

ARTICLE VI - RESIDENTIAL STANDARDS

601 Cluster Residential Development

Cluster residential development is permitted in the R-1 District, and in addition to the other applicable criteria in this Ordinance the following standards shall apply:

601.1 Applications

Cluster development applications shall be processed concurrently with the subdivision approval procedures set forth in the Borough Subdivision and Land Development Ordinance and all applicable development requirements of said Ordinance shall apply.

601.2 Minimum Size

A minimum parcel size of two (2) acres shall be required and all lands, including open space, proposed for a cluster development shall be contiguous.

601.3 Individual Lots and Density

Individual building lots may be reduced to a size of five thousand (5,000) square feet; however, the overall density on the parcel shall be maintained as required by this Zoning Ordinance. The number of units permitted shall be determined by one of the following two (2) methods:

- A. The Applicant shall submit a subdivision plan for the parcel as if it were to be developed in accord with all the standards and requirements in this Zoning Ordinance and the Borough Subdivision and Land Development Ordinance for a normal (i.e., non-cluster) single-family residential subdivision served by the Borough water supply and the Borough sewage disposal system. Any lot which, due to slope, soil, wetlands or other limitation, does not contain a suitable area for erecting a dwelling and associated improvements using normal development and building practices, shall not be considered a "buildable lot" for the purposes of this §601; and such determination shall be made by the Borough.
- B. Deduct the following areas
 - 1. Land contained within public rights-of-way;
 - 2. Land contained within the rights-of-way of existing or proposed private streets and parking areas (where formal rights-of-way are not involved the width of the street shall be assumed as fifty [50] feet wide);
 - 3. Land contained within the boundaries of easements previously granted to public utility corporations providing electrical or telephone service, and any petroleum products pipeline rights-of-way; and any petroleum products pipeline and railroad rights-of-way;
 - 4. The area of water bodies including lakes, ponds and streams (measured to the normal high water mark

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on each side); wetlands; quarries; areas with slope in excess of twenty-four (24) percent or greater; and areas used for improvements, from the total area of the project parcel and multiply the remainder by the applicable density of the District.

601.4 General Planning Criteria

- A. Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural site features.
- B. Cluster open space shall include irreplaceable natural features located in the tract (such as, but not limited to stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).
- C. Individual lots, buildings, and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen area devoted to motor vehicle access.
- D. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and the land.
- E. Special attention shall be given to storm water management due to existing storm water problems in the Borough; and special controls may be required.

601.5 Open Space and Improvements

All areas of a cluster development not conveyed to individual lot owners and not occupied by required or proposed development improvements shall be dedicated in perpetuity as permanent open space to be used for the sole benefit and enjoyment of the residents of the development.

A. Open Space Characteristics

- 1. A minimum of twenty-five (25) percent of the gross area of the project parcel shall remain as open space and the location and configuration of the open space shall be suitable for recreation purposes and shall be approved by the Borough.
- 2. The buffer area required by §601.10 shall be considered open space for the purposes of this §601.5.
- 3. Open space areas shall be part of the project parcel and shall be contiguous and shall be maintained as open space and may not be separately sold, subdivided, developed or used to meet open space requirements for other developments.
- 4. At least fifty percent (50%) of the open space shall be usable for active recreation purposes and shall not include wetlands, quarries, slopes in excess of twenty-four percent (24%) or otherwise unusable areas. Open space areas shall be dedicated and preserved as follows.

B. Dedication and Ownership - Ownership and maintenance of open space, common property and improvements

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shall be in accord with Article X of this Ordinance.

601.6 Minimum Lot Dimensions

Minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance.

601.7 Water Supply

The cluster development shall be served by the Borough public water supply system.

601.8 Sewage Disposal

The cluster development shall be served by the Borough sewage disposal system.

601.9 Lot Access

Access for individual building lots shall be provided by development roads only and no individual driveways shall be permitted to encroach upon any public road right-of-way.

601.10 Buffer

A buffer area of fifty (50) feet shall be provided between individual building lots and exterior property lines and/or any public road right-of-way.

601.11 Accessory Structures

Setbacks for accessory structures shall meet the setbacks for principal structures.

602 Two Family Dwellings

Where permitted by the Schedule of Uses, two-family dwellings shall comply with the requirements of this §602 and other applicable standards in this Ordinance.

602.1 Unit Size

Each unit in a two-family dwelling shall contain a minimum of seven hundred (700) square feet of habitable indoor heated floor area.

602.2 Common Wall

In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The area of each lot shall not be less than fifty (50) percent of the minimum lot size required in Part 1 of the Schedule of Development Standards in Article IV of

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this Zoning Ordinance and minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance.

602.3 Over/Under Units

In cases where the two-family dwelling consists of two (2) dwelling units constructed with one(1) unit located on the second floor above a first floor dwelling unit, the lot size shall comply with Part 1 of the Schedule of Development Standards in Article IV of this Zoning Ordinance and minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance. If such a two-family dwelling is proposed on two (2) or more separate lots of record, said lots shall be combined into one (1) lot prior to the issuance of a Zoning Permit.

602.4 Conversions -- See §604 of this Ordinance.

603 Multi-Family Dwellings

Multi-family projects are permitted in certain districts in accord with the Schedule of Uses in order to provide the opportunity for the development of a variety of housing types in the Borough.

603.1 Procedure

Multi-family projects shall be considered major subdivisions and land developments subject to the Borough Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision. Application for preliminary approval of multi-family dwelling projects, accordingly, will be made to the Borough Planning Commission in the manner provided in the Subdivision Ordinance. The developer shall also submit all information required by said Ordinance in addition to the following additional information:

- A. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Borough. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- B. Open Space - A schedule or plan, and proposed agreement(s) either with the Borough or a property owners' association for the purpose of dedicating, in perpetuity, the exclusive use and/or ownership of the open space required by this Ordinance to the prospective dwelling owners or occupants. Such agreement may be incorporated in the applicant's proposed covenants and restrictions, but shall in any event, provide to the satisfaction of the Borough that maintenance and use of the property, regardless of ownership, be restricted to either (1) activities intended for the sole benefit of the occupants of the particular project proposed or, (2)

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permanent open space as hereinafter provided.

- C. Procedure - The application package shall be processed on a schedule concurrent with requirements for review and approval of other Preliminary Plans pursuant to the Borough Subdivision Ordinance.
- D. Covenants and Restrictions - A copy of the recorded or to be recorded covenants and restrictions that shall run with the land, providing for the maintenance, repair, replacement and reconstruction of common areas, on-site infrastructure, common easements, on-site utilities, buildings, storm water system(s), and such other common items (property owners association, assessments, insurance, etc.) to properly maintain the character of the zone as required by this Ordinance and other ordinances of the Borough of Clarks Summit. See also Article X.

603.2 Bulk and Density Standards

All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous. The following standards shall apply:

STANDARD	Garden Apartments	Townhouses	Apartment Buildings	Two-Family Dwellings*
Minimum size for project parcel (sq ft)	12,000	12,000	9,000	12,000
Density -- minimum square feet of land area per dwelling unit	4,000	4,000	3,000	4,000
Minimum habitable indoor heated floor area per DU (sq ft)	600	700	600**	700
Maximum number of DU's per building	12	8	none	not applicable
Minimum lot dimensions (feet)				
lot width	90	90	90	90
lot depth	100	100	100	100
front yard	30	30	30	30
rear yard	25	25	25	25
side yard	10	10	10	10
Maximum lot depth to width ratio	3.5 : 1	3.5 : 1	3.5 : 1	3.5 : 1
Maximum building height				
stories	3	3	4	2.5
feet	35	35	50	35
Maximum lot coverage (percent)	50	75	75	50
ADDITIONAL TOWNHOUSE STANDARDS				

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STANDARD	Garden Apartments	Townhouses	Apartment Buildings	Two-Family Dwellings*
Minimum lot size for townhouse units for individual sale				1,200 square feet
Minimum lot width at house location				18 feet
Minimum street frontage				18 feet
Minimum front and rear yard setback				15 feet front / 10 feet rear
Minimum side yard setback for end unit				15 feet
Maximum lot coverage for individual townhouse parcels				80%
DU - dwelling unit.				
*As part of a multi-family project (See definition of <i>multi-family project</i>).				
**May be reduced to 450 sq ft for units specifically limited to persons over 55 years old and their spouses and/or the physically handicapped.				

