required to fulfill his/her duties. In doing so, however, he/she shall first seek the permission of the land owner or tenant and, in the event such permission cannot be voluntarily obtained, he/she shall have the right to take such other legal means as are authorized under the law.
- D. Issue approvals for buildings, structures and land uses for which subdivision and land development approval is required only after all necessary approvals have been secured and plans recorded.
- E. Issue approvals for special exception uses or for variances only after a special exception or variance has been approved by the Zoning Hearing Board in accordance with the regulations of this Chapter and the Pennsylvania Municipalities Planning Code.
- F. Issue approvals for buildings requiring approval by the Pennsylvania Department of Labor and Industry only after such approval has been secured. Issue approvals for a use involving an access point requiring Pennsylvania Department of Transportation approval only after such approval has been secured.
- G. Be responsible for keeping this Chapter and the official zoning map up to date so as to include all amendments thereto.
- H. Issue certificates of use and occupancy in accordance with the terms of this Chapter.
- I. Identify and register nonconforming structures and uses created as a result of the adoption of this Chapter and the official zoning map, or created as a result of amendments thereto.
- J. Submit a monthly report of his/her activities to the Borough Council and Borough Planning Commission and where appropriate, submit a report to the Zoning Hearing Board.
- K. Send enforcement notices as provided in this Chapter and the Pennsylvania Municipalities Planning Code, as amended.
- L. Institute civil enforcement proceedings as a means of enforcement when acting within the scope of the Officer's employment, when authorized by the Borough Council.
- M. Issue zoning permits for temporary accessibility improvements for disabled persons. [Ord. 1386]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1283, 8/12/2008, §17; as amended by Ord. 1308, 11/9/2010, §3, §4; as amended by Ord. 1386, 1/9/2018, §4)

**§801. Zoning Approval.**

1. Requirements. No building, structure or sign, except temporary fences such as snow fences and fences around construction sites, shall be erected, constructed, assembled, extended, reconstructed, replaced, demolished, converted, moved, added to or structurally altered nor shall land, buildings and structures be put to any use or have the use for which they are used changed, without an approval therefor issued by the Zoning Officer. No such approval shall be issued unless there is conformity with the provisions of this Chapter, except upon written order from the Zoning Hearing Board in the form of a variance or special exception, or upon order from any court of competent jurisdiction.
2. Application Procedures. The application for a zoning approval or building permit shall be submitted to the Borough in writing on a form prescribed by the Borough. The application shall be submitted by the owner or lessee of any building, structure or land 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 from the owner or lessee authorizing the work and designating the agent. The application shall be accompanied by two sets of at least the following information:
  - A. A plan of the lot in question, drawn to scale, indicating the lot size and showing all dimensions of lot lines and the exact location(s) on the lot of all existing and proposed buildings, fences, signs, structures and alterations to buildings or structures.
  - B. The use, height, length, width and proportion of the total lot area covered of all proposed and existing buildings, structures and additions or alterations to buildings or structures, and the height, length, width and design of all signs.
  - C. A statement indicating the number of dwelling units and/or commercial or industrial establishments to be accommodated within existing and proposed buildings on the lot. In the case of commercial and industrial uses, the floor area to be devoted to each use shall be indicated.
  - D. The location, dimensions and design of parking and loading areas including the size and arrangement of all spaces and means of ingress, egress and interior circulation, recreation areas, screens, buffer yards and landscaping, means of egress from and ingress to the lot, routes for pedestrian and vehicular traffic and provisions for outdoor lighting.
  - E. The location of all utility lines.
  - F. All other information necessary for the Zoning Officer to determine conformance with and provide for enforcement of this Chapter.
3. Approval or Disapproval. Upon receipt of the zoning approval or building permit application and all accompanying information, the Zoning Officer shall examine

them and determine compliance with this Chapter. Within 60 days from the date the Borough receives the application, a copy of the application and accompanying information containing the Zoning Officer's decision with respect to compliance with this Chapter shall be returned to the applicant. A copy shall be retained by the Zoning Officer. The zoning approval shall expire six months from the date of approval of the application by the Zoning Officer; provided, that it may be extended at the discretion of the Zoning Officer for a period not exceeding one year. If disapproved, the Zoning Officer shall attach a statement to the application explaining the reasons therefor, indicating the manner in which the application could be corrected and/or modified to obtain approval, and informing the applicant of his/her rights to appeal. The Zoning Officer shall revoke an approval issued under the provisions of this Chapter in case of any false statement or misrepresentation of fact in the application on which the approval was based or for any other cause set forth in this Chapter.

