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Pittston Township

2013

**Zoning Ordinance
Adopted 2-19-2013**

**ZONING ORDINANCE
PITTSTON TOWNSHIP**

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**ZONING ORDINANCE OF THE
TOWNSHIP OF PITSTON
1995 AS AMENDED 2013**

ARTICLE 1: GENERAL PROVISIONS

SECTION 101 SHORT TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance of the Township of Pittston, Pennsylvania.

SECTION 102 COMMUNITY DEVELOPMENT OBJECTIVES

The community development objectives of the Township of Pittston shall be to:

- A. Promote and protect the public health, safety, morals and general welfare of the community.
- B. Achieve the best use of land within the Township, ensuring that varying land uses will complement one another and thus improve the economic and aesthetic character of the community.
- C. Provide desirable educational and recreational facilities.
- D. Improve the road system for better internal circulation and movement of through traffic, which will facilitate efficient and safe movement of people and goods.
- E. Protect the health of residents of the Township by controlling water, air and noise pollution.
- F. Establish realistic population densities in order to ensure adequate circulation, health standards, privacy and open space and in order to provide utilities, protection and facilities in the most convenient and efficient manner.
- G. Provide the best possible police and fire protection consistent with its needs, including cooperation with adjacent municipalities.
- H. Encourage controlled and appropriate commercial, industrial, residential, and recreational growth.
- I. Encourage and promote the provision of a wide range and variety of housing types to meet the needs of all Township residents, including, but not limited to newly formed households, growing families and senior citizens.
- J. To provide for commercial development in selected areas in accordance to the market needs of the Township and surrounding areas.
- K. To insure that all new development provides adequate measures to control storm drainage and soils erosion and sedimentation.
- L. To protect and regulate land in critical areas which may be unsuitable for development.
- M. Expand and activate a continuing planning program that will serve to continually update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and conditions.

SECTION 103 SEVERABILITY

If any article, section, subsection, paragraph sentence or phrase of this Ordinance is for any reason declared to be invalid, illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

SECTION 104 REPEALER

The Pittston Township Zoning Ordinance of October 16, 1995, as amended, is hereby repealed. All other ordinances, or parts thereof, which are in conflict with the provisions of this Ordinance, are hereby repealed to the extent of such conflict.

SECTION 105 EFFECTIVE DATE

This Zoning Ordinance shall take effect from and after its approval and adoption as provided by law.

ENACTED AND ORDAINED BY THE TOWNSHIP BOARD OF SUPERVISORS
OF PITTSTON TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA, THIS ____
DAY OF _____, 2013.

CHAIRMAN OF BOARD OF SUPERVISORS

ATTEST:

TOWNSHIP SECRETARY

ARTICLE 2: DEFINITIONS

SECTION 201 APPLICATION AND INTERPRETATION

The definition of words included herein are provided to facilitate the interpretation of this Ordinance for administrative and enforcement purposes. Unless expressly stated otherwise, within the context of the Ordinance, the following shall apply:

1. Words used in the present tense shall include the future tense.
2. The word “person” shall include a profit or nonprofit corporation, company, partnership, or individual.
3. The words “used” or “occupied” as applied to any land or building shall include the words “intended,” “arranged,” or “designed” to be used or occupies.
4. The word “building” shall include “part thereof” and “structure.”
5. The word “lot” shall include “plot” or “parcel.”
6. The word “shall” is always mandatory.
7. The singular number shall include the plural, and the plural the singular.
8. The masculine gender shall include the feminine and neuter.
9. The word “street” shall include “road,” “highway,” and “lane.”

SECTION 202 DEFINITIONS OF TERMS

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

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word ‘building’ shall include the word ‘structure’; the word ‘used’ shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used; the word ‘shall’ is mandatory and not optional; the word ‘abut’ shall include the words ‘directly across from.’

Access Drive

A paved surface, other than a street, which provides vehicular access from a street or private road to a lot.

Accessory Structure

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure

Accessory Use

- (a) A use conducted on the same lot as a principal use to which it is related, and located either within the same structure or in an accessory structure or as an accessory structure or as an accessory use of land; except that off-street parking need not be located on the same lot.
- (b) Clearly incidental to, and customarily found in connection with a particular principal use, and
- (c) Either in the same ownership as such principal use or operated and maintained on one lot with such principal use for the express benefit of its owner, employees, customers or visitors,

An accessory use includes:

- (a) Residential accommodations for caretakers of institutions and large commercial or industrial uses.
- (b) Keeping of domestic animals, but not for sale or hire.
- (c) Swimming pools whose use is restricted to the occupants of the principal use and guests for whom no admission or membership fee is charged.
- (d) Domestic or agricultural storage customarily found in barn, shed, tool room or similar structure.
- (e) In connection with permitted commercial or manufacturing uses, the storage of goods normally carried in stock, used in, or produced by such uses, unless the storage is expressly prohibited under the applicable district regulations. The floor area used for such accessory storage area shall be included in the maximum floor area permitted for the specified use.
- (f) The removal for sale or otherwise of loam, clay, sand, gravel, or stone in connection with the construction of a building or other structure on the same lot, or in connection with grading said lot.
 - a. Accessory off-street parking spaces, open or enclosed.
 - b. Accessory off-street loading berths.
 - c. Accessory signs.
 - d. Accessory radio or television antennas.
 - e. Home occupation.
 - f. Other uses customarily appurtenant to a principal use

Adult Day Care Center

A use providing supervised care and assistance primarily to persons who are over age 60 and not in good physical health or suffering from dementia 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.

Agent of Owner

Any person who can show written proof that he has authority to act for the property owner.

Agriculture

- a. Prime Agricultural Land
Land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.
- b. Agricultural Operations
An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development with the agricultural industry.
- c. Forestry
The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

Alley

A minor way, which may not be legally dedicated, used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Alluvial Soils:

Areas subject to periodic flooding

Alteration

- a. All incidental changes or replacements in the non-structural parts of a building or other structures.
- b. Minor changes or replacements in the structural parts of a building or other structure, limited to the following examples and other of similar character or extent:

- (1) Alteration of interior partitions to improve livability in non-conforming residential buildings provided no additional dwelling units are created thereby.
- (2) Alteration of interior partitions in all other types of buildings or other structures
- (3) Making windows or doors in exterior walls.
- (4) Strengthening the load bearing capacity of a floor to permit accommodation of a specialized unit of machinery or equipment, but not over an area which exceeds ten percent of total floor area.

Amendment

A change in use in any district which includes revisions to the zoning text and/or the official zoning map; and the authority for any amendments lies solely with the governing body of the municipality.

Amusement Game Machines

A coin-operated machine or device which, whether mechanical, electrical, or electronic, shall be ready for play by the insertion of a coin, and may be operated by the public for use as a game, entertainment or amusement, the object of which is to achieve a high or low score, which by comparison to the score of other players whether playing concurrently or not, demonstrated relative skill or competence, or indicates in any other way competitive advantage of one player or team over another, regardless of skill or competence. It shall include devices such as pinball machines or any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities.

Amusement Machines, Other

A coin-operated machine or device, not including amusement games, which provide a ride, sensation, electronic reading or weight, photograph, lamination or item of merchandise provided at random among other items of merchandise, for use by and to the amusement of the public.

Amusement Machine Complex:

A group of more than two amusement games or other amusement machines, in the same place, location or premises.

Animal Hospital

A building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits and birds or fowl by a veterinarian.

Apartment Conversion

A multi-family dwelling constructed by converting an existing dwelling into apartments for more than two families.

Apartment House

A building occupied by three (3) or more dwelling units.

Area, Building

The total area taken on a horizontal plane at the level of the ground surrounding the main building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

Assisted Care Dwelling Unit for Relative

A living area attached to the principal dwelling unit or separate mobile home especially erected for and limited to the temporary occupancy by a person who is “related” (see definition) to the permanent residents of the principal dwelling unit on the parcel. Such use shall be restricted to a relative who needs such accommodations because of illness or disability.

Assisted Living Facility

A building, establishment, complex or distinct part thereof which: a) provides services to two (2) or more residents other than members of the operator’s family, b) is operated as a private, commercial, or a private non-profit organization, c) accepts primarily aged persons (60 years of age or older) for domiciliary care; and d) provides onsite to its residents, room, board, non-medical living assistance services appropriate to the residents’ respective needs and contract medical services as prescribed by each resident’s treating physician.

Automobile Body Shop

A building on a lot that is used for the repair and painting of bodies, chassis, wheels, fenders, vehicles or conveyance.

Automobile, Garage, Minor

An accessory building for the storage of one or more automobiles and/or other vehicles accessory and incidental to the primary use of the premises, provided that no business, occupation, or service is conducted for profit therein nor space therein for more than one automobile is leased to a non-occupant of the premises.

Automobile, Garage, Major

A building on a lot designed and/or used primarily for mechanical and/or body repairs, storage, rental, servicing, or supplying of gasoline or oil to automobiles, trucks, or similar motor vehicles.

Automobile and/or Mobile Home Sales Lot

An open lot, used for the outdoor display or sales of new or used automobiles, recreation vehicles, or mobile homes, and where minor and incidental repair work (other than body and fender) may be done.

Automotive Sales

The use of any building, structure or land, other than a street, for the display and sale or rental of motor vehicles, which are in operable condition. The owner\operator of this business must have a valid state license for the sale or rental of such motor vehicles. Any related repairs shall be conducted within an enclosed building and shall be an accessory use

Automobile Service Station or Filling Station

A building or place of business where gasoline, oil and grease, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicles trade at retail, and where the following services may be rendered.

a. Minor Repair

- (1) Sale and servicing of spark plugs and batteries.
- (2) Tire repair and servicing, no recapping.
- (3) Replacement of mufflers and tailpipes, water hose, fan belts, brake and transmission fluids, light bulbs, floor mats, seat covers (where this shall not be the principal use), windshield wipers, grease retainers and wheel bearings.
- (4) Radiator cleaning and flushing.
- (5) Washing and polishing, not including mechanical and/or automatic car wash establishments.
- (6) Installation of fuel pumps and fuel lines.
- (7) Minor servicing and replacement of carburetors.
- (8) Adjustment and installation of brakes.
- (9) Tuning engines, except for grinding valves, cleaning carbon or removing the head of engines and/or crankcase.
- (10) Greasing and Lubrication.
- (11) Emergency Wiring Repairs.
- (12) Any similar minor service or repair not listed below under "major repair."

b. Major Repair

In addition to those repairs and services listed above as “minor repair,” any general repair, rebuilding or reconditioning not listed above; collision service including body, frame or fender straightening or repair; painting or paint shops; mechanical car wash establishments; but not including any operations which require the heating or burning of rubber.

Automobile Washing (car wash)

A building on a lot, designed and used primarily for the washing and polishing of automobiles and which may provide accessory services as set forth herein for Automobile Service Stations.

Automobile Wrecking Yard (Also see Junk Yard)

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard.

Basement

A story whose floor is more than 12 inches, but no more than half of its story height, below the average level of the adjoining ground (as distinguished from a “cellar” which is a story more than one-half below such level). Any portion of a basement, when used as a dwelling, shall be counted as a story for purposes of height measurement.

Billboard (Also see outdoor advertising)

A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Bed and Breakfast

Such uses shall be accessory home occupations. They shall be designed to provide sleeping, eating, and bath facilities for overnight guests on a daily or a weekly basis. They shall not include restaurant facilities open to the public who are not overnight guests.

Block

A tract of land bounded by any combination of the following:

- a. Streets

- b. Public Park
- c. Railroad right-of-way, excluding siding and spurs
- d. Corporate boundary lines of the municipality

Board

The Zoning Hearing Board of the Township of Pittston.

Boarding House

- a. A residential use in which any or all of the following applies:
 - (1) individual room(s) that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons who are not “related” to the owner of record of the property, or
 - (2) a dwelling unit that includes a greater than the permitted maximum number of unrelated persons (see the definition of “family”), or
 - (3) if individual units of living space not meeting the definition of a dwelling unit are separately rented to person(s) who are not “related” to the owner of record of the property.
- b. A boarding house shall not include the following uses: treatment center, abused person shelter, hotel, dormitory, motel, assisted living center, bed and breakfast use, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents.
- c. This use shall only involve renting living accommodations for minimum periods of 5 consecutive days.

Board of Supervisors

The Board of Supervisors of the Township of Pittston.