603.3 Design Criteria

The following design criteria shall apply to multi-family projects:

- A. **Road/Parking Setbacks** - No structure in a multi-family project shall be constructed within fifteen (15) feet of the edge of the shoulder of any access road to or through the development or within five (5) feet of any parking area.
- B. **Road Standards** - Access roads through the development shall comply with the street requirements of the Borough Subdivision Ordinance for minor roads.
- C. **Building Separation** - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.
- D. **Buffers** - Buffers, not less than eight (8) feet in width shall be provided in accord with §701.1 of this Ordinance where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any R-1 or R-2 District, or any right-of-way of any arterial street abutting the rear of the project. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Borough.
- F. **Pedestrian Access** - Walkways of such design and construction as approved by the Borough shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Borough Subdivision Ordinance.
- G. **Trash Storage** - Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
- H. **Architectural Renderings** - Preliminary architectural renderings, models or photos should be provided for multi-family projects of more than ten (10) dwelling units

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I. Townhouses - The following additional standards shall apply to townhouses:

1. **Facade Changes** - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses. This can be met by varying setbacks between an attached garage and a dwelling, or varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
2. **Width** - Each townhouse dwelling unit shall have a minimum width of eighteen (18) feet.
3. **All townhouses must provide covenants and restrictions applicable to each Townhouse which provides for exterior and common area maintenance, repairs, replacement, separate utility service to each townhouse, townhouse property owners association, separate boundaries for each townhouse, restriction to use of the townhouse for single family residence only, liability insurance for the common areas, building insurance for the townhouse and such other covenants and restrictions as are common to "model townhouse (or condominium) declaration of covenants and restrictions". See also Article X.**

603.4 Non-Residential Use

Non-residential uses and home occupations which employ other than unit residents shall not be permitted in a multi-family dwelling. Such ancillary facilities as laundry areas, service buildings, recreational facilities and the like for the use of the residents of the project shall be permitted.

603.5 Conversions of Existing Structures

Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve structural alteration, shall be subject to the provisions of this §603, including but not limited to §603.2. (See also §604).

603.6 Common Property Ownership and Maintenance

In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Borough in accord with Article X of this Ordinance. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject project.

604 Conversion to Dwellings

Any conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units shall comply with the standards in this §604 and the other requirements applicable to the dwelling type to which conversion is proposed.

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604.1 General Requirements

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units, or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to dwelling unit, habitable indoor heated floor area, lot coverage, dimensions of yards and other open spaces, off-street parking, and other applicable standards.

604.2 Structural Alterations

If the proposed project involves structural alterations, the preliminary plan shall include a certification of a registered architect or engineer that the existing building is structurally sound and that the proposed conversion will not impair its structural integrity.

605 Group Homes

Group homes shall be permitted in any lawful dwelling unit in accord with this §605 and other applicable standards of this Zoning Ordinance.

605.1 Definition

See definition in Article III.

605.2 Supervision

There shall be adequate supervision as needed by an adequate number of person(s) trained in the field for which the group home is intended.

605.3 Certification

The use shall be licensed or certified under an applicable State, County or Federal program for group housing, if applicable. A copy of any such license or certification shall be filed with the Borough, and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Borough within 14 days if there is a change in the type of clients, the sponsoring agency, the maximum number of residents or if an applicable certification/license expires, is suspended or withdrawn.

605.4 Registration

The group home shall register its location, general type of treatment/care, maximum number of residents and sponsoring agency with the Zoning Officer annually. Such information shall be available for public review upon request.

605.5 Counseling

Any medical or counseling services provided on the lot shall be limited to residents and a maximum of three (3)

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nonresidents per day.

605.6 Parking

One off-street parking space shall be provided for each employee on duty at any one time, and every two (2) residents of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than five (5) spaces shall not be visible from any adjacent public road and adjacent property(ies) and otherwise meeting the requirements of §701.1 of this Zoning Ordinance.

605.7 Appearance

If the group home is within a residential district, the building shall be maintained and/or constructed to ensure that it is closely similar in appearance, condition and character to the other residential structures in the area. No exterior signs shall identify the type of use.

605.8 Number of Residents

The following maximum number of persons shall reside in a group home, including the maximum number of employees/supervisors and/or care providers routinely in the group home at any point in time:

- A. Single Family Detached Dwelling with minimum lot area of 10,000 square feet and minimum building setbacks as provided in this Ordinance; eight (8) total persons.
- B. Any other lawful dwelling unit: six (6) total persons.

606 Unit for Care of Relative

606.1 Definition

See definition in Article III.

606.2 Occupancy

The unit shall be restricted to a "relative" (as defined by Article III) of a permanent resident of the principal dwelling unit on the property. A maximum of two (2) persons may inhabit such a unit.

606.3 Care Requirement

Such relative shall need care and supervision because of old age, disability, handicap or illness.

606.4 Unit Design

Each unit shall be designed and installed in such a way that it can easily be reconverted into part of the principal dwelling unit after such relative no longer lives within it. Once such unit is no longer occupied by such relative, the

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dwelling shall be reconverted into part of the principal dwelling unit or be completely removed within one hundred and eighty (180) days.

606.5 Permit

Such unit shall require a permit, which shall be renewed every two (2) years. The occupants of the principal dwelling unit shall annually report the name and relationship of such occupant to the Zoning Officer.

606.6 Removal of Unit

When any unit permitted under this §606 is required to be removed, there shall be no physical evidence visible from exterior to the lot lines that such apartment existed, other than possibly the expanded size of the dwelling.

606.7 Exterior Appearance

Such unit shall not detract from the single family residential exterior appearance of a dwelling.

606.8 Entrance

The unit shall maintain at least one (1) interior connection to the principal dwelling unit. The unit shall not have its own electric or water meter.

606.9 Structural Connection

Such unit shall be connected to or within the principal dwelling unit.

607 Mobile Home Parks

607.1 Conditional Use

Mobile home parks are considered conditional uses in the R-1 District and shall comply with the requirements of this §607 and the applicable standards in the Borough Subdivision and Land Development Ordinance as amended. In cases where the standards in this §607 and the Subdivision and Land Development Ordinance conflict, the standards in this §607 shall apply.

607.2 Reserved

607.3 Procedures

A mobile home park or expansion of a mobile home shall be considered a land development as defined by the Pennsylvania Municipalities Planning Code and an application for the development of a mobile home park shall be processed in accord with all the procedures established by the Borough Subdivision Ordinance for major subdivisions and land developments in addition to the requirements of §1108 of this Ordinance.

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607.4 Parcel Size; Density; Mobile Home Sites

The minimum parcel size for a mobile home park shall be two (2) acres and the overall density of a mobile home park shall not exceed eight (8) units per acre. Each mobile home site shall have a minimum area of three thousand (3,000) square feet for exclusive use of the occupants of the mobile home placed upon the lot. Minimum lot widths and depths shall be forty-five (45) feet. Each mobile home lot shall be defined by metes and bounds on a survey and shall be shown as such on the development plan, and markers shall be installed at each corner of every lot.

607.5 Slope

The longitudinal gradient and cross slope of any mobile home lot shall not exceed five (5) percent, except for terracing at the periphery, and the minimum slope in any direction shall be one (1) percent.

607.6 Mobile Home Placement

Each mobile home lot shall be improved to provide a permanent foundation for the placement and tie-down of the mobile home, thereby securing the structure against uplift, sliding, rotation and overturning.

