

**CHAPTER 27
ZONING
DEFINITIONS**

**ARTICLE III
DEFINITIONS**

301 Rules of Construction and Definitions

The following rules of construction shall apply to this Ordinance:

- A. For the purpose of this Ordinance, certain terms and words are herein defined. Whenever used in this Ordinance, they shall have the meaning indicated in this Article, except where there is indicated in context different meaning.
- B. The particular shall control the general.
- C. The word "shall" and "must" are mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for", "designed for", "intended for", and/or "occupied for."
- F. The word "person" includes "individual," "profit or non-profit organization," "partnership," "company," "unincorporated association," "corporation," or other similar entities.

302 Terms, Phrases and Words Not Defined

When terms, phrases, or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

303 Definitions

For the purpose of this Ordinance, the following words, terms and phrases have the meaning herein indicated:

Abandoned or Junked Vehicle: Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition.

Abused Person Shelter: A residential shelter use in which rooms are provided to serve as a temporary safe and supportive environment for persons who, because of actual or threatened physical or mental abuse, are forced to leave their previous living arrangement. Such facilities shall be designed to provide in-house living for persons only until a safe, permanent living arrangement can be obtained.

Accessory Use or Structure: A use of land or of a structure or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A portion of a principal building used for an accessory use shall not be considered an accessory structure.

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Access Point: One combined entrance/exit point or one clearly defined entrance point, or one clearly defined entrance point separated from another clearly defined exit point. This term shall not include access ways or driveways that are strictly and clearly limited to use by only emergency vehicles; such accesses are permitted by right as needed.

Adult: One who has attained the legal age of majority which is eighteen (18) years of age.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas". An "Adult Arcade" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Bookstore, Adult Novelty Store or Adult Video Store: A commercial establishment which, as one of its principal business purposes or as a substantial part of its business, offers for sale or rental for any form of consideration, any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "Adult Bookstore" or "Adult Video Store". Such other business purposes will not serve to exempt such commercial establishment from being categorized as an "Adult Bookstore" or "Adult Video Store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

The term "Adult Bookstore" shall include but not be limited to an "Adult Novelty Store" and an "Adult Video Store", and all such uses shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Business: Any of the following:

- A. A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.
- B. A use of a building or land for a business which involves the sale, lease, trade, gift or display of drug paraphernalia as a substantial or significant portion of its stock-in-trade.
- C. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas", or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.
- D. Any of the following as defined in this Article III:

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1. adult arcade
2. adult bookstore, adult novelty store or adult video store
3. adult live entertainment use or facility
4. adult motel
5. adult motion picture theater
6. adult theater
7. escort agency
8. massage parlor
9. nude model studio
10. sexual encounter center

Adult Care Facility: See "Health Facility."

Adult Live Entertainment Use or Facility: A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving:

- A. Persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) appearing in a state of nudity; or,
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities;" or,
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"

An "Adult Live Entertainment Use or Facility" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Motel: A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or,
- B. Offers sleeping rooms for rent three (3) or more times in one calendar day.

An "Adult Motel" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas". An "Adult Motion Picture Theater" shall be considered an "Adult Business" for the purpose of this Ordinance.

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

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Agricultural Use: The use of any land for economic gain in the raising of agricultural products, livestock, poultry and/or dairy products. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables and dog kennels; and excluding the disposal or use of sludge, septage or similar waste products.

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

Airport: A tract of land, with or without buildings, where airplanes, jets, helicopters and/or any other type of aircraft land and take off.

Alley: A public or private thoroughfare affording only secondary access to abutting properties.

Alterations: As applied to a building or structure, means any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Ambulance: A vehicle whether privately owned or owned by the Borough or the Clarks Summit Fire Company, No. 1, Inc. or other governmental entity or by a non-profit ambulance organization or non profit or for profit organization used to transport injured or sick persons to medical facilities and may provide medical treatment enroute. The definition of ambulance shall include, but not by limitation, emergency type vehicles including MICU type vehicles equipped with emergency lights and siren and vehicles not equipped with emergency lights and sirens but nonetheless providing for the transport of sick and for injured persons to hospital facilities.

Amusement Arcade: A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained. The use of less than five (5) such devices shall be permitted as an accessory use to any lawful principal commercial use.

Amusement Park: A commercially operated park or facility with various devices for entertainment including but not limited to rides, games, electronic games and similar devices, food stands and other associated facilities.

Antenna Height - The vertical distance measured from the base of the antennae support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antennae height.

Antenna and Antenna Support Structure - Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Antique Vehicle: A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformance with manufacturer specifications and which is in good operating and road-worthy condition

Apartment: See "Dwelling."

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Applicant: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other entity acting as a unit, and his/her/its heirs, successors and assigns, which is seeking an approval or permit pursuant to this Zoning Ordinance.

Auto Service Center: See "vehicle or equipment repair operation."

Balcony: An unenclosed platform that projects from the wall of a building and is surrounded by a railing, balustrade, or parapet.

Bank: An establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds. (See "service establishment")

Basement: An enclosed floor area partly or wholly underground, other than a building which is completely underground.