Bottle Club - B.Y.O.B. Clubs.

An establishment operated for profit or pecuniary gain, which admits patrons upon a payment of a fee, has a capacity for the assemblage of twenty or more persons, and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold, but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption.

Buffer Area

A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter, housing, or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements

Building Coverage

The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Building Group

Any building, such as a store group, which is divided into separate parts by one or more un-pierced walls extending from the ground up.

Building Height

The vertical distance of a building measure from the average elevation of the proposed finished grade within twenty (20) feet of the structure to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

Building, Principal

A building in which is conducted the principal use of the building site on which it is situated. In any residential district any dwelling shall be deemed to be a principal building on the zone lot on which the same is located.

Bulk

The term used to describe the size of buildings or other structures and their relationship to one another to open areas such as yards, and to lot lines. The term bulk, therefore, includes:

- a. The size, including height and floor area, of building or other structure.
- b. The relation of the number of dwelling units in a residential building to the area of the lot.

- c. The relation of buildings and other structures to areas in open yards.

Bulk Fuel Storage

The storage of fuel beyond what is reasonably needed for customary on-site use. This includes the storage of fuel to be sold for off-site use.

Camp

Any one or more of the following, other than a hospital, place of detention, school offering general instruction, or a mobile home park.

1. Any area of land or water of a design or character used for seasonal, recreation or similar temporary living purposes which may include any building or group of buildings of a movable, temporary or seasonal nature, such as cabins, tents, or shelters.
2. Any land and buildings thereon, used for any assembly of persons for what is commonly known as “day camp” purposes, whether or not conducted for profit and whether occupied by adults or children, either as individuals, families, or groups.

Camping Ground

A parcel of land used by campers for seasonal, recreational, or other similar temporary living purposes, in buildings, of a movable, temporary, or seasonal nature, such as cabins, tents, or shelters, but not including a mobile home camp, court or park.

Caliper

Diameter of a tree’s trunk measured 6 inches above the ground up to and including 4-inch caliper size, and 12 inches above the ground for larger sizes.

Carport

A roofed structure opened on two (2) or more sides and used for the storage of private motor vehicles. It may constructed as a separate accessory structure or part of the principal structure.

Cellar

The portion of any building which is located partly underground, but having one-half or more of its height, measured from finished floor grade to finished ceiling, below the average grade of the adjoining land. A cellar shall not be counted as a story for the purposes of administering height regulations of this Ordinance.

Certificate Of Zoning Compliance (Occupancy Permit)

The certificate issued by the Zoning Officer after he has inspected any structure, building, sign and/or land or portion thereof for which a zoning permit was issued in order to determine compliance with the terms of the permit and the zoning ordinance before the structure, building, sign, and or land or portion thereof can be lawfully used and/or occupied.

Change Of Use

Any use which differs from the previous use of a building, structure or land.

Cemetery

Land or buildings used for burial or interment of deceased humans or animals.

Child Day Care Facilities

The provision of out-of-home care for children for part of a 24 hour day, excluding the care provided by relatives.

- a. Child Day Care Center. A premises in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the provider of the child day care home, where such facility is subject to PA Department of PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.
- b. Family Day Care Home. A premise in which child day care is provided at any one time to between four (4) to six (6) children who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.
- c. Group Day Care Home. A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

Clear Sight Triangle

An area within which no vision obstructing object is permitted. A clear sight triangle shall be provided at all street intersections within which vegetation or other visual obstructions shall not exceed a height of thirty (30) inches above the street grade. Said triangle shall be measured for a distance of thirty (30) feet along street right-of-way lines extending from their point of intersection which forms a corner lot.

At each point where a private axis intersects a street or road, there shall be maintained a clear sight triangle of not less than ten (10) feet measured from the point of intersection of the street line and the edge of the axis, within which vegetation and other visual

obstructions shall be limited to a height of not more than thirty (30) inches above the street grade.

If not obstructing the view of traffic, posts, columns, or trees, not exceeding 1 foot in diameter shall be permitted within the clear sight triangle.

Clothes Cleaning, Industrial

An establishment that does laundering and/or dry cleaning of clothing and/or uniforms as a service for commercial and manufacturing establishments as compared with an establishment designated as “clothes cleaning, neighborhood.”

Clothes Cleaning, Neighborhood

An establishment that does laundry and/or dry cleaning of clothing and uniforms for individuals, and which generally serves one (1) or more residential neighborhoods.

Club

Buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

Cluster Development

A residential cluster shall include an area to be developed as a single entity according to a plan containing residential housing units in which the individual lots have a common or public open space as an appurtenance. Such common or public open space shall be assured of continued operation and maintenance either through the dedication of such area to the Municipality and the Municipality’s acceptance thereof, or through the creation of a homeowners association, or the developer’s acceptance of such responsibility including such legally binding agreements as may be required to achieve such assurances.

Conditional Use

A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Governing Body and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

Condominium

A building or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Convenience Store

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

County Planning Commission

The Planning Commission of Luzerne County.

Common Open Space

A parcel or parcels of land, which may include an area of water, within a development site and designated and intended for the use or enjoyment of residents of a planned residential development, exclusive of streets, off-street parking areas and areas set aside for public facilities.

Commercial Vehicle

A commercial vehicle shall be any vehicle other than a private passenger vehicle, including trucks, trailers, and construction equipment.

Commission

The Planning Commission of the Township of Pittston.

Conservation Area, Primary

Those areas of a development tract which are comprised of environmentally sensitive lands on which development is not permitted.

Conservation Area, Secondary

Those areas of a development tract which are somewhat less sensitive than primary conservation areas and which may be critical to the effect the development will have on both the natural environment and the rural character of the community.

Conservation Open Space

That part of a particular cluster development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Zoning Ordinance and which meets the conservation open space requirements of the Township's Subdivision and Land Development Ordinance. Conservation open space may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland or forest land which are not accessible to project residents or the public.

Construction

Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition for public or private, rights-of-way, structures, utilities or similar property.

Coverage, Building

The percentage of the plot or lot area covered by the area of all buildings and structures thereon.

Coverage, Impervious

The coverage of land by buildings and other impervious materials such as asphalt, which prevent the percolation of water into the ground.

Court

A court is any open, unoccupied area which is bounded by three or more attached building walls.

Crematorium

A furnace or establishment for the incineration of human or animal corpses. This definition shall include any such device or operation that is accessory to another use. (e.g. the incineration of animals as part of a veterinary clinic.)

Critical Areas

An area with one or more of the following characteristics: stream corridors, streams, flood plain areas, wetlands, slopes which equal or exceed fifteen (15%) percent, soils classified as highly acidic or highly erodible, soils classified as having a high water table, land and associated soils which display poor percolation, mature stands of native vegetation and aquifer recharge and discharge area.

Customary Household Pets

Customary household pets shall include animals, fish and birds which are generally considered to be domestic animals, such as hamsters, dogs, cats, and birds including ducks which shall not be for human consumption. Farm fowl such as chickens and turkeys and other farm animals not specifically designated shall not be considered as customary household pets.

Deck

An extension of a principal dwelling structure utilized for accessory outdoor activities relating to the use of the dwelling; provided, however that a deck is more than six (6)

inches above the mean ground elevation around the exterior of the dwelling structure where the deck adjoins the structure.

Density

Density is a measure of the number of dwelling units per acre of area. It shall be expressed in dwelling units per acre.

1. Density, Gross: This is the maximum density that may be permitted in any zoning district. It is calculated by dividing the total number of dwelling units by the Base Site Area.
2. Density, Net: This is the maximum density permitted on the buildable portion of the site. All tracts of land within a district may be developed to the same net density. Net density is calculated by dividing the total number of dwelling units by the Net Buildable Site Area. This density controls actual site capacity.

Detached Building

One which has yards on all four sides.

Development

Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, the placement of mobile homes, streets and other paving, utilities, mining dredging, filling, grading, excavation, or drilling operations, and the subdivision of land.

Development Section

Within any large-scale development, the developer may select a portion of the entire approved large-scale development area to be developed in stages or phases; any such area shall be considered as a "development section."

District

A district or a zone shall be any portion of the territory of the Municipality within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Dog Kennel

A structure for keeping three (3) or more dogs that are more than six (6) months old.

Dormitory

Residential facilities that are only inhabited by teaching faculty and/or full-time students of an accredited college, university or medical training facility or State-licensed teaching

hospital, or approved “Care and Treatment Center for Children” (as an accessory use to such use) or to an accredited public or private primary or secondary school, and which are owned and operated by such principal use to which the dormitory serves. Dwelling units shall not be regulated as “dormitories.”

Drive-in Commercial Use

Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in-theaters, and similar uses.

Drug Rehabilitation Facilities

Facilities for the rehabilitation of persons who abuse or are addicted to legal or illegal controlled substances, including the overnight stay of patients.

Drug Treatment Centers

Facilities for the treatment of persons who abuse or are addicted to the use of legal or illegal controlled substances, such as a methadone clinic, where such treatment is designed to cure persons of such addictions, but not including overnight stays.

Dump

A lot or parcel of land thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purposes of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind but not including approved sanitary land fill disposal.

Dwelling

Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, including one-family, two-family, and multiple-family dwellings, but not excluding hotels, rooming houses, tourist homes, institutional homes, and similar uses.

Dwelling, Garden Apartments

A group of rental units, generally under single ownership (but a condominium is not precluded) where there shall not be more than eight (8) dwelling units contained within each structure; such structures containing garden apartment units are generally less than four (4) stories in height although in the Municipality they shall not exceed a height of 2.5 stories or thirty-five feet.

Dwelling Group

A group of two (2) or more residential buildings on a single zone lot.

Dwelling, Multi-Family

A building designed for, occupied, or used for dwelling purposes by three (3) or more families, including but not limited to garden apartments, condominiums and town houses.

Dwelling, Single-Family

A detached building designated for or occupied exclusively by one family and containing not more than one dwelling unit.

Dwelling, Town House

An attached residential building containing not less than three (3) single family dwelling units, but not more than eight (8) single family dwelling units, having separate front and rear access to the outside, with no dwelling unit located above any other. Each dwelling unit is separated from one another by one or more common walls.

Dwelling, Two-Family

A detached or semi-detached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, un-pierced except for access to the outside or to a common cellar.

Dwelling Structure

Any structure which shall contain one (1) or more dwelling units, not including a hotel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house or boarding house.

Dwelling Unit

A single habitable living unit occupied by only one “family.” See definition of “family.” Each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping and cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. No dwelling unit shall include a separate living area that is completely separated by interior walls so as to prevent interior access from the remainder of the living area. No dwelling unit may include more than one (1) kitchen, except:

- a. Cooking facilities may be located in two abutting rooms that open into each other,
- b. If a kitchen was installed prior to the adoption of this Ordinance under a valid Township permit, or
- c. For Care of Relative.

Earth-Extraction Industry

An earth-extraction industry is a business activity which includes the excavation and removal of natural resources from the earth. Earth-extraction industries include, but are not limited to mining and quarrying.

Earth-Moving Industry

An earth-moving industry is a business activity which results in temporarily or permanently changing the contour of the earth. Earth-moving industries include, but are not limited to earth extraction industries and sanitary landfills.

Easement

A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Easement, Drainage

An easement required for the installation of storm water sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or water course or other drainage facility.

Electric Transmission and Distribution Facilities

Electric public utilities transmission distribution facilities including substations.

Emergency

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Essential Services

a. Essential Services, Enclosed or Permanent Structures

Such uses are intended to include facilities for sewage treatment, electric substations, transformers, switches, and auxiliary apparatus, as well as local governmental services such as police stations, fire houses and similar uses. Where such uses are proposed to be located in a Residential District, they shall be subject to the following regulations:

- 1) Such facility shall not be located on a residential street (unless no other site is available), and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
- 2) The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
- 3) Adequate fences, barriers and other safety devices shall be provided, and shall be landscaped in accordance with the provisions of Section 317_ hereof.

- 4) Noise emitted from electric substations shall not be greater than permitted in accordance with the performance standards set forth herein.

b. Essential Services, Open

Such uses shall be limited to the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Such uses shall not include sanitary landfills and related uses such as staging areas or other means of solid waste disposal. Where applicable, the landscaping regulations of Section 317 hereof shall apply.

Exotic Animals

As regulated by the Pennsylvania Game Commission, exotic animals include, but are not limited to, all bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves, and any cross-breed of these animals which have similar characteristics in appearance or features. This definition is applicable whether or not the bird or animal was bred in captivity or imported from another state or nation.