- A. **Stability** - The mobile home site shall not heave, shift or settle unevenly under the weight of the mobile home, due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
- B. **Anchors** - The mobile home site shall be provided with anchors and tie-downs, such as cast-in-place concrete "deadman", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home. Anchors and tie-downs shall be placed at least at each corner of the mobile home site, and each shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.
- C. **Skirting** - All mobile homes shall be enclosed from the bottom of the mobile home to the ground or paving using industry approved fire resistant skirting material.
- D. **Setbacks** - Each mobile home shall be located not less than thirty (30) feet from the front lot line of the park; nor less than twenty (20) feet from the side and rear lot lines of the park, from the curb or edge of shoulder of any park street, and from any building or other mobile home; nor less than ten (10) feet from any side or rear mobile home lot line.

607.7 Soil and Ground Cover

All areas of a mobile home park disturbed during the development process and not covered by improvements shall be stabilized and protected with such vegetative growth as necessary to prevent soil erosion and the emanation of dust during dry weather. Such vegetation shall be maintained by the park owner in such condition as to provide continued soil protection.

7.8 Storm Water and Drainage

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Mobile home parks shall be designed to insure that all surface water is drained in a safe and efficient manner away from mobile home sites.

607.9 Buffers and Screening

A buffer area shall be provided around the mobile home park. No mobile home lot shall be located closer than twenty-five (25) feet to any public road right-of-way or closer than twenty-five (25) feet to any other exterior property line. All mobile home parks shall be required to provide screening such as fences, or plant materials along the property boundary line separating the park and any adjacent use. Plantings shall provide an effective screen to a height of five (5) feet at the time of planting and an effective screen to a height of eight (8) feet within five (5) years. These buffer strips shall be properly maintained at all times.

607.10 Streets, Parking and Access

- A. **Streets** - Mobile home park streets shall be provided, designed and constructed in accord with the standards for mobile home park streets in the Borough Subdivision Ordinance.
- B. **Parking** - Parking shall not be permitted on roads or drives within the mobile home park, but shall be restricted to designated parking areas either at each mobile home site or at a common location. Off-street parking for two (2) motor vehicles shall be provided at each mobile home lot and off-street, common parking areas for additional vehicles of park occupants and guests shall be provided at a rate not less than one (1) space per five (5) mobile home lots. These spaces shall be improved to a grade not greater than eight percent (8%) and shall be paved with a minimum six (6) inches depth of select material approved by the Borough Engineer.
- C. **Access** - There shall generally be at least two (2) points of ingress and/or egress in each mobile home park from any one (1) public right-of-way (emergency accesses excepted) and all driveways to individual units along a public right-of-way shall front on an interior access drive.
- D. **Lot Frontage** - Mobile home sites and parking spaces shall have direct access to and frontage on the interior park street system. Mobile home sites and parking spaces shall not front or have access directly to public roads or streets or to private roads or streets passing through the mobile home park and providing access to other parcels or developments.
- E. **Illumination** - All mobile home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights, as will provide adequate levels of illumination for the safe movement of pedestrians and vehicles at night.
- F. **Curbs and Gutters** - Curbs and sidewalks shall be provided and constructed according to the basic standards of the Borough Subdivision and Land Development Ordinance, however, curbs may be the rolled type and the width of sidewalks may be reduced to three (3) feet.

607.11 Recreation Area

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A common recreational area of land, consisting of six (6) percent of the total area of the park, but not less than ten thousand (10,000) square feet shall be maintained within the park for the common use of park residents only. This area shall generally be suitable for active recreation and shall be of suitable configuration, with less than ten (10) percent slope and free of hazards to permit recreational use. Fifty (50) percent of this area shall be designed, equipped and properly maintained for active recreational use in the mobile home park. Plans for development of the recreational area and facilities shall be submitted by the applicant for approval by the Borough.

607.12 Landscaping and Outdoor Living Requirements

- A. Landscaping - Screen planting shall be provided to adequately and effectively screen objectionable views within a reasonable time; views to be screened including laundry drying yards, garbage and trash collection stations, non-residential uses, and rear yards of adjacent properties. Other plantings shall be adequate in size, quantity, and character to provide an attractive setting for the mobile homes and other improvements, to provide adequate privacy and pleasant outlooks for living units, to minimize reflected glare and to afford summer shade. An overall landscaping plan shall be submitted by the developer for approval by the Borough. All landscaping and associated vegetation shall be maintained in a good and healthy condition.
- B. Private Area - Private outdoor living and service space shall be provided for each mobile home and shall be partially paved or otherwise surfaced to provide a durable, mud and dust-free surface. The minimum area shall be not less than three hundred (300) square feet with the smallest dimension of fifteen (15) feet. The paved area shall be not less than one hundred (100) square feet with the smallest dimension of eight (8) feet.

607.13 Non-Residential Uses

No part of any park shall be used for non-residential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

608 Mobile Homes on Individual Lots

Mobile homes proposed as dwellings which are placed on lots not in a mobile home park shall comply with all Borough regulations applicable to single-family residential dwellings.

609 Reserved

610 Bed and Breakfast Establishments

Bed and breakfast establishments are considered conditional uses in certain districts as set forth in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards in this Zoning Ordinance.

- A. Adequate off-street parking is provided in accord with §504 of this Ordinance with the minimum number of parking spaces provided as follows: one (1) space for each rentable room; one (1) space for each non-resident employee, and two (2) spaces for the dwelling unit.

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- B. Not more than five (5) rentable rooms are provided in the establishment.
- C. The owner/manager of the bed and breakfast must reside on the premises.
- D. Not more than two (2) non-resident employees shall be permitted.

611 Hotels, Motels, and Lodging Facilities

This section is intended to provide specific conditional use standards for the development of hotels, motels and other lodging facilities at unit densities that allow full use of the project parcel while at the same time recognizing the limitation of the proposed site. Specific performance standards are provided to allow for flexibility of design and to insure the protection of adjoining properties and the public health, safety and general welfare. Hotels, motels and lodging facilities are considered conditional uses in certain Districts as set forth in the Schedule of Uses.

611.1 Density

Density of units and facilities shall be determined by the character of the project parcel and compliance with the standards in this Section 611 and this Ordinance, and other applicable Borough regulations.

611.2 Design Criteria

- A. Yard, building height, lot width and depth, and lot coverage ratios applicable to the District shall be maintained.
- B. In cases where the project parcel adjoins a Residential District or where a project structure(s) exceed(s) fifteen hundred (1,500) square feet in total floor area, larger front side and rear yards or buffers may be required in accord with §701.1 of this Ordinance.
- C. All facilities in a hotel, motel or lodging facility project shall be on the same parcel of property and shall not contain any commercial facility unless such commercial facility is otherwise permitted in the District where the subject property is located.

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**ARTICLE VII
PERFORMANCE STANDARDS AND ENVIRONMENTAL PROTECTION**

701 Performance Standards Applicable to All Non-Residential Uses in All Districts

The intent of this §701 is to regulate the development and operation of all development in the Borough and to protect the environment and the public health, safety and general welfare. The following performance standards shall apply to all commercial, manufacturing and other non-residential uses.

701.1 Yards and Buffers

Unless otherwise regulated by this Ordinance, where a commercial (HC or HC1 District), or a residential professional (RP District) or manufacturing (MI District) or a railway utility (RU District) use is proposed contiguous to any existing residential use or any R-1, R-2, or R-3 District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer not less than ten (10) feet in width shall be provided in accord with this §701.1. This shall not apply in the CC District.

In the case of conditional uses and special exceptions or to meet the requirements of this Ordinance, landscaped buffers may be required by the Borough in any yard in order to assure the protection of adjoining uses by providing visual barriers that block the certain uses or requirements as provided in this Ordinance.

- A. In determining the type and extent of the buffer required, the Borough shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
- B. The width of the required buffer, as determined by the Borough, shall not be less than ten (10) feet.
- C. A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than six (6) feet in height will be formed within three (3) years of planting.
- D. Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than four (4) feet; however, all clear sight triangles shall be maintained.
- E. In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Borough shall determine that the proposed use and adjoining use(s) are not incompatible.
- F. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for "land developments" in the

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Borough Subdivision and Land Development Ordinance. It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating landscape material.