4. **Temporary Zoning Approval for Persons with Disabilities.** The Zoning Officer shall issue a temporary zoning approval for temporary accessibility structures for use by persons with disabilities subject to the following terms and conditions:
  - A. After the Zoning Officer receives a complete written application, the Zoning Officer shall determine if the temporary structure is required under applicable Federal law to provide a "reasonable accommodation" to serve persons who the applicant proves have "disabilities," as defined in and protected by such laws.
  - B. Such reasonable accommodations shall be requested in accordance with the U.S. Fair Housing Act Amendments and/or the Americans with Disabilities Act, as amended.
  - C. If the applicant is requesting a reasonable accommodation under the United States Fair Housing Amendments Act of 1988 or the Americans with Disabilities Act, the applicant shall identify the disability which is protected by such statutes, the extent of the modification of the provisions of this Ordinance necessary for a reasonable accommodation, and the manner by which the reasonable accommodation requested may be removed when such person(s) with a protected disability no longer will be present on the property.
  - D. Any reasonable accommodation approved under this Section may be limited to the time period during which the person(s) with disabilities occupy or utilize the premises.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1386, 1/9/2018, §5)

## **§802. Certificate of Use and Occupancy.**

1. **Requirements.** It shall be unlawful to use and/or occupy any building, structure or land or portion thereof for which zoning approval is required until a certificate of

use and occupancy has been issued by the Borough. A certificate of use and occupancy shall not be issued unless such building, structure or land has been inspected by the Zoning Officer and he/she has determined that all provisions of this Chapter have been complied with.

2. **Issuance.** Upon receipt of written notification that the applicant is ready to use and occupy the premises for which a zoning application has been approved, the Zoning Officer shall inspect the premises within 10 days to determine compliance with the approved application and this Chapter. If in compliance, he/she shall approve and sign a certificate of use and occupancy for the use indicated on the approved application. A copy of the certificate of use and occupancy shall be retained by the Zoning Officer as part of the Borough records. If he/she finds that the work has not been performed or that the use of the premises does not comply with the approved application and this Chapter, the Zoning Officer shall refuse to approve and sign the certificate of use and occupancy and in writing give the reasons therefor and inform the applicant of his/her right of appeal
  
3. **Temporary Certificate of Use and Occupancy.** The Zoning Officer may issue a temporary certificate of use and occupancy for such temporary uses as tents, trailers and buildings on construction sites, and for the use of land for religious and other public and semipublic purposes or other temporary use and/or occupancy upon approval of the Borough Manager. Such temporary certificates shall be for the period of time to be determined by the Borough Manager at the time of application, but in no case shall any certificates, except those for uses on construction sites, be issued for more than six months.

(Ord. 1234, 2/11/2003, §1)

### **§803. Schedule of Fees, Charges and Expenses.**

The Borough Council shall establish, by resolution, a schedule of fees and charges for zoning applications, certificates of use and occupancy, special exceptions, variances, amendments to this Chapter and other matters pertaining to this Chapter. A collection procedure shall also be established. Until all application fees and charges have been paid in full, no action shall be taken on any application or other matters relating thereto.

(Ord. 1234, 2/11/2003, §1)

### **§804. Amendments.**

The provisions of this Chapter and the boundaries of zoning districts as set forth on the official zoning map may, from time to time, be amended, supplemented or changed by Borough Council in accordance with the following procedure:

A. Procedure. The following procedures shall be observed prior to making any amendment or change to this Chapter or parts thereof, including the official zoning map:

- (1) All proposed amendments to this Chapter shall be submitted to the County Planning Commission for their recommendations at least 30 days prior to the public hearing.
- (2) Any amendment not prepared by or emanating from the Borough Planning Commission shall be submitted by Borough Council to the Borough Planning Commission for its recommendation at least 30 days prior to the public hearing.
- (3) Curative Amendments. The procedure upon curative amendments shall be as established in the Pennsylvania Municipalities Planning Code.

B. Submission of Impact Statement. With a request for a zoning amendment initiated by other than the Borough Council or Borough Planning Commission, a statement indicating the impact of the zoning change on the Borough may be required to be submitted by Borough Council with the application for rezoning. The statement shall compare the impact on the Borough resulting from the existing zoning with the impact resulting from the proposed zoning, specifically discussing:

- (1) Environmental Impact. The impact on wooded areas, floodplains, areas of high water table, wildlife habitats, stormwater runoff, erosion and sedimentation, historic sites, water quality, air quality, solid waste generation and noise levels.
- (2) Traffic Impact. The impact on traffic generation per day and at peak hours, including numbers and routes expected to be used. An analysis of traffic capacities of adjacent roads and intersections and roads and intersections to be significantly affected by the zoning change shall be prepared.
- (3) Services Impact. The demand for school, police, sewer, water, sanitation and road maintenance services.
- (4) Fiscal Impact Analysis. The costs and revenues to the Borough.

C. Public Hearing. The Borough Council shall hold a public hearing before voting on the enactment of any amendment or change. Public notice of such hearing shall be given as required by law. In addition, if the proposed amendment involves a zoning map change, notice of the public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing. If, after any public hearing held upon an amendment,

the proposed amendment is changed substantially or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, prior to voting on the amendment. The Borough Council shall vote on the proposed amendment within 90 days after the last public hearing. Enactment of amendments shall be in accordance with the procedures established in the Pennsylvania Municipalities Planning Code, as amended.

D. **Mediation Option.** The Borough may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Borough and mediating parties shall meet the stipulations and follow the procedures set forth in the Pennsylvania Municipalities Planning Code, as amended.