Family

Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.

Notwithstanding the definition in the preceding paragraph, a family shall also be deemed to include not more than 7 unrelated persons occupying a dwelling units and living as a single, nonprofit housekeeping unit. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

A family does not include a group living in a boarding house or hotel, or fraternities, sororities, and clubs, or other forms of congregate living arrangements, except as otherwise provided herein.

Farm

Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, or dairy products, including necessary farm structures within the prescribed limits and the storage of equipment customarily incidental to the primary use. For the purpose of this Ordinance, a farm shall not include the raising of fur bearing animals, riding academy, livery or boarding stables or dog kennels.

Farm Animals

Farm animals shall be those animals normally associated with agricultural enterprises, such as cattle, horses, and poultry; they are normally raised for human consumption, production of dairy products, pelts and other commercial purposes.

Flea Market

An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

Floor Area

For the purposes of applying the requirements for off-street parking and loading, “floor area,” in the case of offices, merchandising, or service type of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incident to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting or alteration rooms.

Forestry

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

Frontage

The length of any one property line of premises, which property line abuts a legally accessible street right-of-way.

Garage, Private Parking

A detached accessory building or a portion of a principal building used only for the storage purposes by the residents of the premises.

Garage, Public

A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles not including a structure or part thereof used only for storage or display of automobiles for other than transients.

Garage, Repair (Also See automobile Service Station)

A commercial building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

Gardening

The cultivation of herbs, fruits, flowers, or vegetables, excluding the keeping of livestock.

General Nuisance

Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare. The following factors are included:

- a. Fire and explosion hazards
- b. Electrical and radioactive disturbances
- c. Noise and vibration
- d. Dust, dirt, fly ash
- e. Glare
- f. Smoke, odors
- g. Other forms of air pollution not listed above.

Governing Body

The Board of Supervisors of the Township of Pittston, Luzerne County, Pennsylvania.

Grade, Finished

The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

Group Home for Handicapped Persons

A dwelling unit shared by not less than four (4) nor more than seven (7) handicapped persons, including resident staff, who live together as a single housekeeping unit and in long-term, family-like environment in which staff persons residing on the premises provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. The term “group home for the handicapped” shall not include alcoholism or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

In addition, none of the following shall constitute such a group residence:

- a. A boarding house and/or a personal care boarding house
- b. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or addiction to a controlled substance
- c. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution, including, but not limited to a halfway house or similar facility.

Halfway House

A State licensed house for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

Handicapped Person

As used herein, regarding “group home for the handicapped,” the term “handicapped” shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person’s bodily functions so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, “handicapped” shall not include current illegal use of or addition to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.

Hazardous Substances:

Any material that, by reason of its quantity, concentration, or physical, chemical or infectious characteristics may:

1. Cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness.
2. Pose a substantial present or potential hazard to human health or the environment. This definition shall be deemed to include radioactive material.

Health Care Facilities

Health Care Facilities consist of several different types of facilities such as hospitals, medical centers, medical clinics, nursing homes, hospice institutions, physical therapy, including massage by licensed professionals, as an ancillary use to other health care procedures and other similar uses where people can receive medical treatment and related support services due to their inability to meet their own physical care needs; provided, however, that the following uses shall not be considered as health care facilities for purposes of administering this ordinance; they shall be regulated separately and limited as to the zone districts where they shall be permitted:

- a. Rooming and boarding houses

- b. Drug rehabilitation facilities
- c. Drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from abusing and/or overdosing on legal or illegal controlled substances
- d. Treatment Center

Health Club

An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.

Height of Building

The vertical distance measured from the average level of finished grade along all the exterior walls of a building to:

- a. The highest point of the roof, in the case of a flat roof;
- b. The highest point of the roof, in the case of a pitched roof.
- c. The highest point on any structure which rises wholly or partly above the roof line, and whose area equals or exceeds 20 percent of the ground floor area of the building which supports it.

Height of Sign

The vertical distance measured:

- a. From ground level to the highest point on the sign itself and/or its supporting structure.
- b. Along the face of the sign or its supporting frame from lowest point to highest.

Home Occupation

A business or professional activity conducted in a single-family dwelling by the occupant thereof, as regulated in Section 803.10.

Hospital

A place, licensed by state law, for services of a medical or surgical nature, for the care of humans, including diagnosis, treatment, and other services such as clinical, temporary, emergency, surgical, and general medical practice, and having facilities for inpatient care including such establishments as a sanitarium.

Hotel

A building designed for occupancy as a temporary residence of individuals who are lodged with or without meals. No cooking is provided in any individual room or suites but restaurants, cocktail lounges, banquet halls, ballrooms and meeting rooms are permitted as accessory uses.

Household Pet, Traditional

Traditional household pets include such pets as dogs, cats, birds, fish, gerbils, hamsters, rabbits, chinchilla, and other similar types of pets. Other pets that are not deemed to be dangerous, such as miniature horses are also deemed to be traditional household pets.

Hub Height.

The distance measured from the surface of the tower foundation to the height of the wind turbine hub to which the blade is attached.

Impact Analysis

The required analysis of a development proposal in accordance with the requirements of section 605 hereof.

Impervious Material

Any material and/or development that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall include, but may not be limited to, buildings, roofs, surfaced, graveled or compacted parking areas, streets, sidewalks, driveways and similar vehicular and/or pedestrian right-of-ways.

Incinerator

Machinery that burns trash to ashes

Junk

Junk shall mean any discarded material or article including but not be limited to scrapped or abandoned metal, paper, building materials, machinery, equipment, bottles, glass, appliances, furniture, and bedding, rags, rubber, motor vehicles, and parts thereof.

Junk Yard/Dump (Also see Automobile Wrecking Yard):

An area of land, with or without buildings, where junk is bought, sold, exchanged, stored, processed, or handled, outside of a completely enclosed building, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two or more wrecked or disabled vehicles, or the major part thereof, without current inspection stickers shall be deemed to be a "junk yard"; provided, however,

that such use shall not be deemed to be a “junk yard” if they are stored in an enclosed building.

An automobile wrecking yard is also considered a junkyard.

Land Development

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving
 - (a) 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;
 - (b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land.
3. Development in accordance with Section 503(1.1) of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

Landowner

The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a propriety interest in land

Large-Scale Development

- a. Residential. A large scale residential development shall be planned for a site of not less than forty (40) acres.
- b. Commercial. A large scale commercial development shall be planned for a site of not less than five (5) acres.
- c. Manufacturing. A large scale manufacturing development shall be planned for a site of not less than five (5) acres.

Limited Access Highway

A highway designed in such a manner so as to provide no direct access to properties abutting its right-of-way and including all highways designated as limited access highways as adopted by the Planning Commission.

Lot or Zone Lot

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Ordinance, and having frontage on a public street.

- a. Lot Area. The computed area contained within the lot lines and the ultimate right-of-way line. The area within the right-of-way shall not be computed as part of the lot area.
- b. Lot, Corner. A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner."
- c. Lot Coverage. Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings and structures, by the gross area of that lot.
- d. Lot, Depth. The mean horizontal distance between the front and the rear lot lines.
- e. Lot Line. A line dividing one lot from another lot or from a street or alley.
 - 1) Lot Line, Front. The ultimate right-of-way line of the street or road..
 - 2) Lot Line, Rear. The lot line opposite and most distant from the front lot line. A lot bounded by only three lot lines will not have a rear lot line.
 - 3) 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.
 - 4) Lot Line, Street or Alley. A lot line separating the lot from a street or alley.
- f. Lot of Record. A lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, on the effective date of the adoption of this Ordinance.
- g. Lot, Through. A lot having its front and rear yards each abutting on a street.
- h. Lot Width. The mean width of the lot measured at right angles to its depth. Such a line along which the minimum lot frontage shall be measured at a point which shall coincide with the building set back or front yard line.

Malodor

An odor which causes annoyance or discomfort to the public and which the Township determines to be objectionable to the public.

Mediation

A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

Medical Clinic/Center

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by State-licensed physicians, dentist's chiropractors or other licensed medical specialists, in which said medical practitioners may or may not work in cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24 hour emergency service. Satellite hospital facilities which do not include facilities for the overnight stay of patients are also included in this use category. Such treatment may include day surgery, out-patient surgery, magnetic resonance imaging centers and similar uses, but, they may not include drug rehabilitation facilities or drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from abusing and/or overdosing on legal or illegal controlled substances. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

Medical Testing Laboratory

A facility that provides testing services in accordance with physician requirements for the evaluation and measurement of various patient medical conditions.

Methadone Clinic

A site, licensed by the Pa. Dept of Health, the primary purpose of which is to conduct projects approved by the PA Department of Health which projects use the drug methadone in the treatment, maintenance or detoxification of persons, excluding overnight stays.

Minerals

Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mixed Use Structure

A structure which contains two or more distinctly separate uses such as a commercial use and a residential use.

Mobile (Manufactured) Home

A transportable, single family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, 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 with or without a permanent foundation. The term shall not include park trailers, travel trailers and other similar recreational vehicles, or any units that are less than forty (40) feet in length or less than ten (10) feet in width.

Mobile (Manufactured) Home Park

A parcel of land under single ownership which has been planned and improved for the placement of two (2) or more manufactured homes for non-transient use.

Motels, Motor Courts and Motor Hotels

- a. A series of attached or semi-attached dwelling structures, where each unit has convenient access to parking space for the use of the units' occupants. The units, with the exception of the manager's office or caretaker's unit, are designed to provide sleeping accommodations for automobile transients or overnight guests.
- b. Have individual entrances from outside the building to serve such living or sleeping unit.
- c. Restaurants, cocktail lounges, banquet halls, ballrooms, and waiting rooms are permitted as accessory uses.

Motel (Also See Hotel)

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended, or used primarily for the accommodations of automobile travelers and provides automobile parking conveniently located on the premises.

Municipality

Pittston Township, Luzerne County, Pennsylvania.

Net Developable Area

The area of a tract that is suitable for development, exclusive of rights-of-way, and environmentally constrained areas such as floodplains, wetlands, and steep slopes in excess of 20%.

Net Developed Area

Total acreage excluding any area within a public right-of-way.

Net Land Area

The net land area of any development parcel shall include only the area contained within the property line and the ultimate right-of-way line. The area within the right-of-way (public right-of-way or other thoroughfare) shall not be computed as part of the "net land area."

Net Site Area

The remainder of the gross site area after subtracting 100% of the area of all lands within the rights-of-way and 65% of all lands without development capability due to restrictions including, but not limited to drainage easements, restrictive covenants, conservation easements, agricultural easements and other environmental constraints, such as excessive slope, wetlands and floodplains.

Nightclub

A commercial establishment dispensing alcoholic and/or nonalcoholic beverages for consumption on the premises and in which dancing is permitted.”

No-Impact Home Business

“No-impact home-based business,” a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- 1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- 2) The business shall employ no employees other than family members residing in the dwelling.
- 3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- 4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.
- 5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- 6) The business activity may not generate any solid waste or sewage.
- 7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- 8) The business may not involve any illegal activity.

Nonconforming Lot

A lot the area or dimension of which was lawful prior to the adoption or amendment of this zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Nonconforming Structure

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions set forth herein or any amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reasons of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use

A use, whether of land or of structure, which does not comply with the applicable use provisions set forth herein or any amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

Nursery, Horticulture:

Any lot or parcel of land used to cultivate, propagate and grow trees, shrubs, vines, and other plants including the buildings, structure and equipment customarily incidental and accessory to the primary use.

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."

Open Space

- a. Open Space, Common. A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the residential development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space includes both developed (active) and undeveloped (passive) open space.
- b. Open Space, Developed (Active). Land that is set aside for use as active recreational areas, such as playfields, playgrounds, skating rinks, swimming pools, tennis courts, and areas for water management (storm, waste, potable supply).
- c. Open Space, Undeveloped (Passive). Land used for passive recreation, agriculture, resource protection, amenity, or buffers and protected from future development by the provisions of this Ordinance to ensure that it remains as open space.

Outdoor Advertisement (Also see Billboard)

An advertisement used outdoors, including painted walls, or rock face, of a product or service unrelated to the use of the land or structure on which it is located, but not including official notices or directional road signs of a governmental body.