701.2 Landscaping

A landscaping plan for the proposed project shall be prepared by the developer for review and approval by the Borough. Landscaping shall be considered an improvement for the purposes of regulation by the Borough Subdivision and Land Development Ordinance. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.

- A. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
- B. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
- C. Plants shall be of a type which are proven successful in the Borough's climate.
- D. Where landscaping is required to serve as a buffer (e.g., between the project and adjoining properties or between buildings and parking areas) the plants used shall be of the evergreen type and of adequate size to provide an effective buffer within a reasonable number of years.
- E. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
- F. All unusable areas in and around parking areas shall be landscaped.
- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Plastic landscape materials shall not be used.
- I. All trees to be planted shall have a trunk diameter of at least one (1) inch as measured one (1) foot above the ground.
- J. Ground cover shall be spaced to allow for complete fill-in within one (1) year of the date of planting.
- K. All shrubs not used for ground cover shall be at least five (5) gallons in size.
- L. Adequate soil preparation in accord with accepted landscape industry practices shall be required.

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M. All landscaping shall be maintained in good growing condition by the property owner.

701.3 Operations and Storage

All facilities and operations of the principal use including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building; or shall, as required by the Borough as a conditional use, be provided with larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way. Storage of equipment, supplies, products or any other materials shall not be permitted in any front yard or side yard except for automobile dealers and similar sales businesses which generally require the outdoor display of items for sale. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted except in the HC and MI Districts, and for temporary storage at construction sites. (See §503.7,C,1.)

701.4 Fire and Explosion Hazards

All activities involving any manufacturing, production, storage transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Borough if the nature of the proposed use as determined by the Borough so requires.

701.5 Radioactivity or Electric Disturbance

No activities shall be permitted which emit dangerous radioactivity, electrical disturbance or electromagnetic radiation adversely affecting the operation of any person or any equipment other than that of the creator of such disturbance. All applicable Federal regulations shall apply.

701.6 Noise

The maximum sound pressure level radiated by any use or facility at any lot line shall not exceed the values in the designated octave bands listed in Table 1, after applying the corrections shown in Table 2. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., as designated by the Borough Council.

- A. Maximum Levels - Maximum permissible sound pressure levels at the lot line for noise radiated continuously from any facility or activity between the hours of 9:00 p.m. and 7:00 a.m. shall be as listed in Table 1.
- B. Corrections - If the noise is not smooth and continuous, and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one (1) or more of the corrections in Table 2 shall be applied to the decibel levels in Table 1.

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TABLE 1	
Frequency Band (cycles/second)	Sound Pressure Level (decibels re 0.0002 dyne/cm)
20-75	69
76-150	60
151-300	56
301-600	51
601-1,200	42
1,201-2,400	40
2,401-4,800	38
4,801-10,000	35

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TABLE 2	
Type of Operation OR Character of Noise	Correction in Decibels
Day time operation only	+ 5
Noise source operation less than: a. 20% of any one-hour period b.. 5% of any one-hour period c.. 1% of any one-hour period	a. + 5* b. +10* c. +15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, scream, screech, etc.)	-5
* Apply only one of these corrections.	

C. Exemptions - The maximum permissible sound levels of this §701.6 shall not apply to any of the following noise sources:

1. Sound needed to alert people about an emergency or building, equipment, or facility security alarms.
2. Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
3. Household power tools and lawn mowers between the hours of 7:00 a.m. and 9:00 p.m.
4. Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
5. Agricultural activities, but not exempting kennels.
6. Motor vehicles when used on public streets in accord with state regulations.
7. Railroads and aircraft.
8. Public celebrations, specifically authorized by the Borough, the County, state or federal government body or agency.
9. Unamplified human voices.
10. Routine ringing of bells or chimes by a place of worship or municipal clock.

D. Professional Studies and Costs - If the Borough determines that professional analysis is required to enforce this §701.6 for a particular situation, the owner shall reimburse the Borough for such reasonable costs of such analysis. In addition, the Zoning Officer may base a determination under this §701.6 on a written study prepared and certified by a qualified professional and submitted by an affected party. Any such study shall state the methods used and the credentials of the involved professional(s).

701.7 Vibration

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No vibration shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness. This requirement shall not apply to occasional blasting conducted in accord with applicable regulations that may be necessary during construction of streets, structure and utilities.

701.8 Lighting and Glare

Lighting shall be controlled in both height and intensity to maintain community character; and lighting design should be an inherent part of the project design. The standards of the Illuminating Engineering Society shall be used a guideline for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site; and all required lighting shall be considered improvements for the purpose of regulation by the Borough Subdivision and Land Development Ordinance.

- A. Exemption - This 5701.8 shall not apply to street lighting that is owned, financed or maintained by the Borough or State.
- B. Areas to be Lighted - All access ways, off-street parking areas and areas of intensive pedestrian use shall be adequately lighted for safety purposes. Appropriate lighting fixtures shall be provided for walkways and to identify steps, ramps, and directional signs.
- C. Shielding - No light source shall be exposed to the eye except those covered by globes or diffusers so that the lights are fully shielded to project the light below the horizontal plane of the lowest point of the fixture. Other lighting shall be indirect or surrounded by a shade to hide visibility of the light source.
- D. Glare - No direct or sky-reflected glare, whether from overhead lighting, floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the property line.
- E. Nuisances - The intensity, height and shielding of lighting shall provide for adequate and proper safety, and shall not be a nuisance or hazard to drivers and residents of the Borough.
- F. Height - The maximum height of light standards shall not exceed the maximum building height of the district but in no case greater than thirty-five (35) feet. This limitation shall not apply to lights needed for air safety nor lights intended solely to illuminate an architectural feature of a building.
- G. Type - The use of mercury vapor lighting shall be prohibited.
- H. Flashing - Flashing, flickering or strobe lights are prohibited, except for non-advertising seasonal lights between October 25th and January 10th.

701.9 Reserved

701.10 Odors

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

701.11 Other Forms of Air Pollution

No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.

701.12 Surface and Ground Water Protection

All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Borough may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Borough. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies. No use shall be permitted which would result in the depletion of ground water supplies.

701.13 Storm Water Management and Soil Erosion Control

A Storm water management plan and soil erosion control plan may be required by the Zoning Officer, Planning Commission, Borough Council or Zoning Hearing Board, as the case may be, for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Borough Subdivision Ordinance or other applicable Borough regulations and County Conservation District standards and shall be based on generally accepted engineering principles appropriate for the proposed use.

701.14 Waste Materials

No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable state and federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir, sewage or storm water disposal system, stream, open body of water or onto the ground.

701.15 Handicapped Access

Access for handicapped persons to all uses shall be provided in accord with all applicable state and federal requirements.

701.16 Architectural Rendering

Applications which include the exterior renovation of non-residential structures or the construction of new non-residential

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structures shall include a rendering to enable the Borough to assess the effect of the renovation or construction on the character of the district.

701.17 Other Regulations

The Zoning Officer, Planning Commission, Borough Council or the Zoning Hearing Board, as the case may be, may require documentation from the Applicant demonstrating that the project complies with all other applicable local, state and federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including but not limited to the PA Department of Transportation, the PA Department of Environmental Resources, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

702 Placement And Screening of Waste Containers

702.1 Screening

All trash dumpsters shall be screened on three (3) of four (4) sides (not including the side it is to be emptied from) as needed to screen the dumpster from view from public streets or dwellings on abutting lots. A solid-wooden fence, brick wall, evergreen plants or structure designed to be architecturally compatible with the principal building shall be used for such screening.

702.2 Setback from Dwellings

If physically possible, any solid waste container with a capacity over fifteen (15) cubic feet shall be kept a minimum of fifteen (15) feet from any window or door of a dwelling unit on an abutting lot.

702.3 Food Sales

Any use that involves the sale of ready-to-eat food for consumption outside of a building shall provide at least one (1) outdoor solid waste receptacle for customer use at a convenient location outside of the main exit door of the property. The operator of such use shall be responsible for regular emptying and maintenance of such receptacle.