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

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

Boarding or Lodging House: Any dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire with meals normally, but not necessarily included as a part of the services rendered.

Borough: The Borough of Clarks Summit, Lackawanna County, PA.

Borough Council: The Borough Council of the Borough of Clarks Summit.

Buffer: A strip of land that separates one use from another use or feature, and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. It is used to provide separation between incompatible uses to effect a visual barrier, reduce noise, block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density or opaqueness of the barrier decreases. A buffer yard may be a part of the minimum setback distance but land within an existing street right-of-way shall not be used to meet a buffer yard requirement.

Building: Any permanent structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature.

Building Coverage: The percentage of the area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures.

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Building Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building Setback Line: See "setback" or "yard."

Bulk Fuel Storage Facility: Any facility where fuel, including but not limited to kerosene, home heating oil, gasoline, and propane, is stored in large volume tanks for distribution to wholesale establishments or individual users.

Bus Terminal: An area and/or building where buses are stored or parked on a regular basis with or without bus maintenance and repair facilities.

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

Carport: A roofed building intended for the storage of one (1) or more motor vehicles, but which is not enclosed on all sides by walls or doors. If any portion of a carport is attached to a principal building, it shall be considered to be part of that building.

Car Wash: Any building or premises or portions thereof used for washing automobiles for commercial purposes.

Cell Site - A tract or parcel of land that contains the cellular phone antenna, its support structure, accessory building(s), and parking, and may include other uses associated with and ancillary to cellular phone service.

Cemetery: Land or buildings used for the burial of deceased humans, but not animals. The internment or scattering or remains of properly cremated humans is not regulated by this ordinance.

Church: A meetinghouse, other building, or other actual place of regularly stated religious worship. (See also Semi-public Buildings and Uses).

Clear Sight Triangle: An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

Club/Lodge, Private: An area of land or building used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that are limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. This use shall not include a target range for outdoor shooting, boarding house, a tavern, a restaurant or an auditorium unless that particular use is permitted in

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that District and the requirements of that use are met.

Cluster Development: A form of development for single-family residential development that permits a reduction in lot area and certain development standards provided unit densities permitted under a conventional subdivision are maintained and the resultant land area is devoted to common open space.

Collector Vehicle - Any vehicle of limited manufactured production from the present to twenty-four (24) years old, in good operating and road-worthy condition.

Commercial Antenna Site - A tract or parcel of land that contains a commercial antenna for communication service (such as for telephone, television, radio, and two-way radios), its support structure, accessory building(s), and parking, and may include other used associated with and ancillary to the transmission.

College or University: An institution of higher learning authorized to grant associate, bachelor's, master's and/or doctorate degrees. (For non-degree institutions, see "Trade School.")

Commission: The Planning Commission of the Borough of Clarks Summit, Lackawanna County, Pennsylvania.

Comprehensive Plan: The Borough of Clarks Summit Comprehensive Plan including all maps, charts and textual matter.

Conditional Use: A use which is not appropriate to a particular zone district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Ordinance are present. Conditional uses are allowed or denied by the Borough Council after recommendations by the Planning Commission.

Condominium: A set of individual dwelling units or other areas of building each owned by an individual person(s) in fee simple, with such owners assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which was created under the PA Unit Property Act of 1963 (at the time such law was in effect) or is/was created under the PA Uniform Condominium Act of 1980, as amended. Condominiums shall be regulated based upon the dwelling type as defined by this Ordinance.

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.

Convenience Store: A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"), it may also include the sale of gasoline but shall not include the repair or service of vehicles.

Corral: An enclosure for confining livestock and which is typically attached to or situated in close proximity to a stable or barn; as contrasted to a pasture.

Council: The Borough Council of the Borough of Clarks Summit.

Country Club: A recreational property owned and managed by membership organization and including recreational facilities,

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restaurant and meeting rooms.

County: The County of Lackawanna, Commonwealth of Pennsylvania.

Crematorium: A furnace or establishment for the incineration of corpses.

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

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

- A. (Child) Day Care, as an Accessory Use: A type of "day care" use that provides care for 4 to 6 children at one time who are not relatives of the care giver.
- B. (Child) Day Care Center, as a Principal Use: A type of "day care" use that provides care for 7 or more children at any one time who are not relatives of the primary operator.

Deck: An attached accessory structure elevated more than six (6) inches above grade at any point and constructed of wood with no walls or roof. As an attached accessory structure, it must meet the required setbacks for the principal building.

Density: The total number of dwelling units proposed on a lot divided by the "lot area", unless otherwise stated.

Detached Building: A building that is surrounded on all sides by open yards and that is not attached to any other building.

Developer: Any landowner, agent of such owner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land. (See also the Borough Subdivision and Land Development Regulations.)

Development Plan: A proposed development, prepared in accordance with this Ordinance and the Borough Subdivision and Land Development Regulations, including a plat of the subject parcel and any subdivision, locations of various uses, and all covenants relating to uses, locations and sizes of buildings and other structures, intensity of use or density of development, streets, ways, and parking facilities, common open spaces and public facilities.