Outdoor Storage

The keeping, in an unroofed area, of any goods, material, merchandise, equipment or vehicles which are related to the operation of a commercial business, excluding the storage of solid waste, hazardous substances, refuse, junk or any inoperative durable items.

Parcel

A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

Patio

An extension of a principal dwelling structure utilized for accessory outdoor activities relating to the use of the dwelling; provided, however that a patio shall not be more than six (6) inches above the mean ground elevation around the exterior of the dwelling structure where the patio adjoins the structure.

Parking Area/Garage Private

A structure or a portion thereof, or an open area used only for the storage of vehicles by residents of the premises, their guests, and/or their customers/clients.

Parking Are/Garage Public or Commercial

A parking lot or garage whose principal use is parking or storing motor vehicles for specified time periods or on a rental basis, but not including parking or storing commercial or public utility vehicles, or the dead storage of motor vehicles.. Such parking facilities are available to the public whether for a fee or free.

Personal Services

Any enterprise conducted for gain, which primarily offers services to the general public such as shoe repairs, valet service, watch repairing, barber shops, beauty parlors and related activities.

Private Property

Something owned, operated and supported by private individuals or a corporation, rather than by government, and not available for public use.

Public Property

Something owned, operated and supported by the Community or the residents for the use and benefit of the general public.

Public Uses

Public schools, parks and administrative cultural and service buildings excluding public land or buildings primarily devoted to the storage and maintenance of equipment and materials.

Public Utilities Facilities

Telephone, electric and cable television lines, equipment and structures; water or gas pipes, mains, valves, or structures, pumping stations; telephone exchanges and all other facilities, equipment and structures necessary for conducting a service by public utility.

Place of Worship

A building used for religious services, including churches, synagogues, mosques and similar edifices.

Planned Residential Development

An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, with a development plan which does not correspond in lot size, bulk or type of dwelling density, lot coverage and required open space to the regulations established in any one residential districts created, from time to time, under the provisions of this Ordinance.

Planning Commission

The Planning Commission of the Township of Pittston.

Pole Barn/Building

The term *pre-engineered post-frame* is a modernization of the term “pole barn.” Post-frame construction is the primary structural frame that typically consists of a clear span truss supported by two columns. This primary framing system is supported by an interlocking system of purloins, girts, and sheathing. Loads are transferred to the ground through columns typically embedded in the ground or surface-mounted to a concrete or masonry foundation.

Portable Swimming Pool

A pool which is not connected to a pool filter and which is capable of being relocated and stored during non-swimming seasons.

Principal Use

The primary use of land or structures, as distinguished from a secondary or accessory use.

Professional Office

The office of a member of a recognized profession. When conducted in a residential district, a professional office shall be incidental to the residential occupancy, shall be conducted by a member of the residential family entirely within a residential building, and shall include only the offices of doctors, or physicians, dentists, optometrists, ministers, architects, landscape architects, professional engineers, lawyers, artists, authors and such other similar professional occupations which may be so designated by the Zoning Hearing Board upon finding by the Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to a greater extent than for the professional activities listed herein. The issuance of a State or Local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

Public and Semi-Public Uses

Uses which provide government services as well as private organizations which provide service to the public on a not-for-profit basis.

Public Right-of-Way

Any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.

Public Utility

An organization which is subject to special governmental regulation, and which provides an essential commodity or service, such as water, electricity, telephone, etc...

Quarry, Sand Pit, Gravel Pit, Borrow Pit, Top Soil Stripping

A lot or land or part thereof used for the purpose of extracting stone, sand clay, gravel or top soil for sale and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

Recreation

a. Recreation Commercial

Recreation facilities operated as a business and open to the general public for a fee.

b. Recreation, Private, Non-Commercial

Clubs or recreation facilities, not operated for a profit, and open only to bona fide members of an organization and their guests

c. Recreation, Public

Recreation facilities operated as a non-profit enterprise by the Municipality, and other governmental entity or any non-profit organization and open to the general public.

Recreation Vehicle

Any portable or mobile vehicle used or designed to be used for travel, recreation and/or temporary living purposes; regardless of any other intended use and whether or not its wheels, rollers, or skids are in place. A recreation vehicle shall include trailer, camper, boat, boat trailer, snowmobile, airplane or other similar vehicle which may provide partial and usually temporary living and sleeping quarters and which may or may not include kitchen and/or bathroom conveniences.

Related or Relative

Persons who are related by blood, marriage, or adoption to result in one of the following relationships: parent, grandparent, great-grandparent, child, grandchild, great-grandchild, uncle, aunt, father-in-law, or mother-in-law, or 1st cousin.

Report

Any letter, review, memorandum, compilation or similar writing made by any, body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed as recommendations and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceedings upon request, with copies thereof provided at the cost of reproduction.

Right-Of-Way

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or other special use.

Rooming House

A dwelling which has more than one sleeping room for rent to persons not related to its other occupants. The term “Rooming House” includes the term “Boarding House.”

Sanitarium, Sanatorium

A private hospital, whether or not such facility is operated for profit.

Sanitary Land Fill

A sanitary land fill is considered to be any facility devoted to the storage and/or disposal of solid wastes pursuant to the regulations of the Pennsylvania Department of Environmental Protection governing sanitary landfills. Sanitary landfills may include Staging Areas as defined herein. Sanitary landfills shall be subject to all regulations contained herein governing earth-moving activities.

Satellite Earth Station

A “dish-shaped” antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communication satellites.

School

A place offering instruction in any branch of knowledge under the supervision of the Commonwealth of Pennsylvania or a lawfully constituted ecclesiastical governing body, person, partnership or corporation meeting the requirements of the Commonwealth of Pennsylvania.

School, Nursery

Any place designed and operated to provide regular instruction and daytime care for two or more children under the age of elementary school children.

Screening

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Screen Planting

A vegetative material of sufficient height and density to conceal from the view of passing motorists and adjacent property owners the structures and uses on the premises on which the screen planting is located

Seating Capacity

The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the most recent edition of the BOCA Code.

Self-Service Storage Facility

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

Self-Service Station

An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products, subject to the sales of other retail products being secondary and incidental to the principal use.

Semi-Public Uses

Churches, Sunday schools, parochial schools, colleges, hospitals, and other similar institutions of an educational, religious, charitable or philanthropic nature.

Setback

The required minimum horizontal distance between the building line and the related front, side or rear property line.

Setback Line

A line established by the subdivision regulations and/or zoning ordinance generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in said codes.

Sewage Disposal, Centralized

A sanitary sewage collection system, approved by the Pennsylvania Department of Environmental Resources, in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal facility.

Sewage Disposal, On-Lot

Any facility designed to biochemically treat sewage within the boundaries of an individual lot in accordance with the applicable rules and regulations of the Pennsylvania Department of Environmental Resources.

Sex Shop

Any establishment which:

- a. In whole or in part, sells, leases, dispenses or displays photographs, drawings, films or reproductions of any type depicting explicit or implied sex acts; or
- b. Exhibits or permits the exhibition of live sexual acts or implied sexual acts; or solicits, or permits solicitation of persons and/or animals for the purpose of indulging in sexual relations or implied sexual relations.

Shooting Range

Land or a building utilized for the use of firearms for target practice, trap shooting, or skeet shooting,

Shooting Range, Commercial

The use of land or a building for the use of firearms for a fee to be determined by the operator of the facility. Outdoor commercial shooting ranges shall be allowed only on parcels of not less than five (5) acres.

Shooting Range, Personal

The use of a portion of a parcel utilized for the use of firearms by the owner occupant of the parcel and by his/her guests. Personal shooting ranges shall be allowed only as accessory residential or agricultural uses. Outdoor shooting ranges shall be allowed only on parcels of not less than five (5) acres. No guest shall be required to pay any fees for the use of a personal shooting range.

Shopping Center

A group of retail stores planned and designed to function as a unit, and having off-street parking as an integral component of the unit.

Sign

A “sign” is a name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building, structure, a piece of land, or on any vehicle, equipment or other portable gear, other object such as a stationary vehicle (automobile, truck, trailer, tractor trailer, bus, etc.) upon which there is any information presented for public view, where such information directs attention to an object, product, place, activity, person, institution, organization or business; provided, however, that information in the form of lettering and/or illustrations on vehicles accessory (sending or receiving) to the business or the parcel where they are located shall not be considered to be a sign. However, a “sign” shall not include any display of official court, or public office notices, or any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or a religious group. A “sign” shall

not include a sign located completely within an enclosed building except for illuminated or animated signs within show windows. Each display surface of a sign shall be considered to be a “sign.”

Sign, Business

A “business sign” is a sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

Sign, Development

Signs advertising the sale or development of the premises upon which they are erected.

Sign, Directional

Signs, indicating the location and direction of premises available for or in process of development, but not erected upon the premises and bearing the name of the owner, developer, builder or agent.\

Sign, Flashing

A “flashing sign” is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance any revolving, illuminated sign or traveling message panel shall be considered a “flashing sign.”

Sign, Gross Surface Area

The “gross surface area” of a sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements, lying outside the limits of such sign and not forming an integral part of the display. The gross surface area of free standing signs shall include the area of one (1) side of such sign even if display information is included on both sides of the sign.

Sign, Outdoor Advertising

An outdoor sign or billboard which directs attention to a business, profession, commodity or entertainment conducted, sold, or offered elsewhere than upon the same lot. .

Sign, Outdoor Advertising - Double Sign

A double outdoor advertising sign shall be a sign constructed with separate framing elements which are structurally connected at their sides. No half of such a double sign shall, however, exceed two-thirds of the maximum permitted gross surface area of an

individual sign; and the combined gross surface area shall not exceed the maximum permitted for a single sign.

Sign, Temporary: A “temporary sign”:

- a. Offers premises for sale, rent or development.
- b. Advertises the services of building trades engaged in construction or alteration of the premises upon which the sign is located, or
- c. Advertises a special event.

Temporary signs shall be removed upon occupation of premises, or immediately after work has been completed or the advertised event has taken place.

Site Plan

A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses and features proposed for a specific parcel of land.

Social Hall

A room or building used for friendly or convivial gatherings, normally owned and/or operated by a nonprofit or civic organization.

Solid Waste

Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous materials, 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 or other waste, including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other byproduct or effluent from an industrial mining, agricultural or water supply treatment facility, wastewater treatment facility or air pollution control facility. The term does not, however, include: “Hazardous Substances” as so defined by this Ordinance and “Hazardous Waste,” as so defined by the Pennsylvania Department of Environmental Protection, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

Solid Waste Facilities

Include the following operations as defined and regulated by the Pennsylvania Department of Environmental Protection: landfills, transfer facility, refuse vehicle staging areas, leaf composting facility, resource recovery facility, waste disposal and processing facility, and recycling facilities.

Solid Waste, Municipal

Any garbage refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

Sound

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

Special Exceptions

A “special exception” is a use which because of its unique characteristics requires individual consideration in each case by the Zoning Hearing Board as specified in Articles 6 and 15 before it may be permitted in the district enumerated in Article 5 hereof. In accordance with the provisions of this ordinance, the Zoning Hearing Board may require certain conditions and safeguards before such a use is permitted.

Specimen Tree

Any existing tree with a caliper that is 75 percent or more of the record tree of the same species in the Commonwealth of Pennsylvania.

Stable, Private

An accessory building in which horses are kept for private use and not for hire, remuneration, exhibition, or sale.

Stable, Public

A building in which any horses are kept for remuneration, hire, exhibition, or sale.

Staging Area and Transfer Station

a. Staging Area

A staging area is an area designated for motor vehicles or other means of transportation or any other types of refuse container containing solid waste materials which are to be deposited at a sanitary landfill site. Loaded vehicles awaiting their opportunity to deposit such wastes shall wait for their turn in a designated staging area

on the sanitary landfill site. All staging areas shall be subject to all regulations contained herein governing sanitary landfills.

b. Transfer Station

A transfer station is a facility for the temporary storage of solid waste en route to a solid waste disposal facility. A transfer station is intended to serve as a facility to improve the efficiency of transporting solid waste materials to a disposal.

Stationary Vehicles

Any vehicle that is parked on a single parcel of land for a period of more than 24 hours within 200 feet of any street right-of-way lines, if it is visible within said 200 foot distance; e.g. if it is within 200 feet of the right-of-way and it is not visible from the right-of-way or from any adjacent residential property, it shall not be considered to be a stationary vehicle.