702.4 Enclosed Containers

Solid waste receptacles stored outdoors shall be adequately enclosed and covered to control the attraction of rodents and insects.

703 Environmental Impact Statement

The intent of this 5703 is to provide the identification of environmental and community impacts and means of mitigation of impacts of development projects in the Borough. The Borough Council, Planning Commission, or Zoning Hearing Board, as applicable, may, based upon the nature of a project and potential impacts on the Borough, require the developer to prepare and submit to the Borough an environmental impact statement (EIS) for the following types of developments and uses:

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1. Industrial parks
2. Manufacturing or industrial uses
3. Junkyards
4. Natural resource uses
5. Natural resource uses processing
6. Agricultural products processing
7. Solid waste facilities and staging areas
8. Warehouses and trucking terminals
9. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas
10. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas
11. Any use involving development in any floodplain area
12. Any conditional use
13. Any special exception

The requirements of this §703 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Borough, warrants the application of the study required contained herein in order to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Borough Council, Planning Commission, or Zoning Hearing Board, as applicable, may waive certain components of the EIS should such components be deemed unnecessary for certain uses.

703.1 Purpose of EIS

The purpose of this EIS is to disclose the environmental consequences of a proposed action for consideration by the Borough for the determination of approval or denial of the project, and, if the project is approved, for the establishment of conditions of approval. This requirement is made in order to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of all kinds, flooding and waste disposal and to preserve trees and vegetation, to protect water courses, air resources and aquifers.

703.2 Contents of EIS

An Environmental Impact Statement shall include a description of the proposed use including location relationship to other projects or proposals,, with adequate data and detail for the Borough to assess the environmental impact. The EIS shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships.

At a minimum, the EIS shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts; and said proposal shall comply with all other standards included in this Ordinance and other Borough Ordinances:

A. Soil Types

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1. U.S.D.A. Soil Types (show on map)
2. Permeability of soil on the site.
3. Rate of percolation of water through the soil for each five acres.

B. Surface Waters

1. Distance of site from nearest surface water and head waters of streams.
2. Sources of runoff water.
3. Rate of runoff from the site.
4. Destination of runoff water and method of controlling down stream effects.
5. Chemical additives to runoff water on the site.
6. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Lackawanna County Conservation District.
7. Said information shall be set forth in a storm water management plan meeting the requirements of the Borough Subdivision Ordinance.

C. Ground Cover Including Vegetation and Animal Life

1. Extent of existing impervious ground cover on the site.
2. Extent of proposed impervious ground cover on the site.
3. Type and extent of existing vegetative cover on the site.
4. Extent of proposed vegetative cover on the site.
5. Type of animal life and effect on habitat.

D. Topographic and Geologic

1. Maximum existing elevation of site.
2. Minimum existing elevation of site.
3. Maximum proposed elevation of site.
4. Minimum proposed elevation of site.
5. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
6. Surface and subsurface geology

E. Ground Water

1. Average depth to seasonal high water table.
2. Minimum depth to water table on site.
3. Maximum depth to water table on site.
4. Quality

F. Water Supply

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1. The source and adequacy of water to be provided to the site.
2. The expected water requirements (g.p.d.) for the site.
3. The uses to which water will be put.

G. Sewage Disposal

1. Sewage disposal system (description and location on the site, of system).
2. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
3. Expected daily volumes of sewage.
4. Affected sewage treatment plant's present capacity and authorized capacity.

H. Solid Waste

1. Estimated quantity of solid waste to be developed on the site during and after construction.
2. Method of disposal solid waste during and after construction.
3. Plans for recycling of solid waste during and after construction.

I. Air Quality

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

J. Noise

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

K. Land Use and Community Character

1. Past and present use of the site with particular attention to storage or disposal of toxic or hazardous waste.
2. Adjoining land uses and character of the area.

- L. Critical Impact Areas - Any area, condition, or feature which is environmentally sensitive, or which if disturbed during construction would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas**

- M. Historic Resources - Identification of structures or sites of historic significance and probable effect of project.**

- N. Transportation Network - Existing network traffic volumes and capacities and need for improvements required**

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by project.

- O. Law Enforcement - Existing law enforcement capabilities of the Borough and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.
- P. Fire Protection - Existing fire protection capabilities of the Borough and mutual aid fire companies; and assess the impact of the proposed development on said companies along with actions proposed to mitigate any burdens created by the development.
- P. Additional Requirements - In addition to the above requirements the Planning Commission and/or Borough Council or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Borough to evaluate the proposed use for its effect on the community.

703.3 Additional Considerations

The following shall also be addressed:

- A. A description of alternatives to the proposed use.
- B. A statement of any adverse impacts which cannot be avoided.
- C. Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.
- D. A list of all licenses, permits and other approvals required by municipal, county or state law and the status of each.
- E. A listing of steps proposed to minimize environmental damage to the site and region during and after construction.

703.4 Qualifications

The EIS shall be prepared by a professional architect, landscape architect, planner, engineer or other qualified individual whose qualifications have been previously approved by the Borough Council.

703.5 Procedures for Evaluating the Environmental Impact Statement Shall be as Follows

- A. Upon receipt of the application the Secretary shall forward the EIS to the Borough Engineer and any other Agency or firm which the Borough may desire for consultation.
- B. The above mentioned Agencies shall review the applicant's EIS and shall report its comments to the Planning Commission and Borough Council or Zoning Hearing Board.

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- C. The Planning Commission and/or Borough Council or Zoning Hearing Board may require the opinion of experts in their review of the EIS.
- D. Fees for the costs of such consultation as described in Subsections "A" and "C" above shall be paid by the applicant.
- E. Copies of the Environmental Impact Statement shall be on file and available for inspection in the Borough office.
- F. The Planning Commission shall evaluate the proposed project and the EIS and recommend action on same to the Borough Council or Zoning Hearing Board.

704 Special Conservation Standards

All uses permitted by this Ordinance shall be subject to the following special conservation performance standards which shall apply to any lands that are characterized as steep slopes, wetlands or flood plains. The procedures and standards are as follows:

704.1 Steep Slope Areas

Steep slopes shall be defined as slopes in excess of twenty-five percent (25%) grade as determined by the Zoning Officer, from United States Geological Survey topographic maps or U.S.D.A. Soil Conservation Service maps. In cases where the slope cannot be specifically determined by said means, the Zoning Officer may require the applicant to provide certification from a Professional Engineer or Registered Land Surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Borough Council and Planning Commission shall be satisfied that the following performance standards have been or will be met:

- A. An accurate map prepared by a Registered Surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. Impervious surfaces are kept to a minimum.
- D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
- E. Where fill is used to later support structures, a minimum compaction of ninety (90) percent of maximum density

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shall be achieved.

- F. No more than seven thousand (7,000) square feet of area may be totally cleared for building purposes including house, garage, accessory structures, driveway or other impervious areas.
- G. At least fifty (50) percent of the area to be used for any building or construction purposes shall be less than fifteen (15) percent slope.
- H. Soils characterized by the Soil Conservation Service as highly susceptible to erosion shall be avoided.
- I. Roads and utilities shall be installed along existing contours to the greatest extent possible.
- J. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
- K. Natural vegetation shall be preserved to as great a degree as possible.
- L. In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

704.2 Wetlands

If the Borough determines that wetlands may be present or may be impacted by the proposed development, the Borough may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Resources, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, to be delineated on any application proposing a new use or expanded use of land. The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated. If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations; and the applicant shall provide to the Borough evidence of such compliance. No zoning approval granted by the Borough shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations; and the Borough shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

704.3 Floodplain

Floodplain shall be governed by the Borough Floodplain Regulations.

705 Earth Disturbance

705.1 Intent

The intent of this §705 is to regulate earth disturbance, minimize storm water runoff and protect soil resources and water quality.

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705.2 Permit

Any activity, except in cases where zoning or subdivision and land development approval has been otherwise granted, which will result in the initial or cumulative earth disturbance of more than two thousand five hundred (2,500) square feet of land area shall require a zoning permit.