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District (Or Zoning District): A land area within the Borough within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

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

Driveway: A privately owned, constructed, and maintained vehicular access from a street or access drive to only one (1) dwelling unit, commercial unit, institutional or industrial principal use. (See also "access drive.")

Drug Paraphernalia: Any objects, devices, instruments, apparatus or contrivances, whose primary and traditional use is involved with the illegal use of any and all controlled substances under Pennsylvania Law.

Dwelling: A structure or portion thereof which is used exclusively for human habitation.

Dwelling, Multi-family: A building or buildings designed for occupancy by three (3) or more families living independently of each other in separate dwelling units. The term "multi-family dwelling" shall include condominium as well as non-condominium housing units including the following construction types:

- A. **Conversion Apartments:** A new dwelling unit created within an existing building.
- B. **Garden Apartment:** A multi-family dwelling not exceeding two and one-half (2 ½) stories in height and containing three (3) or more dwelling units which are located one over the other and which, when more than three (3) units are utilized, are attached side-by-side through the use of common party walls, and which shall have side yards adjacent to each first story end unit. Each dwelling unit is accessible by a common stairwell.
- C. **Townhouses:** A multi-family dwelling of two (2) or more dwelling units of no more than two and one-half (2 ½) stories in height in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire resistant walls without openings.
- D. **Apartment Building:** A multi-family dwelling containing dwelling units having only one (1) floor and typically with an entrance door to a common hallway shared by other dwelling units.

Dwelling, Single-Family: A dwelling unit detached from any other dwelling unit accommodating a single family and having a front, rear and two (2) side yards.

Dwelling, Two-Family: A dwelling accommodating two (2) families either with units which are attached side by side through the use of a party wall, and having one (1) side yard adjacent to each dwelling unit; or upstairs/downstairs units.

Dwelling Unit: A single habitable living unit including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

Earth Disturbance Activity: Any construction or other activity which disturbs the surface of the land including but not

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limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

Easement: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

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

Escort Agency: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An "Escort Agency" shall be considered an "Adult Business" for the purpose of this Ordinance.

Essential Services: Municipal or utility facilities that do not require enclosure in a building which are necessary for the public health and safety and which are routine, customary and appropriate to the character of the area in which proposed, including such facilities as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, commercial communication towers, utility company offices, storage of trucks or equipment and bulk storage, and any commercial communications devices and/or facilities not specifically regulated by the PA Public Utility Commission shall not be considered essential services. (For essential services requiring enclosure in a building see "semi-public building or use.")

Exercise Club: A facility that offers indoor or outdoor recreational facilities, such as the following: weight rooms, exercise equipment, non-household pool and racquetball courts.

Family: One or more persons living in a single dwelling unit functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling unit is rented, in order to qualify as a family, there shall not be more than one (1) lease among all of the occupants. A family shall not include more than four (4) adults and minor persons who are not "related" to each other (see definition in Article III). (See provisions in 5605 regarding maximum number of unrelated persons within a "group home." A "treatment center" shall not be considered a "family" or a "group home." See also the definition of a "dwelling unit.")

Fence: A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier and which is constructed of wood, chain-link, metal, fiberglass, vinyl or aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar mostly solid materials shall be considered a "wall." The term "wall" does not include engineering retaining walls, which are permitted uses as needed in all districts. The terms "fence" and "wall" do not include hedges, trees or shrubs.

Flea Market: An occasional or periodic sales activity held outside a fully enclosed building where stalls or sales areas are set aside, and rented or otherwise provided and which are intended for use by one or more unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets shall not include any operation which involves the sale of any obscene or pornographic material or any activity included in the definition of "adult business" contained in this Ordinance.

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

Funeral Parlor: A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral parlor is permitted, a funeral chapel shall also be permitted.

Garage, Private Parking: A building or portion thereof used only for the storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

Garden Center, Retail: A retail establishment engaged in the sale of ornamental trees, shrubs and plants and supplies for gardening and landscaping.

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

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges; but does not include miniature golf courses or golf driving ranges. (See definition of "Recreational Facilities, Private")

Golf Course, Miniature: A novelty version of golf played with a putter and golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Golf Driving Range: A facility arranged with golf tees and used for longer range play of golf balls where balls are supplied for a fee. It may also include a putting green.

Good Operating and Road-Worthy Condition: - A vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than sixty (60) days shall be considered current for the purposes of this definition.

Greenhouse, Commercial: A structure, typically constructed of metal or wood framework and covered with glass or plastic, used for the propagation of plants for wholesale distribution; and including associated structures for office space and storage; but not including retail sales of any products or services.

Greenhouse, Private: An accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, used for private use.

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Gross Floor Area: The sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than six (6) feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breezeways.

Group Home: The use of any lawful dwelling unit which meets all of the following criteria:

- A. Involves the care of the maximum number of persons permitted by the "group home" standards of §605, and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other "handicap"* as defined by applicable Federal law.
- D. Does not meet the definition of a "treatment center."
- E. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

*NOTE: As of 1992, the Federal Fair Housing Act defined "Handicap" as follows: "1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in §802 of Title 21."