Steep Slope

Areas where the average slope exceeds ten (10%) percent which, because of this slope, are subject to high rates of storm water run-off and soil erosion.

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above. A basement shall be a story if its ceiling equals or exceeds five (5) feet of the finished ground surface adjoining the exterior walls of such story

a. Story, Half

A partial story under gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story shall not be used for residential purposes, other than for a janitor or caretaker or his family.

b. Story, First

The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

Street

A public or private thoroughfare not less than thirty (30) feet in width if in existence prior to the passage of this ordinance nor less than fifty (50) feet in width if established subsequent to the passage of this ordinance which affords the principal means of access to abutting property, including avenue, place, way, drive, land boulevard, highway, road and any other thoroughfares except an alley.

a. Side Street

Any street, the length of which shall be not more than 50 percent of the length of the largest street line of the Municipality's blocks of which it is part.

b. Residential Street

A street between two intersecting streets upon which an R-District abuts, or where 50 percent or more of the abutting street frontage is in predominantly residential use.

c. Other Street Classifications

- (1) Approach Highways are those which intersect with and have interchange connection with limited access arterial highways.
- (2) Arterials are those serving large volumes of comparatively high-speed and long-distance traffic, and include facilities classified as main and secondary highways by the Pennsylvania Department of Transportation, and include streets classified as Arterial Thoroughfares or Primary Streets in the Traffic Plan set forth in the Municipality's Comprehensive Plan.
- (3) Collector Streets are those which, in addition to giving access to abutting properties, intercept facilities and provide routes, to community facilities and to major traffic streets, and include streets classified as Secondary Streets in the Traffic Plan set forth in the Municipality's Comprehensive Plan.
- (4) Half or Partial Street: A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street.
- (5) Local Access Streets, Including Minor Streets, are those used primarily to provide access to abutting property.
- (6) Marginal Access Streets are minor streets, parallel and adjacent to major traffic streets, providing access to abutting properties and control of intersections with the major traffic streets.
- (7) Major Streets are all streets other than local access streets or marginal access streets.

Structure

Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things,

structures include buildings, mobile homes, swimming pools, carports, walls, fences and billboards. Accessory outdoor recreation equipment on Residential Zone Lots shall not be classified as a structure.

Structural Change

Any change in the structural members of a building, such as walls, beams columns or girders.

Telecommunications Antenna, Commercial

A device attached to a building, structure, or Telecommunications Tower principally intended for receipt or transmission of signals for such uses as commercial or public VHF or UHF television, FM radio, two-way radio, commercial carriers, cellular telephone, fixed point microwave, lower power television or AM radio, including accessory equipment related to telecommunications. Not included are antennas for private, non-commercial and amateur purposes, including but not limited to ham radios and citizens band radios.

Telecommunications Facilities, Commercial

Any device which is intended for transmitting or receiving commercial television, radio or telephone communications, excluding the following:

1. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
2. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.
 - a. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95, respectively, and which are less than one hundred (100) feet in height.
 - b. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or water craft.
3. A radio frequency machine which is designated and marketed as a consumer product, such as microwave ovens and radio control toys.

Telecommunications Facilities, Residential

Antennas for private, noncommercial and amateur purposes, including Television satellite dish antennas.

Telecommunications Facility Building, Commercial

The building in which electromagnetic receiving and relay equipment for a Telecommunications tower is housed.

Telecommunications Tower, Commercial

A free standing structure, such as a pole, telescoping mast, tower, tripod, or any other structure which supports a commercial telecommunications tower, including any guy wires, principally intended to support facilities for receipt or transmission of signals for uses such as commercial or public VHF or UHF television, FM radio, two-way radio, commercial carriers, cellular telephone, fixed point microwave, low power television, or AM radio, including accessory equipment related to telecommunications. Not included are towers and supportive structures for private, non-commercial and amateur purposes including but not limited to ham radios and citizens band radios.

Telecommunications Tower, Height Measurement

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

Temporary Uses

Temporary uses shall include those activities which will be undertaken for a period of time specified in the application for a permit for such a use. Said period of time shall be one (1) year or less. If additional time is required a new application shall be submitted. No application for temporary uses shall be for a period of more than one (1) year.

Tourist Home

A dwelling in which overnight accommodations are used by transient guests for compensation.

Tower

A structure situated on a nonresidential site or lot which is intended for transmitting or receiving television, radio, or telephone communications.

Tract

Land held in single ownership which consists of lands to be subdivided or suitable for a land development. The tract shall consist of not less than the minimum area required for subdivision or development as set forth herein.

Transfer Station

A facility which receives and temporarily stores solid waste at a location other than the generation site, which facilitates the bulk transfer of accumulated solid waste to a another

facility or site for further processing and/or disposal of said solid waste. Said use shall be classified and regulated as a “ Solid Waste Facility.”

Transient Housing Facilities

Transient housing facilities shall include halfway houses, emergency shelters or missions, and other types of housing facilities which are to be occupied on a temporary basis, such as a fixed period of time. Such housing shall be distinguished from housing occupied by a family in that family occupancy equates to an indefinite occupancy period.

Travel Trailer

A vehicle, less than 30 feet in length and used for temporary living or sleeping purposes, and standing on wheels.

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 1 year for the following:

- a. Criminal rehabilitation, such as a criminal half-way house/criminal transitional living facility or
- b. A treatment/housing center for persons convicted of driving under the influence of alcohol, 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.

Turbine Height.

The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane

Ultimate Right-of-way

The full width of the road designated by the Governing Body to be the minimum required width of any public right-of-way.

Variance

The Zoning Hearing Board may authorize departure to a minor degree from the terms of this Ordinance in direct regard to hardship peculiar to an individual lot in accordance with the procedures set forth in the Ordinance.

Wetlands:

Those areas that are inundated or saturated by the surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes but is not limited to wetland areas listed in The State Water Plan, The United States Forest Service Wetlands Inventory of Pennsylvania, The Pennsylvania Coastal Zone Management Plan and any wetland area designated by a river basin commission.

Wind Farm

A facility where one (1) or more windmills are located and are used for the generation of electricity which is used on-site for commercial purposes or which is sold on the open market. A windmill accessory to a principal structure which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall not be considered a *wind farm*.

Windmill

A machine that operates on the energy generated by a series of blades or slats rotated by the wind.

Windmill Height

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

WECS Accessory Equipment

A subordinate structure or structures, such as a battery bank, the use of which is incidental to that of the WECS and the machine used to convert wind into a usable energy form, which structure or structures are located on the same lot as the tower.

WECS Interconnect

A means by which a WECS is interconnected with the local public utility company so that excess power produced by the WECS can be fed into the utility line.

Wind Energy Conservation System (WECS)

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

Yard

An open space, as may be required by this Ordinance, of uniform width or depth on the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

a. Yard, Front

An open space, measured perpendicular to the building at the closest point to the front lot line, extending the full width of the lot between the front of the building and the ultimate right-of-way line unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

b. Yard, Rear

An open space, measured perpendicular to the building at the closest point to the rear lot line, extending the full width of the lot, between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

c. Yard, Side

An open space, measured perpendicular from the side lot line to the closest point of the principal building extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

Zone District:

A portion of Pittston Township illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of the Zoning Ordinance.

Zoning Hearing Board

The Zoning Hearing Board of Pittston Township, Luzerne County, Pennsylvania.

Zoning Officer

The administrative officer, appointed by the Governing Body who shall administer and enforce the provisions of this Ordinance.

Zoning Map

The Zoning Map which is part of the Zoning Ordinance and indicates and delineates the Zoning Districts of Pittston Township, Luzerne County, Pennsylvania.

ARTICLE 3: GENERAL REGULATIONS AND DIMENSION REQUIREMENTS

SECTION 301 COMPLIANCE REQUIRED

No structure or land shall be used or occupied, and no structure or part of a structure shall be erected, demolished, altered converted or moved, unless in compliance with all applicable provisions and regulations of this Ordinance

SECTION 302 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the protection and promotion of the public health, safety, convenience, comfort, morals, and general welfare of the residents of the Township. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

- 302.1 Public Provisions The regulations of this Ordinance, are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the Township which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of the Township, the provisions of this Ordinance shall apply.
- 302.2 Private Provisions The regulations of this Ordinance, are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Where the provisions of any easement, covenant or other form of private agreement or restriction imposes obligations, duties and/or requirements which are more restrictive and/or impose higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with the requirements of this Ordinance, then such private provisions shall be operative and supplemental to the requirements of this Ordinance.

SECTION 303 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structures or premises be used, designed or intended to be used for any purpose other than the uses hereinafter listed as permitted in the zone in which such building or premises are located.

SECTION 304 REQUIRED AREA OR SPACE CANNOT BE REDUCED

The area or dimension of any zone lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Ordinance; and if already less than the minimum required by this Ordinance, said area or dimension may be continued and shall not be further reduced.

SECTION 305 REQUIRED ACCESS

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.

SECTION 306 ACCESSORY STRUCTURES

Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

306.1 Attached Accessory Structures Accessory structures that are attached to a principal structure shall be considered to be part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

306.2 Types Of Residential Accessory Structures For residential lots, permitted accessory structures shall include but not be limited to noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools and satellite antenna dishes, solar panels, individual windmills, and other similar accessory uses.

306.3 Unattached Accessory Structures

A. Residential Accessory Structures When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:

1. The maximum height shall not exceed one and one-half (1.5) stories or twenty (20) feet, whichever is less.
2. An accessory structure shall not be located less than five (5) feet from a side lot line or rear lot line. In cases in which the applicable yard area abuts another street or alley a setback of ten (10) feet shall be required subject to it being in compliance with Section 307 of this Ordinance.
3. An accessory structure shall not be located less than ten (10) feet from the principal structure.
4. The maximum square foot area of any accessory structure other than a swimming pool, shall not exceed the square foot area of the footprint of the principal use.

5. In cases when a residential structure is a nonconforming use, located in a nonresidential zone, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations contained under Section 307 of this Ordinance.
- B. Nonresidential Accessory Structures When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than fifteen (15') feet from any side yard lot line or rear yard lot line. In cases in which the applicable yard area abuts another street or alley the required setback of fifteen (15) feet shall be subject to it being in compliance with Section 310. of this Ordinance.

SECTION 307 YARD REGULATIONS

- 307.1 Projections Into Required Yards The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:
 - A. Terraces or Patios: provided that such terraces or patios are not under roof, without walls or other form of enclosure and are not closer than five (5') feet to any adjacent lot line.
 - B. Projecting Architectural Features: such as bay windows, cornices, eaves, awnings, canopies, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two feet into any required setback.
 - C. Uncovered Porches: provided that such does not exceed four (4) feet in length and four and one-half (4.5) feet in depth as extended from the structure.
 - D. Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.
 - E. Retaining walls shall be set back not less than five (5) feet from any adjacent right-of-way.
- 307.2 Side Yard of Corner Lot. Any corner lot delineated by subdivision after the adoption of This Ordinance shall provide a side street setback line which shall not be less than the minimum front yard required on any adjoining lot fronting on a side street.
- 307.3 Width of One Side Yard May be Reduced. A reduction of width may be authorized only by the Zoning Hearing Board when warranted by the location of existing or proposed buildings on existing streets, or when conducive to the

desirable development of two or more lots; provided, however, that no side yard shall; be reduced to less than three (3) feet; provided further, that the resulting combined side yards on such lots shall not be less than the minimum required for the lot in the applicable Schedule in Article 5 hereof. Similarly, the distance between the proposed structure and another existing or proposed structure on an adjacent lot, may not be less than the distance of the two side yards combined, as required by the applicable Schedule Article 5 hereof for the Zone District in which the lot is located.

307.4 Exemptions For Certain Side yard Setbacks Any structure, such as a town house proposed to subdivided, containing two or more units, residential or nonresidential, shall be exempted from the governing side yard setback requirements under the Zoning Ordinance relative only to interior side yards. When a side yard of a proposed subdivision is directly attached to another unit within the structure, subdivision approval shall exempt the property from requiring and/or securing an interior side yard variance from the Zoning Hearing Board.

307.5 Front Yard Exceptions

- A. When an unimproved lot is situated between two (2) improved lots, each having a principal building within twenty-five (25) feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two (2) adjoining improved lots, but shall be not less than 15 feet.
- B. Where any unimproved lot shall front on a right-of-way which is proposed, on the Municipality's Official Map to be widened, the front yard of such lot shall be as required by the applicable Schedule in Article 5 hereof, and shall be measured from such proposed future right-of-way.