705.3 Plan

The Applicant shall include with the application for a zoning permit a plan setting forth the details of the earth disturbance or clear cutting activity and including any additional information deemed necessary by the Borough to determine compliance.

705.4 Soil Erosion and Sedimentation and Storm Water Control

Any earth disturbance or clear cutting activity shall comply with §701.13 of this Ordinance and no earth disturbance or clear cutting shall be permitted within twenty-five (25) feet of any water body or stream.

705.5 Revegetation/Reforestation

The plan shall include provisions for the revegetation and stabilization of any disturbed areas.

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**ARTICLE VIII
STANDARDS FOR SPECIFIC USES**

801 Adult Businesses

801.1 Findings

In adopting these standards which apply to adult businesses, the Borough Council has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of the Borough. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Borough Council, and on findings incorporated in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young v. American Mini Theaters, 427 U.S. 50 (1976), and Northend Cinema, Inc., v. Seattle, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin Texas; Seattle, Washington; Oklahoma City, Oklahoma; Beaumont, Texas; and New York City, New York; and also on findings found in the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, June 6, 1989, State of Minnesota.

- A. The concern over sexually transmitted diseases is a legitimate health concern of the Borough which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
- B. Certain employees of sexually oriented businesses regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- C. Sexual acts occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
- D. Offering and providing such space, encourages such activities, which create unhealthy conditions.
- E. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- F. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
- G. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

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- H. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- I. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- J. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- K. The Borough desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.

801.2 Intent

It is the intent of this §801 to:

- A. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
- B. Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
- C. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
- D. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.
- E. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- F. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

801.3 Conditional Use in the MI District

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Adult businesses are classified as conditional uses in the MI-Manufacturing/Industry District, which provides a suitable area for the development of such uses away from areas with concentrated residential development.

801.4 Standards

In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:

- A. Setback - Adult businesses shall not be located less than fifty (50) feet from any property line or public road right-of-way, and not less than one hundred (100) lineal feet from any:
1. residence or residential district
 2. group care facility
 3. commercial enterprises catering primarily to persons under eighteen (18) years of age
 4. church or synagogue
 5. public or private school
 6. public or semi-public building or use
 7. public park or public recreation facility
 8. health facility
 9. any establishment that sells alcoholic beverages.
- B. Similar Businesses - Adult businesses shall not be located within two hundred (200) lineal feet of any existing adult business.
- C. Measurement : The setback distances established in this §801 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Extension - An existing, lawful adult business may be expanded as a conditional use once in total floor area by a maximum of twenty-five (25) percent beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance. Such extension shall comply with the requirements of §907 and other applicable requirements of Article IX.
- E. Limit of One (1) Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
- F. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §801 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except: as permitted in §5E above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.

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- G. Location of New Neighboring Uses - An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant or renewal of an adult business permit, a use from which an adult business is required to provide a setback under §5A above is developed within the required setback distance. This provision applies only to the renewal of a valid permit, and does not apply when the application for a permit is submitted after a permit has expired or the permit has been revoked.
- H. Reserved
- I. Visibility and Signs: - No sexually explicit material, signs, display, silhouette, or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of §505 of this Ordinance; however, commercial use wall signs shall be limited to a maximum of thirty-two (32) square feet and the freestanding sign shall be limited to a maximum total of thirty-two (32) square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation.
- J. Exemption for Modeling Class: It is a defense to prosecution under this §801 that a person appearing in a state of nudity did so in a modeling class operated:
1. By a proprietary school, licensed by the State, or an academically accredited college or university;
 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
 3. In a structure -
 - a. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - c. where no more than one (1) nude model is on the premises at any one time; or
 4. By an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

802 to 804 **Reserved**

805 **Bulk Fuel Storage Facilities**

In addition to all other applicable standards, bulk fuel storage facilities shall be developed in complete compliance with all applicable local, state, federal and insurance regulations and requirements. The Borough shall establish, as part of the conditional use process, such other conditions such as increased setbacks and construction of dikes as necessary to protect the public health safety and welfare.

806 to 808 **Reserved**

809 **Communication/Reception Antennae**

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The following regulations shall apply to cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission, other commercial antennae and associated facilities, and certain antennae accessory to residential structures. Such antennae and associated facilities shall be permitted only in the districts as provided on the Schedule of Uses.

809.1 Purposes

- A. To accommodate the need for cellular phone and similar antennae while regulating their location and number in the Borough in recognition of the quasi-public nature of cellular phone systems.
- B. To minimize the adverse visual effects of antennae and antennae support structures through proper design, siting and vegetative screening.
- C. To avoid potential damage to adjacent properties from antennae support structure failure and falling ice, through engineering and proper siting of antennae support structures.
- D. To encourage the joint use of any new antennae support structures and to reduce the number of such structures needed in the future.

809.2 Use Regulations

- A. Existing Structures - An antenna site with an antenna that is attached to an existing communications tower, smoke stack, water tower, or other tall structure shall be considered a principal permitted use and conditional use approval shall not be required. The height of the antenna shall not exceed the height of the existing structure by more than ten (10) feet.
- B. New Structures - An antenna site with an antenna that is either not mounted on an existing structure, or is more than ten (10) feet higher than the structure on which it is mounted shall require conditional use approval in accord with this §809.
- C. Associated Use - All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the antenna site, unless otherwise permitted in the zoning district in which the antenna site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
- D. Antennae Accessory to Principal Structures for Other Permitted Uses - Any antenna accessory to a principal structure which is attached to the structure and which does not exceed the maximum height limitation of the district for principal structures by more than fifteen (15) feet, and any freestanding accessory antenna which does not exceed the maximum height limitation of the district for principal structures by more than fifteen (15) feet shall not be regulated by this §809. Any accessory antenna which exceeds said height shall be considered a conditional use and shall comply with the standards of this §809. No antenna accessory to a residential structure shall exceed a height of one-hundred (100) feet.

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- E. Antenna as a Second Principal Use - An antenna facility shall be permitted on a property with an existing use subject to the following land development standards:
1. The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
 2. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the facility shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area and other requirements.
 3. Tile vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
 4. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

809.3 Standards

- A. Location Requirement - The applicant shall demonstrate, using technological evidence, that the antenna must go where it is proposed, in order to satisfy its function in the company's grid system. The number of antenna to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant must document the need for the additional Antenna to ensure the adequacy of current service.
- B. New Tower - If the applicant proposes to build a tower (as opposed to mounting the antenna on an existing structure), the Borough may require the applicant to demonstrate that it contacted the owners of tall structures within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. This would include smoke stacks, water towers, tall buildings, antenna support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Borough may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.
- C. Antenna Height - The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved. No antenna accessory to a residential structure shall exceed a height of one-hundred (100) feet.
- D. Setbacks from Base of Antenna Support Structure - If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing structure), the minimum distance between the base of the support structure and property line shall be not less than the height of the antenna. Lesser setbacks may be approved provided the applicant documents to the satisfaction of the Borough Council that the collapse of the antenna will not affect adjoining properties. All guy wire anchors shall be set back a minimum of thirty (30) feet from all property lines.

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- E. Antenna Support Structure Safety - The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. The tower and antennae shall be designed and constructed to all applicable and most current standards of the American National Standards Institute, and withstand wind gusts of up to 100 miles per hour. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. Within forty-five (45) days of initial operation, the owner and/or operator of the antenna shall provide a certification from a professional engineer that the antenna and support structure comply with all applicable regulations..
- F. Fencing - A fence shall be required around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
- G. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the antenna site from neighboring properties. The Borough may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- H. Co-location; Other Uses - In order to reduce the number of Antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Township for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Township, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- I. Licenses and Other Regulations - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations.
- J. Required Parking - If the antenna site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- K. Color and Lighting - Antenna support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No antenna support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation, and the antenna shall comply with all FAA and PA DOT requirements.