*NOTE: A use that would otherwise meet the definition of "group home" but which includes more than the permitted number of residents shall be considered an "Institutional Group Home," which is a distinct use.

Habitable Indoor Heated Floor Area: In relation to minimum dwelling size, the sum of the total horizontal areas of the several floors of a dwelling unit measured from the interior face of walls, but not including interior parking spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than six (6) feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breezeways or any area which is not fully heated for human habitation.

Halfway House: See definition of treatment center.

Health Facilities: Establishments primarily engaged in providing services for human health maintenance including hospital facilities, nursing homes and adult care facilities, personal care facilities and medical clinics and offices whether publicly or privately operated.

Heliport: An area used for the take-off and landing of helicopters, together with any related support facilities such as for maintenance, refueling and storage. This Ordinance is not intended to regulate the non-routine emergency landing and take-off of aircraft to pick-up seriously injured or ill persons.

- A. **Public Heliport:** A heliport that does not meet the definition of a Private Heliport.
- B. **Private Heliport:** A heliport limited to a maximum total of 15 flights or take-offs in any 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public.

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This is also know as a helistop.

Home Occupation: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods, material, solid waste, equipment related to the Home Occupation are publicly displayed or stored in vehicles on the premises other than a sign as provided herein; and may include professional practice of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and similar types of uses, excluding commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops and other uses not meeting the requirements of §503.3 of this Zoning Ordinance.

Home Use: Used solely for noncommercial purposes and accessory to a residential dwelling. (See the accessory uses *home gardens, home greenhouses and home nurseries* on the Schedule of Uses in Article IV.)

Horse: Any animal of the horse family or resembling a horse including, but not limited to, horses, ponies, mules and donkeys.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities. (See also "Health Facility").

Hotel: A facility offering temporary (generally for periods of two (2) weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, and providing additional services such as restaurants, meeting rooms and recreational facilities.

Impervious Surface: Area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of runoff of 0.7 or higher. The Borough Engineer shall decide any dispute over whether an area is "impervious." Areas of land paved for the sole purpose of noncommercial tennis courts, trails or basketball courts or closely similar active outdoor recreation may be deleted from impervious surfaces for the purposes of determining permitted impervious coverage, unless those areas would also be used for non-recreational uses (such as parking).

Indoor Archery Range: Any fully enclosed building used for shooting of arrows for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an indoor archery range for the purposes of this Zoning Ordinance. Indoor archery ranges shall be considered private recreational facilities for the purposes of this Zoning Ordinance.

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

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Institutional Use: A publicly operated or sponsored facility or privately operated facility used to house and/or rehabilitate individuals detained or sentenced by the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories and similar facilities.

Junk: Any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition and meeting the definition of *junk* contained in Chapter 13, Part 8 of the Code of the Borough of Clarks Summit.

Junkyard: An area of land, with or without buildings, used for the storage of junk as defined by Chapter 13, Part 8 of the Code of the Borough of Clarks Summit.

Kennel, Commercial: Any establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. This definition shall also include any veterinary clinic with outdoor animal runs. (See §503.9, Keeping of Pets, and § 822, Kennels, for performance standards.)

Kennel, Private: Any building or buildings or land designed or arranged for the care of dogs, cats or household pets belonging to the owner of the principal use, kept for purposes of show, hunting or as pets, and not involving the commercial sale, barter or gifting of animals.

Land Development: Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.

The definition of land development shall not include:

- A. The addition of an accessory building on a lot or lots subordinate to an existing principal building;
- B. The conversion of an existing single-family detached dwelling or a two-family dwelling into not more than three (3) residential dwelling units, unless such units are intended to be a condominium.

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

Livestock Operation: The raising or keeping of livestock for home use or any commercial purpose. (See §824.)

Livestock: Any animals raised or kept for home consumptive use or profit or any other purpose, including, but not limited

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to horses cattle, bison, sheep, goats, llamas, swine, fowl, rabbits, insects and fur bearing animals.

Lot: Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a building on such land.

Lot, Existing of Record: Any lot or parcel of property which was legally in existence and properly on file with the Lackawanna County Recorder of Deeds prior to the date when zoning was first adopted by the Borough Council.

Lot, Flag: An irregularly shaped lot characterized by an elongated extension from a street to the principal part of the lot. The flag shape of the lot is normally intended to provide for access to an otherwise landlocked interior parcel.

Lot, Through: A lot that abuts two (2) parallel or approximately parallel streets.

Lot Area: The total number of square feet in the lot less any area included in any public road rights-of-way affecting the lot.

Lot Area, Average: The total of the "lot areas" (see above) of all adjacent lots in common ownership within a proposed subdivision or land development divided by the proposed number of dwelling units.

Lot Coverage: That portion or percentage of the lot area which is covered by buildings, roads, driveways, walkways, parking areas, or other impervious surfaces.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line measured through the approximate center of the lot.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

Lot Width: The average of the width of a lot at the building setback line required by this Ordinance and the rear lot line.