307.6 Front Yard of Corner Lot The front yard of any corner lot shall be established on the wider of the two (2) streets abutting said lot, except where the widths of the two (2) abutting streets are equal, then the front yard may be established on either street. The front of the structure, including its primary entrance, shall face the front yard of the property.

307.7 Additional Yards Required Where "B" and "I" Uses Abut R-Districts or Residential Uses

- A. All commercial, industrial, and manufacturing uses which abut, at the lot line or on the same street, an "R" District, shall provide yards, where they abut, of not less than one hundred (100) feet in depth. Such yards shall be maintained as landscaped open spaces and shall not be occupied by parking, loading or outdoor storage uses.

- B. Where a manufacturing use adjoins a residential use or a Residential zone, a buffer yard, of one hundred (100) feet in width, shall be provided along the adjoining lot lines.
- C. Where a B-1 commercial use adjoins a residential use or a Residential zone, a buffer yard, of fifteen (15) feet in width, shall be provided along the adjoining lot lines.
- D. Where a B-2 commercial use adjoins a residential use or a Residential zone, a buffer yard, of twenty five (25) feet in width, shall be provided along the adjoining lot lines.
- E. Buffer yards other than interior side buffer yards may be crossed by access roads, service drives, and utility easements not more than thirty-five (35) feet in width, provided that the angle of the center line of the road, drive, or easement crosses the lot line and buffer yards at an angle of not less than sixty (60) degrees.

SECTION 308 SUPPLEMENTAL HEIGHT REGULATIONS

308.1 Permitted Height Exceptions Except as otherwise provided herein, Height limitations stipulated elsewhere in this Ordinance shall not apply to open amusement areas, barns, silos, schools, church spires, belfries, cupolas and domes, monuments, water towers, utility poles, chimneys, smokestacks, flagpoles, radio and television towers, masts, aerials, farm structures, solar energy units, and WECS; or to parapet walls extending not more than four (4) feet above the limiting height of the building. skylights; nor to any accessory mechanical appurtenances usually located above the roof level.

308.2 Height of Communications Devices No communication device support structure accessory to a residential structure shall exceed a height of one hundred (100) feet, and any such structure shall maintain a setback from property lines not less than the height of the structure. Any such structure which exceeds a height of one hundred (100) feet shall be considered a commercial communications device subject to the standards established herein for Telecommunications Facilities.

308.3 Airport District Overlay Ordinance Properties within the Airport Overlay zones shall be governed by height restrictions that will preclude development which will interfere with the safety of the take-off or landing of any aircraft which uses a flight pattern authorized by the FAA as it relates to any airport in or near Pittston Township. Height limits that shall apply to properties in the areas of the Township that are within the Airport Overlay Zones (Conical, Horizontal, Transitional and Approach Surface +Zones) shall be subject to the provisions of the Township's Airport District Overlay Ordinance.

SECTION 309 CONVERSION OF NONRESIDENTIAL STRUCTURES

The conversion of a building not constructed for residential use which is located in a Residential Zone may be converted to a residential use as a special exception use by the Zoning Hearing Board in accordance with the applicable standards contained in Article 6 and Article 15 of this Ordinance and subject to the following:

- A. A ratio of one (1) dwelling unit for every five thousand (5,000) square feet of lot area, provided that not more than four (4) dwelling units shall be created in the conversion of any such building in an R-1 District.
- B. A ratio of one (1) dwelling unit for every four thousand (4,000) square feet of lot area, provided that not more than six (6) dwelling units shall be created in the conversion of any such building in an R-2 District.
- C. All other applicable requirements of this Ordinance are met, including but not limited to, the provision of two (2) off-street parking space for each dwelling unit created.

SECTION 310 CLEAR SIGHT TRIANGLE

- 310.1 Intersection Of Streets Excluding street signs, utility poles or traffic signs, on any corner lot, no visual obstruction exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained within the triangle formed by a line projected between two points measured at a minimum distance of thirty (30) feet from the intersection of the side yard lot lines of the property which abut the public right-of-way.
- 310.2 Private Driveways No visual obstruction **exceeding** a height of thirty (30) inches shall be erected or maintained within the triangles formed by a line projected between two points measured at a minimum distance of eight (8) feet from the outer edge of each side of the driveway in each direction to a depth of eight (8) feet along the centerline of the driveway.

SECTION 311 FENCES AND WALLS

311.1 General Requirements

- A. Exemptions The provisions of this Section shall not be applied to prevent the construction of a fence, in excess of the maximum height requirements in any Zoning District, for the purpose of enclosing a public property, a public park, a public playground or similar outdoor recreational facility, including those which are owned and operated by nonprofit organization.
- B. Retaining Walls Any retaining wall which exceeds four (4) feet in height shall require review by the Township's Engineer prior to the issuance of a zoning permit or building permit. The applicant shall be responsible for the submission of the drawings which provide the proposed design and

construction of the retaining wall. The applicant shall be responsible for all engineering costs incurred by Pittston Township for the review of the drawings.

- C. Fences The posts and/or structural supports of a fence or wall shall be located within the interior yard of the space being enclosed. It shall be the property owner's responsibility to insure that fence or wall is constructed and maintained within the legal boundaries of the lot. The zoning permit application for a fence or wall shall be accompanied by a survey drawing of the subject property. The survey drawing shall be prepared by and carry the seal of a registered professional land surveyor. All fences shall comply with the requirements for a clear site triangle at street intersections and adjacent to driveways.

311.2 Fences And Walls In Residential Zones Fences and walls to be constructed within a residential zoning district or upon a lot which contains a residential property in any other type of zoning district shall be permitted according to the following subsections:

- A. Front Yard The maximum height of any fence or wall located within the front yard shall not exceed four (4) feet above the adjacent ground level;
- B. Side And Rear Yards The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6') feet in height above the adjacent ground level.
- C. Materials All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence. The side of a fence facing an adjacent property or a right-of-way shall be a finished side

311.3 Nonresidential Zones

- A. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.
- B. Fences to be constructed within any commercial zoning district shall not exceed eight (8') feet in height above the adjacent ground level.
- C. Fences to be constructed within any industrial zoning district shall not exceed ten (10') feet in height above the adjacent ground level.

SECTION 312 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development shall be consistent with the Township's Act 537 Sewage Facility Plan. Any use or development, which proposes to utilize on-lot sewage disposal shall secure approval from the Township's Sewage Enforcement

Officer in accordance with the applicable regulations of the Pennsylvania Department of Environmental Protection. The use of a holding tank shall be expressly prohibited to service any use and/or development.

SECTION 313 STEEP SLOPE LAND

Land having a slope of 25% or more shall be deemed steep slope land. Any proposed development and/or use of such land shall require that the applicant prepare and submit Soil Erosion and Sedimentation Control Plan to the Luzerne County Conservation District. No zoning permit shall be issued until the Township receives written notice of the Plan's approval from the Luzerne County Conservation District.

SECTION 314 USES TO BE ENCLOSED

314.1 Nonresidential Requirement and Exceptions All "B" and "I" uses, except for off-street parking and loading facilities, service stations, transportation terminals, storage yards, junk yards and new and used car lots shall be conducted wholly within a completely enclosed building.

314.2 Requirements in Other Zones All facilities and operations of any 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 Township, be provided with larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-ways. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Trailers may be used as accessory structures provided all wheels and axles are removed, the trailers are erected and maintained as structures, and are screened from view from adjoining properties in accord with Section 317 of this Ordinance. Trailers, maintained in good condition, shall be permitted for storage of a temporary period on the site of an on-going construction project. The placement of said trailers shall be for a specified time as stated in the required permit from the Township, shall meet the setback requirements of this Ordinance and shall not be used for the storage of any flammable or hazardous material except in accord with applicable state and federal regulations.

SECTION 315 UNENCLOSED "B" AND "I" USES

Unenclosed "B" and "I" uses identified in Section 314,1 hereof, shall not be located less than 100 feet distant from any Residential District.

SECTION 316 ENCLOSURE OF PORCHES

316.1 In any new construction, no porch shall extend into any required yard except open patios as provided under Section 307.1.

316.2 Any open patio or porch which has been constructed within any required yard prior to the date of this Ordinance shall not be enclosed, except as follows:

- A. On an interior lot where such porch shall be located in a front yard and the enclosure of such porch would be on a property where such enclosure would not extend beyond the front wall of the building or porch of any adjoining property.
- B. On a corner lot, the same provisions described in Section 316.2A shall apply. In adding the enclosure of a front porch, it must also be in accordance with Section 310 concerning the clear sight triangle.
- C. The enclosure of a front porch in a required front yard of either a corner lot or an interior lot shall not be allowed if such property adjoins an undeveloped zone lot in separate ownership.

SECTION 317 GENERAL LANDSCAPING REGULATIONS

317.1 Permanent Open Space Permanent Open Space shall remain naturally vegetated or shall be landscaped and maintained in accordance with Section **318.7** open space uses specified for cluster developments.

317.2 Landscaping Off-street Parking Lots

- A. Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights; to delineate driving lanes; and define rows of parking. Furthermore, parking lots should be adequately landscaped to provide shade in order to reduce the amount of reflected heat and to improve the aesthetics of parking lots. At least one (1) shade tree shall be provided for each 300 square feet (or fraction thereof) of interior landscaping.
- B. The use of small, ornamental trees in parking lots should be avoided, since these trees will never grow tall enough to provide shade and will block store signs and clear sight triangles. Canopy trees will grow tall enough so that signs can be seen under their branches.
- C. All parking lots with twenty (20) or more spaces shall be landscaped according to the following regulations:
 - 1) One planting island shall be provided for every ten parking stalls. There shall be no more than ten contiguous parking stalls in a row without a planting island.

- 2) The ends of all parking rows shall be divided from drives by planting islands.
 - 3) In residential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 40 stalls.
 - 4) In nonresidential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 100 stalls.
 - 5) Planting islands shall be a minimum of nine feet by eighteen feet (9' x 18') in area, underlain by soil (not base course material); mounded at no more than a 4:1 slope, nor less than a 12:1 slope; and shall be protected by curbing or bollards. Each planting island shall contain one shade tree plus shrubs and/or ground cover to cover the entire area. Alternatively, such planting islands may be depressed as water gardens in order to allow for the absorption of water runoff.
 - 6) All planting strips shall be a minimum of nine (9) feet wide. Strips shall run the length of the parking row, underlain by soil, and shall be mounded at no more than a 4:1 slope, nor less than a 12:1 slope, and shall be protected by curbs, wheel stops, or bollards. Planting strips shall contain plantings of street-type shade trees at intervals of 30 to 40 feet, plus shrubs and/or ground cover to cover the entire area at maturity. Where planting strips shall exceed a width of twelve (12) feet, the herein-described shrubbery and ground cover requirements may be reduced to lawn grass ground cover.
 - 7) Plant materials shall be in accordance with the provisions of Section 317.5 hereof.
- D. All parking lots shall be screened from public roads and from adjacent properties as required in Section 317.4 B and 317.4 D. hereof.
- E. Interior Coverage Requirements. No less than six (6) percent of the interior of a parking lot shall be landscaped and one (1) tree shall be planted for every two hundred (200) square feet of required interior landscaped area. However, where a parking lot abuts buildings on the subject property, border plantings adjacent to those buildings shall not be considered as part of the interior landscape requirement.
- F. Perimeter Coverage Requirements. Perimeter landscaping shall be required along any side of a parking lot of ten (10) or more spaces that abuts adjoining property that is not a right-of-way. A landscaping strip not less than six (6) feet in width shall be located between the parking area on the abutting property lines.

One tree for each forty (40) feet shall be planted in the landscaping strip. This requirement does not mean that a tree must be planted at every 40 foot interval around the perimeter of the parking lot, but is intended to allow the designer some latitude in designing the landscape plans.

- G. Street Coverage Requirements. Street landscaping shall be required along any side of a parking lot of ten (10) or more spaces that abuts the right-of-way of any street, road or highway.

A landscaping strip, not less than six (6) feet in depth, shall be located between the abutting right-of-way and the parking lot.

One tree shall be planted for each forty (40) linear feet of the landscaping strip.

- H. Maintenance. The owners or their agents shall be responsible for providing, protecting and maintaining all landscaping in healthy and growing condition, replacing it when necessary and keeping it free of refuse and debris.