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- L. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
- M. Historic Structures - An antenna shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- N. Discontinued Use - Should any antenna cease to be used as a communications facility, the owner or operator or then owner of the land on which the antenna is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Borough to remove the facility and assess the cost of removal to the foregoing parties. The Borough may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
- O. Site Plan - A full site plan shall be required for all Antenna sites, showing the Antenna, Antenna support structure, building, fencing, buffering, access, and all other items required in the Borough Subdivision and Land Development Ordinance. The site plan shall not be required if the Antenna is to be mounted on an existing structure and the antenna does not exceed the height of the existing structure by more than fifteen (15) feet.

810 to 816

817 Institutions

Institutions are considered conditional uses, and in addition to all other applicable standards, institutions shall be in strict conformity with the following specific requirements and regulations.

817.1 Parcel Size

The parcel size shall be adequate to provide the buffer area required by this Ordinance for adjoining private property owners and to meet all other applicable standards.

817.2 Site Design Standards

The site shall be improved in accordance with the following minimum requirements:

- A. The building shall not be less than seventy-five (75) feet from any property line and the right-of-way line of any abutting public road.
- B. A perimeter security fence may be required by the Borough.

817.3 Security

All applications for institutions shall include a plan addressing security needs to protect the health and safety of the public as well as residents of the proposed facility. Such plan shall include a description of the specific services to be offered,

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types of residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

817.4 Accessory Uses and Ancillary Activities

Accessory uses permitted in conjunction with an institution shall include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other accessory uses ordinarily provided in conjunction with such institutions.

818 to 819 Reserved

820 Junk Yards

Junk yards are considered conditional uses in the MI District. In addition to all applicable requirements of this Ordinance, junk yards shall comply with the requirements of Chapter 10 of the Code of the Borough of Clarks Summit.

821 Reserved

822 Kennels

- A. Parcel Size - A minimum parcel of twenty thousand (20,000) square feet shall be required.
- B. Setbacks - Any structure used for the keeping of animals shall be a minimum of thirty (30) feet from property lines and one hundred (100) feet from any residential use or residential district.
- C. Parking - Adequate off-street parking shall be provided pursuant to the requirements of this Ordinance with one (1) space for each non-resident employee and one (1) space per four (4) animals kept on the premises.
- D. Noise Barrier - Buildings shall be adequately soundproofed so that sounds generated within the building cannot be routinely heard within any adjacent building. A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas not enclosed in a building.
- E. Hours Outdoors - All animals shall be restricted from using kennel areas not fully enclosed in a building from 8:00 p.m. to 8:00 a.m., and runs for dogs shall be separated by visual barriers not less than four (4) feet in height to minimize dog barking.
- F. Nuisances - All animal wastes shall be stored in an area meeting the setbacks in 55B above and shall be

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disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

823 Reserved

824 Livestock Operations and Commercial Stables

- A. Parcel Size - A minimum parcel of two (2) acres shall be required for the residence and stable.
- B. Number of Horses - No more than two (2) horses shall be kept except that one (1) additional horse may be kept for each additional full one (1) acre of land.
- C. Building Size - Two hundred (200) square feet of stable building area shall be provided for each horse kept on the property.
- D. Setbacks - No stable building or corral or other indoor or outdoor area used for feeding of animals or manure storage shall be located within one hundred (100) feet of an adjoining or neighboring property line and seventy-five (75) feet from any public or private road.
- E. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means.
- F. Uses Prohibited - The following types of uses shall not be permitted as part of the horse farm operation:
 - 1. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
 - 2. Commercial horse racing.
 - 3. Sale of horses other than the horses raised on the premises.
 - 4. Retail or wholesale sales of any goods or merchandise.

825 to 835 Reserved

836 Recycling Facilities

The intent of this §836 is to encourage recycling and thereby reduce litter, increase the volume of material which is recycled and conserve landfill capacity by the convenient location of community recycling facilities including collection and processing facilities. Standards are provided to assure that said facilities are developed in a manner consistent with the community's character and which will minimize any negative effects on adjoining residential and commercial uses.

Recycling facilities shall be limited to accepting and processing those materials considered recyclable as defined by this Zoning Ordinance. The inclusion of additional materials for recycling may be considered by the Borough as a conditional use provided the applicant provides evidence that the intent and level of control of this §836 are not compromised.

All recycling facilities shall be considered conditional uses and in addition to the conditional use standards, commercial

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standards, and all other applicable standards in this Ordinance, the standards in this §836 shall apply as indicated. The requirements of this §836 shall not apply to Borough sponsored recycling facilities.

836.1 Small Collection Facilities

In addition to all other applicable standards in this Ordinance, small collection facilities shall comply with the following standards:

- A. Small collection facilities shall be established only in conjunction with an existing commercial use or community service facility which is in compliance with the zoning, building and other Borough Ordinances.
- B. The total area of all containers shall be no larger than five-hundred (500) square feet and occupy no more than five (5) parking spaces, not including space that will be periodically needed for removal of materials or exchange of containers.
- C. All containers shall be set back at least twenty-five (25) feet from any street line and shall not obstruct pedestrian or vehicular circulation.
- D. The facility shall accept only recyclables as defined by this Ordinance.
- E. No power-driven processing equipment shall be permitted.
- F. Containers shall be constructed and maintained with durable waterproof and rustproof material, covered when site is not attended, secured from unauthorized entry or removal of material, and of a capacity sufficient to accommodate materials collected in accord with the collection schedule.
- G. All recyclables shall be stored in containers or in a mobile unit vehicle, and materials shall not be left outside of containers.
- H. The area shall be maintained free of litter and any other undesirable materials, and mobile facilities, at which truck or containers are removed at the end of each collections day, shall be swept at the end of each collection day.
- I. All containers for the deposit of materials shall maintain the setbacks required for the District. Larger setbacks, buffers, or fencing may be required as deemed necessary by the Borough in accord with §701 of this Ordinance.
- J. Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and a notice shall be displayed clearly stating that no material shall be left outside the recycling enclosure or containers.

836.2 Large Collection Facilities

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A large collection facility is one that is larger than five-hundred (500) square feet but does not exceed twenty thousand (20,000) square feet, or is on a separate property not appurtenant to a host use, and which may have a permanent building. The following standards shall apply in addition to all other applicable standards in this Ordinance.

- A. The facility shall be screened from adjoining properties and the public right-of-way by operating in an enclosed building; or within an area enclosed by an opaque fence at least six (6) feet in height with landscaping.
- B. Setbacks and landscape requirements shall be those provided for the zoning district in which the facility is located; All buildings, structures, containers and stored materials shall maintain the required setbacks. Additional buffers, setbacks, or fences may be required by the Borough in accord with 5701 of this Ordinance.
- C. All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition, or recyclables shall be baled or palletized. Storage containers for flammable material shall be constructed of non-flammable material. No storage, excluding truck trailers and overseas containers shall be visible above the height of the fencing.
- D. The site shall be maintained free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis.
- E. Space shall be provided on site for at least six (6) vehicles or for the anticipated peak customer load, whichever is higher, to circulate and to deposit recyclable materials.
- F. Parking shall be provided in accord with the parking regulations contained in this Ordinance; and, at a minimum, one (1) parking space shall be provided for each working employee and for each commercial vehicle operated by the recycling facility.
- G. Any containers provided for after-hours donation of recyclable materials shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials.
- H. All containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.
- I. The facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs shall meet the standards of this Ordinance. Directional signs bearing no advertising message may be installed in accord with this Ordinance, if necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way.
- J. Power-driven processing, including aluminum and bi-metal can compacting, baling, plastic shredding, glass crushing, or other light processing activities necessary for efficient temporary storage and shipment of material, may be approved, provided noise and other operational concerns are addressed to the satisfaction of the Borough.

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836.3 Recyclable Processing Facilities

Recyclable processing facilities, as defined by this Zoning Ordinance, shall comply with all standards applicable to manufacturing uses.

837 to 840 Reserved

841 Self-Storage Facilities

Self-storage facilities shall comply with the following standards in addition to all other applicable standards of this Ordinance.