Manufactured Home: A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, which arrives at a site complete and ready for installation except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation; including, but not limited to mobile homes and modular homes.

Manufacturing and Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new products or materials, including, but not limited to, the assembly of

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component parts, the manufacturing or transformation of products for use by other manufactures, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, and any facility involving processes resulting in the storage of hazardous materials or the generation of hazardous waste products, or other environmentally regulated processes.

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

Massage: The performance of manipulative exercises using the hands and/or a mechanical or bathing devise on a person(s)'s skin other than the face or neck by another person(s) that is related a certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.

Massage Parlor: An establishment that meets all of the following criteria:

- A. "Massages" are conducted (see definition);
- B. The person conducting the massage is not licensed as a health care professional or a licensed massage therapist by the State;
- C. The massages are not conducted within a licensed hospital, nursing home, personal care center or office of a medical doctor or chiropractor;
- D. The massages are conducted within private or semi-private rooms; and
- E. The use is not clearly a customary and incidental accessory use to a permitted exercise club or to a high school or college athletic program.

A "Massage Parlor" shall be considered an "Adult Business" for the purpose of this Ordinance.

Medical Clinic: An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight. (See also Health Facilities).

Meeting House: See Definition of church.

Methadone Clinic, Methadone Treatment Facility: A facility licensed by the Pennsylvania Department of Health or any successor department or agency of the government, and, required to be licensed or permitted by any other agency of government (Federal, State or Local) to use and/or dispense the drug methadone or other types of drugs in and for the treatment, maintenance or detoxification of persons.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

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Mobile Home Lot: Land occupied or to be occupied by a mobile home in a mobile home park, improved with the necessary utility connections and other appurtenances; and, said lot being specifically designated by division from other lots in the mobile home park.

Mobile Home Park: A parcel or contiguous parcels of land under single ownership which has been planned and improved for the placement of two (2) or more mobile homes for non-transient use.

Model Home: A residential structure associated with a principal permitted commercial use and not intended for permanent occupancy; and used solely for demonstration purposes to inform potential purchasers of the types of homes available from the seller.

Motel: A facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, with at least twenty-five (25) percent of the rooms having direct access to the outside.

Motor Home: A vehicle designated or converted for use of a person(s) to live in including, but not by limitation, a vehicle specifically designed as a motor home, recreational vehicle (RV), truck campers, converted vans, converted buses, vans designed for a person to live in.

Multi-Family Project: Any development of a single parcel of property that includes one (1) or more buildings containing three (3) or more dwelling units. Any residential development which proposes the construction of two (2) or more two-family dwellings on one (1) parcel of property shall also be considered a multi-family project.

Multiple Occupant Commercial Building: A building containing two (2) or more independent, non-residential uses; such uses also being permitted in the District where the multiple occupant building is proposed.

Natural Resource Use: The mining, removal or recovery by any means whatsoever (including, but not limited to open excavations and quarries, and subsurface mining) of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water, land, on or beneath the surface thereof; said substances including but not limited to coal, limestone, shale, dolomite, sandstone, sand, clay, gravel, rock, stone, earth, ore, peat, soil, or other mineral.

Natural Resources Processing: The refinement of minerals to specifications for sale including, but not limited to, the crushing, screening, washing or grading of minerals; and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products.

Non-conforming Lot: Any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Lackawanna County Recorder of Deeds prior to the effective date of the original Borough of Clarks Summit Zoning Ordinance, as amended, reenacted and replaced. (See also §902)

Non-conforming Structure: A structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure Ordinance fully existed prior to the enactment of the original Borough of Clarks Summit Zoning Ordinance, as amended, reenacted and replaced; and including, but not limited to, non-conforming signs. (See also §902)

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Non-Conforming Use: A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments hereto, where such use was lawfully in existence prior to the enactment of the original Borough of Clarks Summit Zoning Ordinance, as amended, reenacted and replaced. (See also §902)

Nude Model Studio: Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a State of Nudity: The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

Nursery, Commercial: A commercial operation where trees and shrubs are grown for transplanting, for use as stocks for budding and grafting, or for sale.

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

Obscene Materials: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any "specified anatomical areas" and/or "specified sexual activities".

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

Original Zoning Ordinance: Shall mean Ordinance 50-10 adopted August 18th, 1950, Ordinance 64-2, adopted April 1st, 1964 modifying Ordinance 50-10, Ordinance 69-2 adopted May 29th, 1969 modifying Ordinance 64-2, and Ordinance 82-7 adopted July 7th, 1982 modifying Ordinance 69-2, and Ordinance 93-8 adopted December 28th, 1993 modifying Ordinance 82-7.

Open Space: All areas of a multi-family development or cluster development not conveyed to individual owners and not occupied by buildings and required or proposed improvements shall be dedicated as permanent open space for the benefit and enjoyment of the residents of the particular units being proposed. Such open space shall be part of the same parcel and contiguous.

Outdoor Archery Range: Any area not within a fully enclosed building used for the shooting of arrows for recreational or training purposes, including but not limited to, target shooting ranges, and target shooting courses. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an outdoor archery range for the purposes of this Zoning Ordinance.