317.3 Lighting Off-street Parking Lots

- A. For all parking areas, driveways and walkways, all pole mounted luminaries shall be low maintenance poles and fixtures; and, all branch circuiting for lighting shall be installed below grade.
- B. The placement of light standards shall be coordinated with the landscape plan to avoid a conflict with the effectiveness of light fixtures.
- C. Lighting shall be directed away from adjacent residential uses and residential zones, and shall be shielded from fugitive skyward emissions.

317.4 Buffer and Screening Requirements

- A. Screening Fences. Except for parking lots and automobile sales lots, unenclosed nonresidential uses shall be screened from public view and from adjacent properties in accordance with the provisions of this Section **317.4..** All commercial and manufacturing subdivisions and land developments shall provide the following types of buffer/screening treatment that is applicable to the use and the environment of the subject development, as follows:
 - 1) Property line buffers that act to integrate new development with its surroundings and to separate incompatible land uses.

- 2) Site element screens that act to minimize or eliminate views to certain site elements located within 100 feet of property lines or road right-of-ways (either public or private).

B. Property Line and Right-of-way Line Buffer Requirements

- 1) Property line and right-of-way line buffers shall be required for the following types of development and as otherwise specified herein.
 - a. All nonresidential development adjoining a Residential Zone or a residential use, as set forth in Section 307.7 hereof.
 - b. All mobile home parks.
- 2) An on-site investigation by the applicant shall determine the adjacent land uses along each property boundary. The existing or zoned uses shall be noted on the plan. .

C. Buffer Area Location and Dimensions

- 1) Building setback lines shall remain in effect, regardless of the dimensions and requirements for buffer areas; and, there shall be no outdoor storage of equipment or other materials within a buffer area.
- 2) A buffer area of not less than 25 feet in width shall be established along all property lines, and right-of-way lines unless otherwise specified herein.
- 3) The buffer area may be included within the front, side, or rear yard setback.
- 3) The buffer area shall be a continuous pervious planting bed consisting of trees and shrubs, grass or groundcover.
- 4) Parking is not permitted in the buffer area.
- 5) Site element screens are permitted in the buffer area.

D. Site Element Screens

- 1) Site element screens shall be required in all proposed land developments around the following site elements:
 - b. Dumpsters, trash disposal, or recycling areas.
 - c. Service or loading docks.
 - d. Outdoor storage.
 - e. Vehicle storage.

- f. Sewage treatment plants and pump stations.
 - g. Other unenclosed uses of a similar nature, and enclosed uses such as rear facades facing public right-of-way.
- 2) Screen Location. The site element screen shall be placed between the site element and the property line or right-of-way, and shall be designed to block views to the maximum extent possible. The screen shall be located as close as possible to the site element and shall surround the element without impeding function or encroaching on clear sight triangles.
- 3) Screen Types. Any of the following types of screens may be utilized in those cases where they will achieve the objective of blocking certain uses from public view.
- a) *Evergreen or Deciduous Shrubs*
 - b) *Double Row of Evergreen Trees*
 - c) *Opaque Fence* - A six-foot opaque fence surrounding the site element on at least 3 sides
 - d) *Architectural Extension of the Building* - An eight-foot minimum height architectural extension of the building (such as a wing wall) shall enclose service or loading docks. The building materials and style of the extension shall be consistent with the main building.
 - e) *Berm with Ornamental Trees or grass* - A two- to three-foot-high continuous curvilinear berm with ornamental trees. The maximum slope of the berm shall be 3:1.
 - f) *Evergreen Hedge*
 - g) *Low Wall* - A wall of brick or stone (not concrete block), at least 50 percent opaque, not Less than three nor more than four feet in height.
- 4) Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material at the discretion of the governing body. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.
- 5) Existing topographic conditions, such as embankments or Berms may be substituted for part or all of the required property line

buffers at the discretion of the governing body. The minimum visual effect shall be equal to or exceed that of the required screen.

- 6) The applicant may propose the use of alternative screen types or changes in plant materials or designs which fulfill the intent of this Ordinance, with the approval of the governing body.
- 7) Plant materials shall meet the specifications of Section 317.5 hereof.

317.5 Plant Materials

A. General Location Requirements

- 1) The location, dimensions, and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as wind, soil, moisture, and sunlight.
- 2) Plantings should be selected and located where they will not contribute to conditions hazardous to public safety. Such locations include, but are not limited to, public street rights-of-way, underground and aboveground utilities, and sight triangle areas required for unobstructed views at street intersections.

3) Design Criteria

- a) The required plant material shall be distributed over the entire length and width of the buffer area.
- b) Buffer plant material may be arranged symmetrically (formal) or asymmetrically (informal) and may be grouped to form plant clusters. However, informal groupings that reflect the natural character of the region are encouraged.
- c) Plants shall be spaced to provide optimum growing conditions.
- d) A variety of tree species is required.
- e) Substitutions in accordance with the following guidelines, wherever possible, existing vegetation shall be retained and utilized as a buffer or a screen in accordance with the following guidelines:
 - (1) Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material at the discretion of the governing body. The minimum

quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.

- (2) Existing topographic conditions, such as embankments or berms, in conjunction with existing vegetation, may be substituted for part or all of the required property line buffers at the discretion of the governing body. The minimum visual effect shall be equal to or exceed that of the Required buffer or screen.

B. Plant Material Specifications. The following requirements are minimum standards which shall apply to all plant materials or transplanted trees as required under this Ordinance; additional plant materials, berms, or architectural elements may be included in the plan at the applicant's discretion.

- (1) All plants shall meet the minimum standards for health, form, and root condition as outlined in the American Association of Nurserymen (AAN) Standards.
- (2) All plant material shall be hardy and within the USDA Hardiness Zone applicable to Pittston Township, Pennsylvania.
- (3) Canopy trees, sometimes called shade trees, shall reach a minimum height and spread of more than 20 feet at maturity as determined by the AAN Standards and shall be deciduous. New trees shall have a minimum caliper of two and a half inches and a minimum height of eight (8) feet at planting.
- (4) Ornamental trees or large shrubs shall reach a typical minimum height of 15 feet at maturity, based on AAN Standards. Trees and shrubs may be deciduous or evergreen and shall have a distinctive ornamental character such as showy flowers, fruit, habit, foliage, or bark. New ornamental trees shall have a minimum height of 6 feet or one and a half inch caliper. New large shrubs shall have a minimum height of two and a half to three feet at time of planting.
- (5) Small shrubs may be evergreen or deciduous and shall have a minimum height at maturity of 4 feet based on AAN Standards. New shrubs shall have a minimum height of 18 inches at time of planting.
- (6) Evergreen trees shall reach a typical minimum height of 20 feet at maturity based on AAN Standards for that species and shall remain evergreen throughout the year. New evergreens shall have a minimum height at planting of six feet.

C. Additional Plant Material Guidelines. Plant material features should be:

- (1) Able to thrive in the existing soil or soil that can be amended to reasonable specifications.
- (2) Strong wood, not prone to breakage in wind or ice storms.

- (3) Fruitless or otherwise free of parts that fall and could damage vehicles, clog drains or make pavement slippery.
- (4) Tolerant to excessive heat, de-icing salt and air pollution.
- (5) Free of unacceptable levels of disease or insect pests, including aphids that coat objects below with sticky “honeydew.”
- (6) Fits the site aesthetically and serves an intended function (shade, screen, focal point, etc.)

SECTION 318 AESTHETIC CONSIDERATIONS

318.1 Orientation of Buildings

- A. Individual Buildings on Public Rights-of-Way. The front facade of a building shall face the road/right of way which it abuts; provided, however, that if it is located on a corner parcel, it shall face the widest road; provided, however, that if both roads are of equal or near equal width, it may face on either or both road(s), unless the existing pattern of development has predetermined the road that shall be faced.
- B. Large Scale Developments with Interior Circulation. When a development is designed to be served by an interior pedestrian or vehicular circulation system, buildings may face the interior roadways; provided, however, where such an orientation results in the rear or the side(s) of such buildings being within 100 feet of a public right-of-way, then such rear and/or side walls shall be screened from the public right-of-way in accordance with Section 317.4 D.

318.2 Aesthetic Design Standards for Commercial and Manufacturing Uses

- A. Aesthetic Goals. All development and construction, in the form of buildings, structures or additions and exterior alterations thereto, and other site improvements and alterations, including paving, lighting and landscaping, at or for each site shall be designed and constructed to achieve the following goals:
 - 1) To prevent the erection of poorly designed, constructed or proportioned structures, and structures built of improper or unsuitable materials.
 - 2) To increase and secure the spectrum of attractive business establishments, improvements and facilities on appropriate locations within building sites.

- 3) To foster a high quality of development to enhance the value of existing development as well as to enhance the attractiveness of vacant land for future development.

318.3 Additional Aesthetic Design Standards

A. Construction Materials

- 1) All construction in the form of new buildings or additions and exterior alterations shall be consistent with original construction or of comparable materials to harmonize with the external design, both as to quality of workmanship and materials of existing structures. The fronts of all buildings and structures shall not expose concrete block composition, other than decorative concrete block.
- 2) No structure shall contain less than 50% external masonry, glass, dryvit or similar type of construction materials, except that the facades of manufacturing and warehousing buildings may consist of metal materials. The buildings and structures shall not be of wood-face composition. The provisions of this Section 318.3 may be waived by the Zoning Hearing Board upon a request for interpretation, when the applicant contends that the use of prohibited materials is essential to the design integrity and attractive appearance of the proposed development and the Zoning Hearing Board determines that said contention is valid.

B. Waste Disposal

- 1) No lot shall be used as a dumping ground for trash.
- 2) All trash of any nature, shall be securely stored in covered sanitary containers. All containers and other equipment, and the areas and enclosures, for the storage and disposal of trash, shall be kept in a clean and sanitary condition.
- 3) All trash shall be properly and securely contained within each site and properly and regularly removed therefrom, and disposed of as may be required by state and federal law, regulation and other requirements and standards governing same.
- 4) "Trash" shall mean to include all papers, discards, waste, rubbish, refuse and garbage, of any kind or nature whatsoever, and any malodorous and objectionable materials lying around or stored at each site but not customarily used in its then present condition in the business or activities of the site occupants.

5) No trash shall be burned on-site.

- C. Mechanical/Electrical Equipment. All mechanical/electrical equipment not enclosed in a structure or building (e.g. on-grade, roof-top, etc.) shall complement, enhance and be compatible with the design and construction of the buildings and structures on each site. The color scheme of such equipment shall complement and be compatible with the color scheme of the building's exterior.

D. Landscaping

- 1) All terrain, grounds, area left in natural state, or areas not covered by building or paving, shall be landscaped, seeded, and otherwise maintained in a good, clean condition having aesthetic appeal.
- 2) Each Site and the landscaped areas shall be kept clean and free of any and all litter, refuse, and papers of any type. No litter, refuse or paper accumulations whatsoever shall occur, be placed on or remain at each Site.
- 3) Each site shall be developed, improved, used and maintained to preserve and foster as much of the existing mature natural growth as is practically possible.

- E. Utilities. All lateral electric, telephone, and cable television service lines shall be placed underground; provided, however, that transformers and similar equipment may be located aboveground. Main feeder lines may be located above ground.

ARTICLE 4: ZONING MAP AND ZONING DISTRICTS

SECTION 401 OFFICIAL ZONING MAP

Pittston Township is hereby divided into eight (8) zoning districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

401.1 Overlay Zones In addition to the above-referenced eight (8) districts, there shall also be overlay districts, including a Flood Plain Conservation (FP) Overlay District and several Airport (AP) Overlay Zoning Districts, including an Approach Surface Zone, a Transitional Surface Zone, a Conical Surface Zone, a Horizontal Surface Zone and a Primary Surface Zone. A separate Airport Overlay Zoning District Map is hereby adopted, incorporated herein and made part of this ordinance.

401.2 Underlying Zones Permitted uses and building regulations in the overlay zoning districts shall be subject to the same requirements as the underlying zoning districts over which the overlays are placed and the supplementary regulations of the Township's Flood Plain ordinance and the Airport District Overlay Ordinance.

SECTION 402 CHANGES TO OFFICIAL ZONING MAP

402.1 Any changes to the location of zoning district boundaries or other matters portrayed upon the Official Zoning Map shall be undertaken in accordance with the applicable provisions contained within Article 14 of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended. Such changes shall be provided upon the Official Zoning Map promptly after the enactment of the subject amendment by the governing body.