(Ord. 1234, 2/11/2003, §1)

### **§805. Enforcement Notice.**

1. If it appears to the Borough Council that a violation of this Chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided for in the Pennsylvania Municipalities Planning Code, as amended.
2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
3. An enforcement notice shall state at least the following:
  - A. The name of the owner of record and any other person against whom the Borough intends to take action.
  - B. The location of the property in violation.
  - C. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
  - 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 Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Chapter.

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.

(Ord. 1234, 2/11/2003, §1)

### **§806. Enforcement Remedies.**

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees, incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedures. 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 this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Chapter shall be paid over to the Borough.

(Ord. 1234, 2/11/2003, §1)

### **§807. Appeals.**

Proceedings for securing review of any ordinance or of any decision, determination or order of the Borough Council, their agencies, the Zoning Hearing Board or Zoning Officer issued pursuant to this Chapter shall be in accordance with the Pennsylvania Municipalities Planning Code, as amended.

(Ord. 1234, 2/11/2003, §1)

### **§808. Certificate of Intention to Continue a Nonconforming Use.**

1. Scope. A certificate of intention shall be required in all instances where a nonconforming use is discontinued if the owner or operator of such use desires to maintain such a nonconforming use.
2. Procedure. The Zoning Officer shall maintain proper forms for the registration of any certificate of intention. It shall be incumbent upon the owner or applicant to file such a form with the Zoning Officer.

3. **Notification.** The proper adoption of this Chapter shall be considered effective notice to all owners or operators of nonconforming uses of the requirements for registration for the discontinuance of all nonconforming uses.
4. **Filing.** The Zoning Officer shall maintain a separate file for all certificates of intention.
5. **Duration.** A certificate of intention shall be valid for a one year period. See the Section of this Chapter which regulates the abandonment of nonconforming uses.

(Ord. 1234, 2/11/2003, §1)

**PART 9**

**ZONING HEARING BOARD**

**§900. Creation and Organization.**

1. Creation of Board. The Borough Council shall appoint a Zoning Hearing Board, herein referred to as the "Board," consisting of residents of the Borough appointed by the Borough Council pursuant to the Pennsylvania Municipalities Planning Code, as amended, who shall be appointed and serve and shall perform all the duties and have all the powers as prescribed by said Code and as herein provided. The Borough Council may appoint alternate members of the Board pursuant to the provisions of the Pennsylvania Municipalities Planning Code, as amended. The alternate members may serve as provided for in said Code.
2. Organization. The Board may promulgate such rules and forms for its procedures, not inconsistent with this and other ordinances of the Borough and laws of the Commonwealth of Pennsylvania, as it may deem necessary for the proper performance of its duties and for the proper exercise of its powers. Such rules shall be continued in force and effect until amended or repealed by the Board or by law. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves.
3. Meetings. Meetings and hearings of the Board shall be held at the call of the Chairman and at such other times as the Board, by majority vote, may determine.
4. Minutes and Records. The Board shall keep full public records of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Board shall also keep full public records of its business and other official action, copies of which shall be filed with the Borough Secretary. Such records shall be the property of the Borough. The Board shall submit a monthly report of its activities to the Borough Council.

(Ord. 1234, 2/11/2003, §1)

**§901. Public Hearings.**

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

- A. Public notice as defined by law shall be given and written notice shall be given to the public, the applicant, adjoining property owners of the applicant property, the Zoning Officer, such other persons as the Borough Council shall designate by ordinance and to any person who has made timely request for the same. Notice shall also be posted in the Borough Hall. Written notices shall be given at such time and in such manner as shall be prescribed in ordinance or, in the absence of ordinance provision, by rules of the Board. 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.

- B. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- C. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- D. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- E. 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.
- F. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- G. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- H. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his/her 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/her representative unless all parties are given an opportunity to be present.

- I. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Chapter 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 the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his/her decision or findings are final, the Board shall make his/her report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in subsection (A) of this Section. If the 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.
- J. 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/her not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- K. The Borough Council may prescribe reasonable fees with respect to hearings before the Board. Fees for said hearings may include compensation for the Secretary and members of the Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- L. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

- M. Each subsequent hearing before the Board Hearing Officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the Applicant in writing or on the record.
- N. An Applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
- O. Upon the request of the applicant, the Board Hearing Officer shall assure that the Applicant receives at least seven hours of hearing within the 100 days, including the first hearing.
- P. Persons opposed to an application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief.
- Q. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided that the persons opposed to the application are granted an equal number of additional hearings.
- R. Persons opposed to the application may, upon the written consent on the record by the applicant and Borough, be granted additional hearings to complete their opposition to the applicant, provided the applicant is granted an equal number of additional hearings for rebuttal.