Parking Area, Private: An open area, other than a street or other public way which has a surface of bituminous, concrete or 2B stone for the same uses as a private garage.

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Parking Area, Public: An open area, other than a street or other public way, which has a surface as described in Section 504.10 used for the parking of vehicles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Patio: An open recreational area or structure, constructed no higher than six (6) inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

Permanent Foundation: As defined in any Borough adopted National Building Code(s) or by the Borough's Floodplain Ordinance.

Permit: A document issued by the proper Borough authority authorizing the applicant to undertake certain activities.

- A. **Zoning Permit:** A permit that may be issued indicating that a proposed use, building or structure is, to the best knowledge of the Borough Staff, in accordance with this Ordinance and which authorizes an applicant to proceed with said use, building or structure, within all other applicable laws and regulations. For the purposes of this Ordinance, a zoning permit or "a permit under this Ordinance" shall mean the applicable portions of a construction permit, unless a specific system of zoning permits has been established.
- B. **Construction Permit:** A permit indicating that a proposed construction, alteration, or reconstruction of a structure, is to the best knowledge of the Borough Staff, in accordance with the provisions of the Building Code(s) adopted by the Borough.
- C. **Occupancy Permit:** A permit that may be required by the Borough that is issued upon completion of the construction of a structure, or change in use of a structure or parcel of land, or re-occupancy of a structure or land indicating that the premises, to the best knowledge of the Building and Zoning Officers, comply with the provisions of Borough Ordinances. This shall have the same meaning as a "Certificate of use and Occupancy."

Personal Care Home or Center: A residential use providing residential and support services primarily to persons who are over age 60, physically handicapped and/or the developmentally disabled and that is licensed as a Personal Care Center by the Commonwealth of Pennsylvania and that does not meet the definition of a "Treatment Center."

Pets, Keeping of: The keeping of domestic animals that are normally considered to be kept in conjunction with a dwelling for the pleasures of the resident family. This shall include dogs, cats, birds, hamsters, gerbils, and other animals commonly sold in retail pet shops. (See standards in §503.9.)

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

Planning Commission: The Planning Commission of the Borough of Clarks Summit.

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Porch: An attached roofed patio or deck. With the exception of the wall adjoining the principal structure, all walls must be open or screened with a wall no higher than four (4) feet above the floor level. A porch is considered an attached accessory structure and must meet those setback requirements for principal structures.

Principal Building: The building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building shall be considered part of that principal building.

Principal Use: A dominant use(s) or main use on a lot, as opposed to an accessory use.

Private Ambulance Service: Private ambulance service shall be considered a *Service Establishment* for the purposes of this Ordinance. (See definition of *Service Establishment*.)

Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession, including the following professions: accountant, architect, author, dentist, engineer, insurance agent landscape architect, lawyer, optometrist, planner, physician, realtor, and other such occupations as may be designated by the Borough as part of the conditional use process by virtue of the need for specialized training and experience as a condition of the practice of the profession and that such profession will in no way adversely affect the safety or character of surrounding properties to a greater extent than the specific professions listed herein. The issuance of a federal, state or local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

Public Buildings and Uses: Any structure, building or use owned and operated by a government body or agency including such things as public schools, parks, civic centers, municipal buildings; but excluding solid waste disposal facilities, institutional uses, nursing homes, hospitals and other use specifically defined by this Ordinance.

Public Notice: Notice published once each week for two (2) consecutive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Recreation Vehicle: A vehicle with or without motor power which may be towed on the public highways by a passenger automobile or truck without a special hauling permit, or which may be driven under its own power. This definition includes, but is not limited to campers, travel trailers, buses, camping trailers, pick-up trucks with slide-in campers, recreational vehicle homes and motor homes.

Recreational Facilities, Private: Outdoor or indoor areas or structures, operated by private non-profit or private commercial entities, open to the public, which may contain entertainment and amusement devices or attractions, including but not limited to picnic groves, animal farms, zoological parks, tennis and racquetball courts, ski areas, miniature golf courses, golf driving ranges and the like, but excluding golf courses, theaters, public parks and playgrounds.

Recreational Facilities, Public: Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Borough, Borough authorized entity, County, school district, state, or federal government.

Recreational Vehicle Park: See Campground and RV Parks.

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Recyclables: Materials intended for reuse, remanufacture or reconstitution and including for the purposes of this Zoning Ordinance only the following materials as defined by the Lackawanna County Recycling Center: aluminum beverage containers; glass beverage and food containers; plastic beverage, food and household product containers but not including plastic film or bags; bi-metal food containers; newsprint, magazines, and office paper; and corrugated paper. Recyclables shall not include, except as specifically authorized by the Borough in accord with §836 of this Ordinance, tires, large appliances such as stoves, refrigerators, washers and dryers, other scrap metal, used motor oil or any other material defined as "junk" or "solid waste" by this Ordinance.

Recycling Facility: A center for the collection and/or processing of recyclable materials. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Any facility accepting or processing waste or other discarded materials which are not recyclables as defined or authorized under this Ordinance shall be considered a junkyard or solid waste facility as regulated by this Ordinance.