- A. Minimum lot size, lot width and yards, and maximum lot coverage and building height shall conform to District standards. Minimum distance between buildings shall be twenty (20) feet.
- B. There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).
- C. The facility shall be surrounded by a fence of such height and design as to restrict access to the warehouse, and said fence shall not be less than six (6) feet in height and shall be located between the warehouse and any required vegetative screening.
- D. No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.
- E. No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.
- F. All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.
- G. All storage units shall be fire-resistant and water-resistant.
- H. All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the conditional use application and shall provide specific rules and regulations to insure that the requirements of this §841 are or will be satisfied.

842 to 844 Reserved

845 Shopping Centers, Malls, and Multiple Occupant Commercial Establishments

It is the intent of this §845 to provide standards for the flexibility of design of shopping centers and malls, while at the

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same time to assure the compatibility of the commercial development with the surrounding character of the Borough. This shall be accomplished by:

- A. Siting buildings, parking areas and other facilities and improvements based upon the particular topography of development site;
- B. Designing buildings with consideration of architectural style and type of construction material in keeping with the surrounding landscape and development pattern;
- C. Providing safe and convenient access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
- D. Designing parking areas to complement patterns of traffic flow and to provide adequate off-street parking for shopping center patrons;
- E. Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
- F. Considering the impact of storm water, noise, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts;

845.1 Conditional Use and Land Development

Any proposed shopping center or mall shall be considered a conditional use, and in addition to the other applicable requirements of this Ordinance, shall be subject to the requirements of this 5845.

Said proposal shall also be considered a "land development" as defined by the Pennsylvania Municipalities Planning Code and the Borough Subdivision and Land Development Ordinance and shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Borough may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Borough Ordinances.)

- A. Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and municipal boundary lines, within five hundred (500) feet of the tract;
- B. A traffic flow chart showing circulation patterns from the public right-of-way and within the confines of the shipping center.
- C. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
- D. Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;

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- E. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- F. Location and dimensions of pedestrian entrances, exits, walks;
- G. Location, height, and materials of walls, fences, screen plantings, and other landscaped areas.
- H. Preliminary architectural drawings for all buildings;
- I. Location, size, height, and orientation of all signs other than signs flat on building facades;

845.2 Ownership

The site proposed for any shopping center or mall shall be held in single ownership or in unified control; and the applicant shall provide to the Borough evidence of said ownership and/or control.

846 to 847 Reserved

848 Solid Waste

Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities, shall be considered conditional uses in the MI District only, and shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §848.

848.1 Traffic Study

The applicant shall provide evidence by a professional person or firm competent to perform traffic analysis showing that the traffic generated by the site will not cause a reduction in the level of service on the roads used by said facility. The applicant shall provide copies of the completed traffic analysis to the Chief of Police and the Borough Engineer for review and approval. The Chief of Police and Borough Engineer shall transmit their review in writing to Borough Council, the applicant and other known parties of interest prior to the hearing. If the facility will cause a reduction in the level-of-service approval shall not be granted.

- A. The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any residence, commercial or retail establishment, public school or religious institution.
- B. The traffic impact study and plan shall include proposed remedial actions to be taken in the event of a solid waste spill or accident involving a vehicle transporting solid waste.

848.2 Yards

No part of any facility created after the effective date of this Ordinance shall be located closer than seventy-five (75) feet to an existing public right-of-way, property line or stream. The yard areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than fifty (50) feet in width shall be provided

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in all yards in accord with §701 of this Ordinance. Additional buffers and setbacks may be required in accord with this Ordinance.

848.3 Fencing

All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing facilities and prior to the issuance of a certificate of-use for a new facility. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.

848.4 Environmental Impact Statement

As part of the conditional use process, the Borough may require the applicant to prepare and submit an Environmental Impact Statement pursuant to §703 of this Ordinance.

848.5 Storage and Loading/Unloading

Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three (3) hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only occur within an enclosed building, and over an impervious surface which drains into a holding tank that is then adequately treated.

848.6 Effluent Treatment

The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility after being treated by the wastewater treatment system shall meet all applicable Department of Environmental Protection regulations and Sewer Authority requirements.

848.7 Dangerous Materials

No radioactive, hazardous, chemotherapeutic or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.

848.8 Water Quality

The owner of any facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said

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stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the solid waste disposal facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Council, and results shall be provided to the Borough. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall cease operation until such time as the source of the contamination has been identified and corrected.

848.9 Emergency Access

The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided.

848.10 Hours of Operation

Under the authority granted to the Borough under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, 4th of July, Labor Day, Memorial Day or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.

848.11 Nuisances

Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Borough Council that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of Borough Council that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.

848.12 Attendant and Inspections

An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a Conditional Use Permit, allow access at any time to the facility for inspection by appropriate Borough Officials and provide the Borough with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.

848.13 State and Federal Regulations and Reporting

The operation and day-to-day maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit of the Borough. Violations of this condition shall also be considered to be violations of this Ordinance. All solid waste transfer facilities (as defined by this Ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where no permit is required by DEP, all references to DEP shall be amended to read the

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Borough of Clarks Summit. Where a difference exists between applicable State regulations and Borough regulations, it is intended for the purposes of this §848 that the more stringent requirements shall apply. A copy of all written materials and plans that are submitted to DEP by the applicant shall be concurrently submitted to the Zoning Officer.

849 to 850 **Reserved**

851 **Swimming Pool, Commercial**

Commercial swimming pools, in addition to all other applicable requirements of this Ordinance, shall comply with the standards in this §851.

- A. The water surface shall be not less than twenty-five (25) feet from any lot line.
- B. The minimum lot area shall be twenty thousand (20,000) square feet.
- C. A fence, wall or other enclosure not less than six (6) feet high and of a design to restrict access shall completely surround the area of the swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.
- D. Access to all pools shall be restricted when the pool is not in use.
- E. Any inlet from a central water system shall be above the overflow level of the pool

852 to 855 **Reserved**

856 **Vehicle Related Uses**

Vehicle related uses shall be considered conditional uses in the HC District and, in addition to all other applicable standards, shall comply with the standards in this §856.

856.1 **Car and/or Truck Wash Facilities**

All car and truck wash facilities shall be subject to the following specific regulations and requirements:

- A. The principal building housing the facility shall be located on the site to meet the requirements of this §856.1, but in no case less than the minimum setback requirements of the district.
- B. Appropriate facilities for the handling of waste water from the washing activities shall be provided including, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather.
- C. The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least

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seventy-five (75) feet from the intersections of the front and side street right-of-way lines.

- D. The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three (3) vehicles.
- E. Any wash facility located within one hundred (100) feet of any residential district shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

856.2 Gasoline Service Stations and/or Vehicle or Equipment Repair Operations

All gasoline service stations and/or vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:

- A. The principal building housing the facility shall be located on the site to meet the requirements of this §856.2, but in no case less than the minimum setback requirements of the district.
- B. All service and repair activities shall be conducted within in completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- C. Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than three (3) vehicles per service stall outdoors, it shall comply with the junk regulation set forth in this and other Borough Ordinances.
- D. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- E. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- F. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- G. No vehicles shall be stored within five (5) feet if any adjoining residential zoning district or residential property.
- H. The supports for any gas island canopy shall not be less than fifteen (15) feet from and road right-of-way or property line and the canopy overhang shall be not less than five (5) feet from and road right-of-way or property line.
- I. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume

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collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

856.3 Vehicle or Equipment Sales Operations

All vehicle or equipment display and sales operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific requirements:

- A. All principal and accessory buildings and structures shall be in accord with the yard setback, building height and lot coverage requirements of the District.
- B. No new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers or other equipment or vehicles shall be stored within five (5) feet if any adjoining residential zoning district or residential property.
- C. Activities which are normally accessory to such sales operations, such as engine tuneup and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards in §856.2 above.
- D. In addition to vehicles for sale, only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four (4) vehicles per service stall in exterior areas, it shall comply with the junkyard regulations set forth in this Ordinance. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- E. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- F. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.