(Ord. 1234, 2/11/2003, §1)

## **§902. Functions of the Zoning Hearing Board.**

The Zoning Hearing Board shall have the following functions:

- A. The Zoning Hearing Board shall have the functions authorized in the Pennsylvania Municipalities Planning Code, as amended.
- B. The jurisdictions of the Zoning Hearing Board and the Borough Council and the procedures to be followed by each, shall be as established in said Code.
- C. Parties to proceedings before the Zoning Hearing Board authorized by the Pennsylvania Municipalities Planning Code, as amended, may utilize mediation as an aid in completing such proceedings. The mediation option shall meet the stipulations and follow the procedures set forth in said Code.
- D. Variances. To authorize, upon appeal in specific cases, such variance(s) from the terms of this Chapter as will not be contrary to public interest, where a literal enforcement of the provisions of this Chapter will result in unnecessary hardship. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning

Code, as amended. The Board may, by rule, prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance provided 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 circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.
- (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the 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 neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- (5) That the variance as granted by the Board is the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- (6) Such other considerations as may be set forth in the Pennsylvania Municipalities Planning Code, from time to time.

E. Special Exceptions. To issue, upon application, only such special exceptions which the Board by the provisions of this Chapter is specifically authorized to issue. The granting of a special exception when specifically authorized by the terms of this Chapter shall be subject to the following standards and criteria. The applicant for a special exception shall demonstrate, as a condition to approval of his/her application, compliance with these criteria and those criteria specified elsewhere in this Chapter for the use in question.

- (1) Such use shall be one which is specifically authorized as a special exception use in the zoning district wherein the applicant seeks a special exception.
- (2) Such special exception shall only be granted subject to any applicable condition and safeguards as required by this Part.

- (3) Such use shall not adversely affect the character of the general neighborhood, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties shall be adequately safeguarded.
- (4) Such use shall be of such size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.
- (5) Services and utilities such as public water, sanitary sewers and stormwater drainage shall be made available to adequately service the proposed use by the applicant.
- (6) Control development of highway frontage so as to limit the number of points for ingress and egress, their location with due regard to safety factors, and encourage, where practicable, frontage of buildings and structures upon parallel marginal roads or on roads perpendicular to the highway.
- (7) Consider the desirability of the proposed location of an industrial or commercial use with respect to probable effects upon street or highway traffic, and assure adequate access arrangements to protect against undue traffic congestion and hazard.
- (8) Consider such other considerations as may be set forth in the Pennsylvania Municipalities Planning Code from time to time.

In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter and the Pennsylvania Municipalities Planning Code, as amended, which conditions may include, but are not limited to, harmonious design of buildings, planting and maintenance of shrubbery or trees as a sight and/or sound barrier and the minimizing of potentially noxious, offensive or hazardous elements.

- F. To exercise any other power specifically granted to the Board under the terms of this Chapter or the Pennsylvania Municipalities Planning Code, as amended.
- G. Persons With Disabilities. After the Zoning Officer receives a complete written application, the Zoning Hearing Board shall grant a variance or special exception allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Zoning Hearing Board are required under applicable Federal law to provide a "reasonable accommodation" to serve persons who the applicant proves have "disabilities," as defined in and protected by such laws.

- (1) Such reasonable accommodations shall be requested in accordance with the U.S. Fair Housing Act Amendments and/or the Americans with Disabilities Act, as amended.
- (2) If the applicant is requesting a reasonable accommodation under the United States Fair Housing Amendments Act of 1988 or the Americans with Disabilities Act, the applicant shall identify the disability which is protected by such statutes, the extent of the modification of the provisions of this Ordinance necessary for a reasonable accommodation, and the manner by which the reasonable accommodation requested may be removed when such person(s) with a protected disability no longer will be present on the property.
- (3) Any modification approved under this Section may be limited to the time period during which the persons with disabilities occupy or utilize the premises.

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1381, 1/10/2017, §21)

### **§903. Procedures for Application to the Zoning Hearing Board.**

1. The Board shall act in accordance with the procedures specified by the Pennsylvania Municipalities Planning Code, as amended, and by this Chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed, the grounds for any challenges to the validity of this Chapter, the use for which a special exception is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. All appeals and any stay of proceedings shall be in accordance with the Pennsylvania Municipalities Planning Code, as amended.
2. Applications and appeals, together with the required filing fee as established by the Borough Council, shall be submitted to the Secretary of the Zoning Hearing Board. As a minimum, all material required for a zoning approval shall be submitted with the application. The applicant shall also submit a description of the operations proposed in sufficient detail to indicate the effects of those operations proposed in producing traffic congestion, noise, glare, water pollution, fire hazards, safety hazards or other potentially harmful activities.

(Ord. 1234, 2/11/2003, §1)

**§904. Expiration of Special Exceptions and Variances.**

Unless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to implement the proposed use or commence construction within 12 months from the date of authorization of the special exception or variance, unless an extension is granted by the Zoning Officer.

(Ord. 1234, 2/11/2003, §1)

**§905. Review of Applications for Special Exceptions and Variances by the Borough Council.**

The Secretary of the Zoning Hearing Board shall forward a copy of any application for a special exception or variance to the Borough Council for review and comment prior to the hearing held by the Board on such application.