- A. **Recyclable Collection Facility:** A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public.
- B. **Recyclable Collection Facility, Small:** A recyclable collection facility which occupies an area of not more than five-hundred (500) square feet (including areas used for containers or other recyclable storage but not parking and loading areas) and may include mobile recycling units, kiosk type units which may include permanent structures and/or unattended containers placed for the deposit of recyclables.
- C. **Recyclable Collection Facility, Large:** A recyclable collection facility which occupies an area of more than five-hundred (500) square feet (including areas used for containers or other recyclable storage but not parking and loading areas) but not more than twenty thousand (20,000) square feet (including areas used for container or other recyclable storage, structure and parking and loading areas) and which may include permanent structures, and limited recyclable processing for shipment or preparation to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning or but not including the remanufacturing or conversion of recyclables to new products or raw materials used for new products.
- D. **Recycling Unit, Mobile:** An automobile, truck, trailer or van, licensed by the Department of Transportation which is used for the collection of recyclable materials, or the bins, boxes or containers transported by trucks, vans or trailers and which are used for the collection of recyclable materials.
- E. **Recyclable Processing Facility:** Any recycling facility which exceeds the area or processing limits of a large collection facility or which involves the remanufacturing or conversion of recyclables to new products or raw materials used for new products.

Related or Relative: Persons who are related by blood, marriage, adoption, or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, father-in-law, mother-in-law or first cousin. It shall not include relationships such as second, third or fourth cousins.

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Residential Housing Area: Any area of the Borough of Clarks Summit or adjoining municipality where four (4) or more dwelling units are located on one (1) lot or two (2) or more contiguous lots.

Restaurant, Fast Food:

- A. An establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises and that does not meet the definition of a "standard restaurant."
- B. A fast-food restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" or nightclub as applicable must be met.

Restaurant, Traditional:

- A. An establishment that serves ready-to-consume food or drink for compensation in which the clear majority of sales involve the following: the customers order their food from a waiter or waitress while seated inside a building and then the food is consumed at the table.
- B. A standard restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" must be met.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, and which is not otherwise listed as a use in the Schedule of Uses.

Right-of-Way: Land reserved for use as a street, drainage facility or other public or community use.

Rowhouse: Same as townhouse.

Rowhouses: Same as townhouses.

Satellite Dish Antenna or "Satellite Antenna": A ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure. A satellite antenna shall be considered an accessory structure for the purposes of this Ordinance

School, Public or Private Primary or Secondary School: - An educational institution primarily for persons between the ages of five (5) and nineteen (19) that primarily provides State-required or largely State-funded educational programs. This term shall not include "Trade Schools" (such as privately operated schools of trade, vocation or business.)

Screened: Not visible from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by fencing, topography, berms, natural and planted vegetation or other means approved by the Borough.

Self-Storage Facility: A building or buildings containing separated spaces to be leased or rented to individuals and/or business for the storage of personal belongings, goods or supplies.

Semi-Public Building or Use: Buildings or uses operated by non-profit, community-based organizations for the general use

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of Borough residents, including churches, fire houses, ambulance buildings, private schools, youth centers, senior centers, libraries and the like, but excluding institutional uses such as nursing homes, hospitals, sanitariums and clinics. It shall also include essential services and public utilities that require enclosure within any structure or building.

Senior Day Care Center: Any establishment enrolling five (5) or more adults where fees or other forms of compensation are charged for the care of the adults, such care limited to only a part of each day and the adults do not reside on the premises and no health services are provided.

Service Establishment: Establishments engaged in providing services involving the care or needs of a person or his or her apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, private ambulance services, etc., and which is not otherwise listed as a use in the Schedule of Uses.

Setback: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks, and if applicable, side setbacks and/or rear setbacks shall be measured from the edge of the road and/or cartway right-of-way and other setbacks from property lines (See Section 502.2). In the case of flag lots, the front setback shall be measured from the lot line closest to the public road right-of-way from which access is gained.

Sewage Disposal System: A system to collect, treat and dispose of sewage. No such system shall be permitted that does not comply with local, State and Federal requirements.

- A. **Public Sewer Service:** Service at the time of occupancy of a use by a central sewage treatment plant that is owned by the Borough or a municipal authority.
- B. **On-Lot or Non-Public Sewer Service:** Any form of sewage service permitted under local, State and Federal law that does not meet the definition of "public sewer service."

Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

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

A "Sexual Encounter Center" shall be considered an "Adult Business" for the purpose of this Ordinance.

Shed: An accessory structure, either attached or detached, used for the storage of tools, minor equipment, and materials.

Shopping Center or Mall: A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Slaughter House: A use involving the killing of animals for the production of food or some other commercial product. commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughter house. This shall not include a custom "butcher shop" that does not

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involve killing of animals (which is a retail sales use.)