(Ord. 1234, 2/11/2003, §1)

**PART 10**

**PUBLIC UTILITY EXEMPTION**

**§1000. Public Utilities Corporation Exempted.**

1. This Chapter shall not apply to any existing or proposed buildings, or extension thereof, used or to be used by a public utility corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed building in question is reasonably necessary for the convenience or welfare of the public.
2. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the Borough have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.
3. The exemption provided for in this Section shall not apply to Wireless Communications Facilities regulated under the 1996 Telecommunications Act. [Ord. 1371]

(Ord. 1234, 2/11/2003, §1; as amended by Ord. 1371, 9/8/2015, § 13)

**PART 11**  
**ZONING MAP AMENDMENTS**  
(Reserved)

**PART 12**  
**CONDITIONAL USES**

**§ 1200. Procedures.**

1. Application: A complete application shall contain at least the following information submitted by the applicant, unless certain information is determined by the Zoning Officer to be inapplicable or unnecessary to appropriately evaluate the application:
  - A. The applicant's name, address, telephone number, and interest in the property;
  - B. The owner's name, address, and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
  - C. The street address and legal description of the subject property;
  - D. The zoning classification, zoning district boundaries and present use of the subject property;
  - E. A complete description of the proposed conditional use;
  - F. Site plans;
  - G. A statement indicating whether the applicant will require a variance in connection with the proposed conditional use;
  - H. Any supplemental information required to be submitted by the applicant under the section of this Chapter authorizing the specific conditional use.
  - I. Such other and further information or documentation as the Zoning Officer may deem to be necessary for a full and proper consideration and disposition of the particular application.
2. Determination of Completeness: Upon receipt of an application for a conditional use, the Zoning Officer shall make a determination of completeness of the application.
3. Fees: The application for a conditional use shall be accompanied by the fee established by resolution of the Borough Council from time to time.
4. Zoning Officer Report: Once the Zoning Officer has determined that the application is complete, a written report so stating shall be prepared by the Zoning Officer and submitted together with a copy of the application and all supporting documentation to the Borough Planning Commission with a copy to the Borough Council.
5. Planning Commission Review: After the Zoning Officer report has been received by the Borough Planning Commission, the Planning Commission shall review the

application and all supporting documentation and shall make written recommendations to the Borough Council.

6. Public Hearing: The Borough Council shall schedule, hold and conduct a public hearing on the proposed conditional use within sixty (60) days from the date of the Borough's receipt of the applicant's completed application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Borough Council shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing.
7. Notice of Public Hearing: Public notice shall be given as required by applicable law and written notice shall be given by certified mail to the applicant, adjoining property owners of the applicant property, the Zoning Officer, and to any person who has made a timely request for the same. Notice shall also be posted in the Borough Hall. Written notices shall be mailed by certified mail ten (10) days prior to the hearing date. 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.
8. Notice of Applications for Additional Approvals: Whenever, in connection with the application for a conditional use approval, the applicant is requesting other types of approvals, such as a variance or special exception, all required notices shall include reference to the request for all required approvals.
9. Borough Council Action: At the conclusion of the public hearing, the Borough Council shall either:
  - A. Approve the conditional use;
  - B. Approve the conditional use subject to specific conditions; or
  - C. Deny the conditional use.
10. Borough Council shall render a written decision, or when no decision is called for, make written findings on the conditional use application, within forty-five (45) days after the last hearing before the Borough Council.
11. Borough Council shall provide written notice of its decision to the applicant no later than the day following its decision date.

### **§ 1201. Conditions on Conditional Uses.**

The Borough Council may impose on a conditional use such conditions and limitation, as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the conditional use, upon the Borough as a whole, or upon public facilities and services. These conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, parking, and other matters relating to the purposes and objectives of the zoning district in which the conditional use is located. Such conditions shall be expressly set forth in the motion authorizing the conditional use.

A. Violations of Conditions: Violation of any such condition or limitation shall be a violation of this Chapter and shall constitute grounds for revocation of the conditional use approval.

**§ 1202. Effect of Approval of Conditional Use.**

The approval of a proposed conditional use by the Borough Council shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the regulations of the Borough, including, but not limited to, a building permit, certificate of occupancy, and subdivision approval.

**§ 1203. Limitations on Conditional Use Approval.**

Subject to an extension of time granted by Borough Council, no conditional use shall be valid for a period longer than twelve (12) months unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period, or unless a longer time is requested and granted by Borough Council. The approval of a proposed conditional use by Borough Council shall authorize only the particular use for which it was issued.

(Ord. 1298, 8/29/2009, §5).

## **APPENDIX**

**TABLE 1**  
**MAXIMUMS PERMITTED FOR SIGNS ADVERTISING BUSINESS, INDUSTRIES  
 AND OTHER PERMITTED USES IN C-2, I-1 AND I-2 DISTRICTS**

<u>Location of Signs</u>	<u>Type of Sign</u>	<u>Purpose of Sign</u>	<u>Maximum No. Permitted Facing A Street</u>	<u>Maximum Area of Sign Facing Street</u>
On premises	Attached to bldg., not open lettering*	Business identification, advertising	1; None if have 1 attached open lettering	100 sq. ft., not to exceed lesser of 10% of building wall to which it is attached or 2 sq. ft. for each 1 ft. building height plus 2 sq. ft. for each 1 ft. building length of wall to which it is attached
On premises	Attached to bldg., open lettering*	Business identification	1; None if have 1 attached not open lettering	Lesser of 10% of building wall to which it is attached or 2 for each 1 ft. building height plus 2 sq. ft. for each 1 ft. building length of wall to which it is attached
On premises	Freestanding Advertising	Business identification, Advertising	1	100 sq. ft.
On premises	Attached to bldg., not open lettering*	Business identification, Advertising	1 for each use; None if have attached open lettering	Lesser than 10% of building wall to which it is attached or 2 sq. ft. for each 1 ft. building height plus 2 sq. ft. for each 1 ft. building length of wall to which it is attached
On premises	Attached to bldg., open lettering *	Business identification Advertising	1	100 Sq. ft.; 160 sq. ft., if street frontage exceeds 300 ft.

\* See Section 606.A.13 for any sign projecting from a wall.

## Appendix A to Zoning Ordinance

### Portion of Street Right-of-Way Outside Curb Face

ROAD NAME	PORTION OF STREET RIGHT-OF-WAY OUTSIDE CURB FACE (MEASURED IN FEET)
Abington Drive	12
Albright Avenue	12
Barberry Road	13 Northbound/12 Southbound
Belmont Avenue	12
Berks Place	10
Berkshire Blvd.	15
Berkshire Court	12
Bern Road	11
Birchwood Road	12
Bluebird Drive	8
Bluejay Drive	12
Bobolink Drive	12
Brandywine Court	12
Brandywine Road	12
Bristol Court	12
Buckingham Drive	12
Cambridge Avenue	20
Campus Road	12
Cardinal Place	12
Cardinal Rod	8
Cedarwood Road	12
Cheltenham Drive	12
Cherry Drive	10
Cherrywood Road	12
Christine Drive	13
Clayton Avenue	12
Cleveland Avenue	12
Crossing Drive	15
Crossing Drive (Woodland to Spring)	40
Daleview Road	15
Darlin Drive	13
Dauphin Avenue	12
Dauphin Avenue (Lauers/Garfield to Western border)	7
Deborah Drive	12
Delaware Avenue	12
Devonshire Drive	12

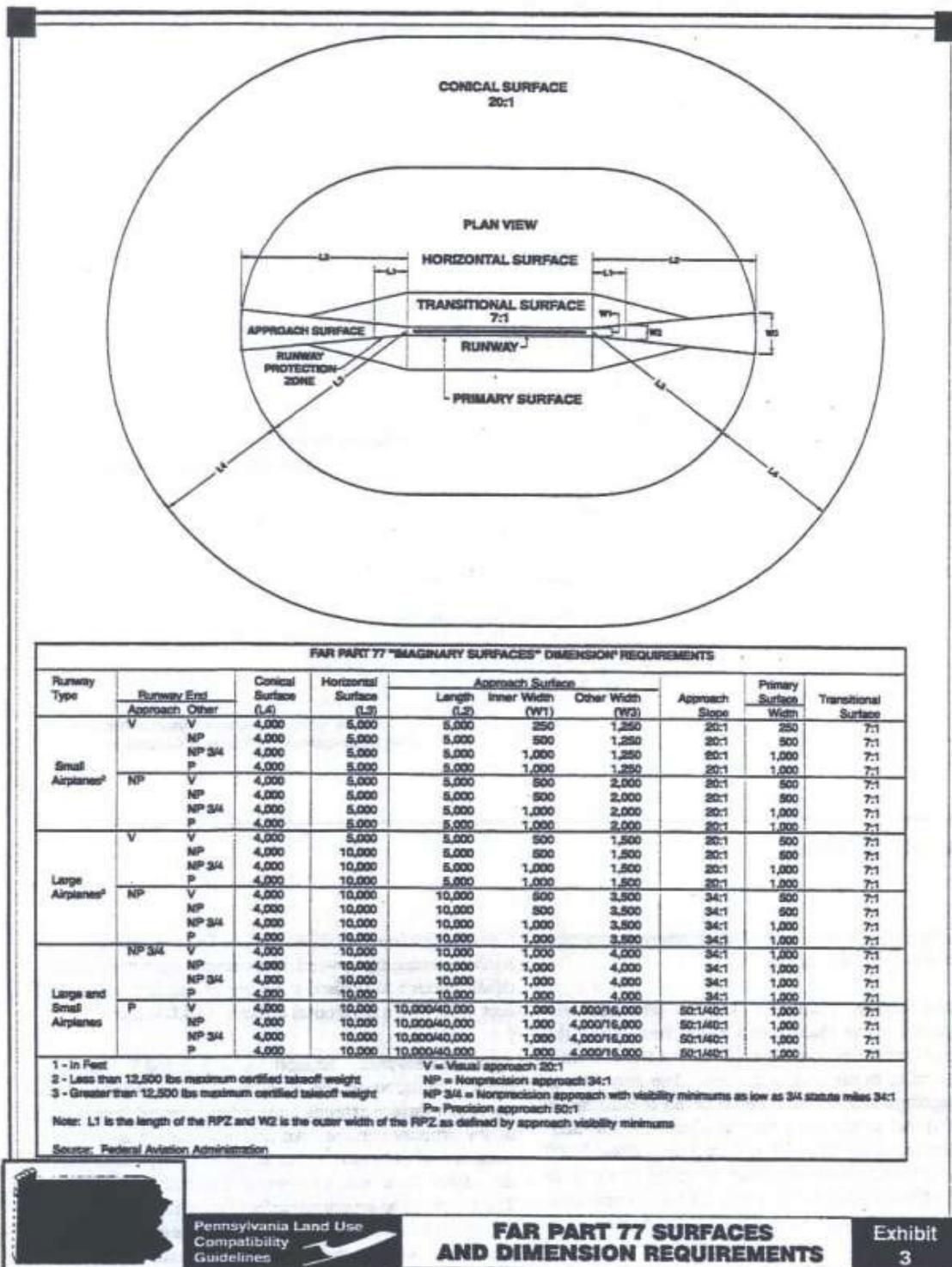
<b>ROAD NAME</b>	<b>PORTION OF STREET RIGHT-OF-WAY OUTSIDE CURB FACE (MEASURED IN FEET)</b>
Dorchester Drive	12
Douglass Street	10
Downing Drive	12
Durham Drive	12
East Park Road	13
Edgedale Court	8.5
Edgedale Road	15
Eighth Avenue	13
Eighth Avenue (Southbound, Cherry Lane to Franklin)	24
Eighth Street	10
Evans Avenue	10
Evans Avenue (Reading Blvd. to Old Mill Rd.)	16
Fairview Avenue	12
Farr Road	12
Forest Avenue	12
Fourth Street	10
Franklin Street	13
Gail Circle	13
Garden Lane	13
Garfield Avenue	12
George Avenue	12 Southbound/10 Northbound
Girard Avenue	12
Goldfinch Drive	12
Grandview Blvd.	20
Greenbriar Road/Court	12
Greenwich Street	10
Greenwood Mall	12
Hamilton Place	8
Hawthorne Road	15
High Road	20
Hill Avenue	12
Hillside Road	Insufficient Data
Hobart Avenue	12
Holland Square	6
Hummingbird Road	8
Ivy Road	8
Junco Drive	12
Kissingers Lane	7.5
Lafayette Avenue	12
Lake Avenue	12
Larchwood Road	12
Lauers Lane	12
Lawndale Road	13
Lehigh Avenue	12