Solid Waste or Waste: Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material, grass clippings, tree clippings or other yard waste. Including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the PA DEP as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

Solid Waste Facility, Commercial: Any facility or operation of a private individual or firm pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Facility, Public: Any facility or operation of a public entity pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Staging Area: Any parcel of property used for the transfer of solid waste from one vehicle to another vehicle, at a location other than the generation site, for transport to a solid waste facility; or which is used for the parking or storage of vehicles and/or containers used to transport solid waste; and which is not regulated by the PA DEP as a solid waste transfer facility.

Special Exception: A use allowed, with permission granted by the Zoning Hearing Board, to occupy and use land and/or a building for specific purposes in accord with this Ordinance.

Specified Anatomical Areas: Any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae.
- B. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Any of the following:

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

Stable, Commercial: A structure or land where horses are kept for remuneration, hire, sale, boarding, riding or show, and

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which includes the commercial hire of horses to the general public for riding or other purposes. (See 5824)

Stable, Private: An accessory structure or use of land where horses are kept for the sole use of the residents of the principal structure, and which includes no remuneration, hire, boarding or other commercial use. (See 5503.10)

Story (And Half-story): A level of a building routinely accessible to humans having an average vertical clearance six (6) feet or greater shall be considered a full story, except as provided for in the definition of "basement." Any level of a building having an average vertical clearance from floor to ceiling of less than six (6) feet shall be considered a "half-story."

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. "Public rights-of-way" shall be those open to the general use of the public, not necessarily publicly dedicated.

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Structure, Permanent: Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Structure, Portable: Anything constructed that is not permanently affixed to the ground but is designed to be moved from place to place. Structures comprised of frameworks and covered with plastic, canvass or other materials shall be considered portable structures.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any structure.

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition of the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

Tavern: A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur. (See also the definition of "restaurant".)

Tent: A portable structure comprised of a frame securely anchored to the ground with canvas or other pliable material overlapping and securely attached to the frame on the top and the sides.

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

Townhouse: A dwelling of no more than two and one half (2 1/2) stories in height designed for and occupied exclusively as a residence for a single family with front and rear accesses to the outside and with a fire resistant party wall without openings, on at least one side (on both sides) in common with an attached dwelling of the same or similar construction. No townhouse shall be located over or on top of another townhouse.

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Townhouses: A row of two (2) or more townhouses.

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

Transfer of Ownership of Control of a Sexually Oriented Business Includes any of the following:

- A. The sale, lease, or sublease of the business; or
- B. The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

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

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

Truck Terminal: A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

Truck Wash: Any building or premises or portion thereof used for washing trucks with a gross vehicle weight exceeding five thousand (5,000) lbs.

Unit for Care of Relative: A living area especially created for and limited to occupancy by a person who is "related" (see definition) to the permanent residents of the principal dwelling unit. Such use shall be restricted to a relative who needs such accommodations because of old age, developmental disability, illness, mental illness that does not threaten physical harm to others or physical handicap. (See standards in §606.)

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Variance: Relief granted pursuant to the provisions of this Ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

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Variance, De Minimus: A variance granted for a minimal deviation from the dimensional requirements of this Zoning Ordinance, without the applicant having established unnecessary hardship, relying on the consideration that the granting of the minimal variance does not thwart the purpose of the Ordinance and the minor deviation does not encroach on the legislative authority of the governing body.

Vehicle - Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land, including, but not limited to, automobiles, trucks, pickup trucks, sports utility vehicles, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, machinery, trailers, farm machinery and implements, and other wheeled equipment; boats; and aircraft.

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

Vehicle or Equipment Repair Operation: An establishment engaged in the service and/or repair of any motor vehicle as its principal use, including but not limited to auto body shops, repair garages, truck repair garages and agriculture equipment repair.

Veterinary Clinic: A place operated by a licensed veterinarian where animals or pets are given medical or surgical treatment and the keeping of animals is limited to short-term care incidental to the clinic use and no outdoor kennels or pens are on the premises.

Wall: See "Fence".

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

Water System: A system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies and the Borough.

- A. **"Public" Water Service.** Central water service by a system owned by the Borough or a municipal authority and which serves more than 30 dwellings or principal uses.
- B. **On-Lot or Non-Public Water Service.** Service by a water system that does not meet the definition of a "public water service." In most cases, this would involve an individual well serving an individual lot, but may also include a common well or another duly approved system.

Wholesale Business: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by

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any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines.

Yard Sale: Any offering for sale to the public of used and accumulated normal household and other personal items conducted on a temporary, intermittent basis (not to exceed five [5] sales per year for not more than three [3] consecutive days each) as an accessory use to a residential dwelling. The buying and selling of new or used items or surplus material shall be considered a commercial operation and shall be prohibited, except as otherwise permitted and regulated by this Zoning Ordinance.

Zoning Map: The Official Zoning Map of the Borough of Clarks Summit.

Zoning Officer: The administrative officer charged with the duty of enforcing the provision of this Zoning Ordinance. The Zoning Officer may also serve the Enforcement Officer for other Borough ordinances.

The above definitions are also supplemented by those contained in other Borough Ordinances. Where there is any conflict between definitions or provisions contained in this Ordinance and other Ordinances, the definitions or provisions contained herein shall apply insofar as they affect this Zoning Ordinance.