<b>ROAD NAME</b>	<b>PORTION OF STREET RIGHT-OF-WAY OUTSIDE CURB FACE (MEASURED IN FEET)</b>
Lester Avenue	12
Lincoln Avenue/Court	12
Logan Avenue	12
Lynne Avenue	12 Northbound/5 Southbound
Lynne Avenue (Lafayette to Parkside Dr. N.)	5
Margaret Drive	13
Mayfair Road	13
Meadow Lane	12
Meadowlark Road	8
Meadowlark Road (Junco to Bluebird)	12
Meadowlark Road (Old Mill Rd. to Eastern end)	13
Merrymount Road	15
Monroe Avenue	12
Museum Road	16
Ninth Street	10
North Wyomissing Blvd.	11
Northfield Drive	Insufficient Data
Old Mill Road	20
Old Mill Road (Meadowlark to Southern border)	12
Old Wyomissing Blvd.	12
Old Wyomissing Road	7.5
Oley Street	10
Orchard Road	12
Oriole Drive	12
Overhill Road	15
Palmer Avenue	12
Paper Mill Road	10
Park Road	15
Park Road North (Northern end to Spring St.)	5
Park Road North (Spring St. to Hill Ave.)	10
Park Road North (Hill Ave. to Penn Ave.)	28
Park Road South (Penn Ave. to Wayne)	13
Park Road South (Wayne to Parkside Dr. N.)	10
Parkside Drive North	12
Parkside Drive North (Wyo. Blvd. to Eastern border)	13
Parkside Drive South (Old Mill Rd. to Wyo. Blvd.)	14 Eastbound/12 Westbound
Parkside Drive South (Wyo. Blvd. to Barberry)	12 Eastbound/14 Westbound
Parkside Drive South (Barberry to Eastern border)	15 Eastbound/13 Westbound
Parliament Drive	12
Penn Avenue	16 Westbound/17 Eastbound
Phoebe Drive	12
Pinewood Road	12
Plymouth Court	12
Plymouth Place	12

<b>ROAD NAME</b>	<b>PORTION OF STREET RIGHT-OF-WAY OUTSIDE CURB FACE (MEASURED IN FEET)</b>
Reading Avenue	12
Reading Boulevard	14
Reading Boulevard (Logan to Clayton)	12
Regency Drive	12
Ridgewood Road	10
Robert Road	35
Robin Road	12
Rose Virginia Road	13
Seiberts Court	10
Seventh Street	10
Sixth Street	10
Southhampton Drive	12
Spring Street	10
Spring Street (State Hill to N/Wyo. Blvd.)	11
Spruce Lane	10
Squire Court	12
State Hill Road	16
Sturbridge Court	12
Sturbridge Drive	12
Summit Avenue	12
Sunnyside Avenue	18
Tanager Drive	8
Telford Street	10
Terrace Avenue	12
Tewkesbury Drive	12
Thrush Road	12
Timberline Drive	12
Trent Avenue	12
Trent Place	13
Tulpehocken Road	N/A
Upland Road	Insufficient Data
Valley Road	13
Van Reed Road	13
Van Steffy Avenue	12
Vireo Drive	12
Vista Road	13
Warwick Drive	12
Wayne Avenue	12
Wellington Boulevard	12
Wickford Place/Court	12
Windsor Street	10
Wingert Road	13
Woodland Road	15
Woodside Avenue	10
Wroxham Drive	12

<b>ROAD NAME</b>	<b>PORTION OF STREET RIGHT-OF-WAY OUTSIDE CURB FACE (MEASURED IN FEET)</b>
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Figure 1: Part 77 Surface Areas



## Reading Regional Airport Surface Area Map



## **BOROUGH OF WYOMISSING**

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EXHIBIT "A"  
NEW ZONING MAP INCLUDING ZONING DISTRICT BOUNDARY CHANGES AND  
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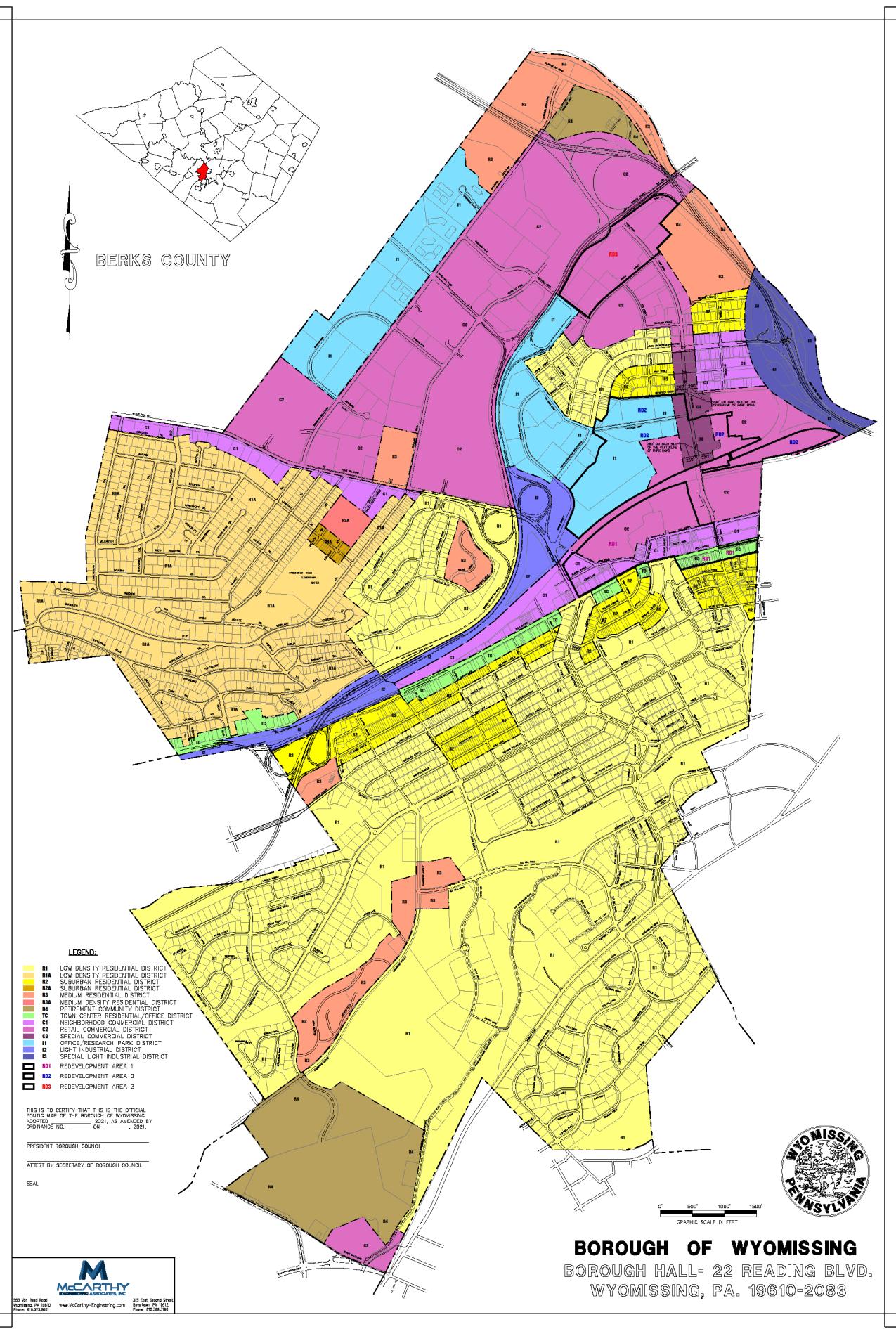


EXHIBIT "B"  
PRIOR ZONING MAP WITH HIGHLIGHTS SHOWING LOCATIONS WHERE ZONING  
DISTRICT BOUNDARIES ARE CHANGING ON THE NEW ZONING MAP