402.2 Names of existing streets, avenues, alleys, etc. shall be shown on the map as approved by proper Resolution of the Township of Pittston which shall be the sole authority for the naming of any subsequent new streets, avenues, alleys, etc

SECTION 403 INTERPRETATION OF BOUNDARIES

For the interpretation of zoning district boundaries, the following subsections shall apply if or when a determination is not made by the Zoning Officer.

403.1 Zoning Hearing Board If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in

Section 403.2. hereof. In any other circumstances not covered by subsections (A) through (G) below, or in the event of any uncertainty as to the boundary of any district, the Zoning Hearing Board shall interpret the district boundaries

403.2 Guidelines

- A. Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- B. Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines and municipal boundary lines, and does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- D. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line.
- E. Boundaries indicated as being parallel to or extensions of features indicated in subsections A) through D) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- F. Where a district boundary line divides a lot which is in single ownership at the time of passage of this Ordinance, the Board may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 100 feet beyond the district line into the remaining portion of the lot.
- G. If the guidelines as stated above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404 CLASSES OF ZONING DISTRICTS

For the purpose of this Ordinance, Pittston Township is hereby divided into eight (8) Zoning Districts as designated below:

- R-1 SINGLE FAMILY RESIDENCE DISTRICT
- R-2 TWO FAMILY RESIDENCE DISTRICT
- C-1 CONSERVATION DISTRICT
- B-1 COMMUNITY BUSINESS DISTRICT
- B-2 HIGHWAY BUSINESS DISTRICT
- I-1 INDUSTRIAL DISTRICT
- I-2 INDUSTRIAL FLEXIBLE DISTRICT
- I-3 INDUSTRIAL REDEVELOPMENT DISTRICT

SECTION 405 DEGREE OF RESTRICTIVENESS

The phrase, “ more restrictive uses,” as employed in this ordinance shall mean the following:

Sec. 405.1 Those uses permitted in an R-1 Zone are the most restrictive

Sec. 405.2 All other uses are less restrictive in accordance with the following hierarchy of zones, with the I-3 zone being the least restrictive zone: R-2,C-1, B-1, B-2, I-1, I-2, and I-3.

Sec. 405.3 Where a use is specifically enumerated in a less restrictive zone, such use shall not be permitted in a more restrictive zone unless it is specifically enumerated as a permitted use therein.

Sec. 405.4 This hierarchy shall be utilized in determining use changes of nonconforming uses.

SECTION 406 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structures or premises be used, designed or intended to be used for any purpose other than the uses hereinafter listed as permitted in the zone in which such building or premises are located.

ARTICLE 5: ZONING DISTRICT REGULATION OF PERMITTED USES AND BASIC DIMENSION REQUIREMENTS

The following Tables and schedules set forth the basic restrictions, standards and controls intended to regulate future development uniquely in each zone district:

Table No. 1

Land Use Classifications. Identifies uses permitted in each zone district

Table No. 2

Agricultural Uses. Identifies uses permitted as agricultural uses

Schedule I*

District Regulations in Conservation Zones and Residential Zones

Schedule II*

District Regulations in Multi-Family Residential Structures

Schedule III*

District Regulations for Residential Cluster Development

Schedule IV*

District Regulations for Nonresidential Zones.

* Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained elsewhere in this Ordinance.

Approvals : X/Principal Permitted SE/Special Exception CU/Conditional A/Accessory

USE				ZONING DISTRICT							REFERENCE	
RESIDENTIAL AND OTHER				C-1	R-1	R-2	B-1	B-2	I-1	I-2	I-3	SECTION
Accessory uses (Residential)				X	X	X	X	X				
Agricultural Uses (1)				X								
Assisted Living Facilities (Day Care Homes)						SE	SE	SE				
Cemeteries & Mausoleum's				SE								
Conditional Uses				CU		CU	CU	CU				
Conversions						X	X					
Crematoriums				SE								
Dwelling, Multi-family						SE						
Dwelling, Single-family Detached				X	X	X	X	X				
(Including Cluster)				SE	SE	SE						
Dwelling, Single-family Semi-attached					X	X						
Dwelling, Two-family, Duplex/Semi-attached						X						
Dwelling Groups, Townhouse, 2F, G. Apt.						SE						
Essential Services-enclosed				SE	SE	SE	SE	SE	SE	SE	SE	
Essential Services-open				X	X	X	X	X	X	X	X	
Forestry				X	X	X	X	X	X	X	X	
Group Homes For Handicapped				X	X	X						
Halfway House										CU		
Home Occupations				SE	SE	SE						
Housekeeping Cottages				SE	SE	SE						
Large Scale Residential Development				SE	SE	SE						
Mixed Use							X	X				
Mobile Home Park				CU								
No-impact Home Based Occupation				X	X	X						
Non profit clubs, lodges, and similar uses						SE						
Nurseries and Greenhouses, Residential				X	SE	SE						
Nursing facil. skilled & intermediate & personal care										SE		
Nursing Home							X	X				
Open Space				X	X	X				X	X	
Outdoor Storage				SE					X			
Personal Care Home										SE		
Recreation, Open Space				X	X	X						
Religious Places of Worship					SE	SE	SE	SE				
Rooming and Boarding							SE	SE				
Bed and Breakfast							SE	SE				
Telecommunications Facility, Residential				A	A	A	A	A				
Temporary Use, Residential					SE	SE						
Notes and Comments:												
(1) Refer to Table No. 2 for Agricultural and related uses.												

TABLE NO. 1 (Continued) September 2012
PITTSTON TOWNSHIP
LAND USE CLASSIFICATIONS
APPROVALS X/Principal Permitted SE/Special Exception CU/Conditional A/Accessory

USE	ZONING DISTRICT								REFERENCE SECTION
	C-1	R-1	R-2	B-1	B-2	I-1	I-2	I-3	
Accessory Uses (Commercial)				A	A	A	A	A	
Adult Day Care				X	X	X			
Adult Entertainment							CU		
Airports	CU								
Amusement Arcade							X	X	
Amusement Park							SE		
Animal Hospitals and Kennels	SE				X				
Appliance Stores/Repair				X	X				
Athletic Club/Gymnasium				X	X				
Automobile Sales and Service									
-Gas Station				X	X	X	X	X	
-Laundry/Car Wash					SE	SE	X	X	
-Sales, New & Used				SE	SE	SE	SE	SE	
-Service Station				SE	SE	SE	SE	SE	
-Supplies				X	X	X	X	X	
Automobile wrecking yards						SE		SE	
Bakery (Retail)				X	X				
Bakery (Wholesale)					X	X	X	X	
Banks & Other Financial Services				X	X	X	X	X	
Bar, tavern				X	X	X	X	X	
Billiard/Pool Rooms				X					
Bowling Alley				X	X				
Bulk Fuel Storage, Accessory Use					A	A	A	A	
Bulk Fuel Storage, Principal Use						SE			
Business Offices, including corp. headquarters							X	X	
Camps and Campgrounds	SE								
Catering Establishments				X	X				
Cemeteries and Mausoleums	SE								
Child Day Care Facilities			X	X	X				
Civic & cultural facilities-theatre, auditorium,etc				SE	SE				
Civic & Religious Uses(not places of worship)				X	X				
Clubs, Lodges, and Other Social Organizations				X	X				
Contractors' Yards						X			
Convenience Stores				X	X				
Convention center, banquets, and similar places							SE	SE	
Country Club-Public/Private Golf, Tennis,etc	SE								
Crematories	SE								
Cultural facilities, incl. theater, library,museum,etc					X	X	X	X	
Data processing and record storage					X	X	X	X	
Day care facilities			X	X	X				
Drive-in/Drive Through Commercial Uses				SE	SE				
Drug Rehabilitation facilities							CU		
Drug Treatment Centers							CU		
Dry Cleaning and Laundry				X	X				

TABLE NO. 1 (Continued)September 2012													
PITTSTON TOWNSHIP													
LAND USE CLASSIFICATIONS													
APPROVALS X/Principal Permitted SE/Special Exception CU/Conditional A/Accessory													
USE					ZONING DISTRICT						REFERENCE		
COMMERCIAL AND OTHER					C-1	R-1	R-2	B-1	B-2	I-1	I-2	I-3	SECTION
Feed and Grain Sales								X	X	X			
Field House and Arena					SE					SE			
Funeral home								SE	SE				
Game Propagation Farm and Wildlife Sanctuary					X								
Helicopter Landing Pad (2)					SE			SE	SE	SE			
Health Care Facilities including Hospitals					SE			SE	SE	SE			
Hotel/Motel								X	X		X	X	
Indoor amusement places and recreation places							X			X			
Indoor commercial recreation and sports facilities										X	X	X	
Junk Yards										SE			
Laboratory, research											X	X	
Laboratory, Testing											X	X	
Large Scale Commercial Development										SE	SE		
Laundromat								X	X				
Lumber Yard									X	X			
Machine Shop										X			
Manufacturing, Garment & Other Needle-Type									X	X	X		
Massage, Physical Therapy (Licensed or Certified only)									X				
Medical Clinic/Center								X	X				
Millwork and Other Wood Products										SE			
Miniature golf									X	X			
Mixed Use Structures (Retail & Residential)							X	X					
Night Clubs								X	X				
Nonprofit Clubs, lodges and similar uses						SE	SE	X	X				
Nursery Schools					X	X	X	X					
Office Buildings, including corp. headquarters							X	X	X	X	X		
Open space											X		
Outdoor storage					SE					X			
Parking lots					A	A	A	SE	SE	A	A	A	
Parking Structures (Public & Commercial)								SE	SE	SE			
Personal Services-Barber, beauty parlor,tailor,etc								X	X		X	X	
Photographic developing and printing										X	X	X	
Prisons & other detention/correctional facilities											CU		
Professional Services/Offices													
-Accounting, Legal and Other Similar Services							X	X	X	X	X		
Radio/TV Studios									X		X	X	
Recreation, indoor, commercial					SE			X	X		X	X	
Recreation, Nonresidential & Recreation, Private					SE						X	X	
Recreation Vehicle or Boat Sales										X			
Recreation, public (parks, playgrounds, open, etc.)					X	X	X						
Recycling Facilities											X		
Restaurants								X	X		X	X	
Retail Stores								X	X		X	X	
Riding Stables					X			X	X				

TABLE NO. 1 (Continued)September 2012

PITTSTON TOWNSHIP

LAND USE CLASSIFICATIONS

APPROVALS X/Principal Permitted SE/Special Exception CU/Conditional A/Accessory

COMMERCIAL AND OTHER	C-1	R-1	R-2	B-1	B-2	I-1	I-2	I-3	SECTION
Schools, private and public	SE	SE							
Schools (4)	SE					X	X	X	
Storage, Heavy Equipment							X		
Telecommunications Facilities, Commercial	SE					SE			
Temp Trailers for Offices and/or Material Staging						X			
Transient Businesses					SE				
Transient living facilities							CU		
Transportation Terminals						SE	X		
Treatment Centers							CU		
Truck/Freight Terminal/Distribution Center						SE	SE		
Truck/Trailer Storage Area						SE	X		
Visitors center					X	X			
Warehousing						X	X		
Wholesale Offices and Showrooms							X	X	
Woodland and Game Preserve, Fish Hatchery,etc	X								

TABLE NO. 1 (Continued) September 2012

PITTSTON TOWNSHIP

LAND USE CLASSIFICATIONS

APPROVALS X/Principal Permitted SE/Special Exception CU/Conditional A/Accessory

USE	ZONING DISTRICT								REFERENCE
MANUFACTURING AND OTHER USES	C-1	R-1	R-2	B-1	B-2	I-1	I-2	I-3	SECTION
Large-Scale Manufacturing Development							CU	CU	
Manufacturing Uses						X	X	X	
Manufacture or other use of hazardous materials; including fissionable materials							CU	CU	
Mineral extraction, including drilling for gas								CU	
Power generation facilities, public or private (5)							CU	CU	
Recycling Establishments							CU	CU	
Sanitary Land Fill						CU	CU	CU	
Sawmills							SE	SE	
Sewage Treatment Plant		CU					CU	CU	
Paper Manufacturing							SE	SE	
Slaughterhouses							SE	SE	
Solid waste disposal facilities						CU			
Staging area						CU			
Tanneries							SE	SE	
Tire Retreading and Recapping							SE	SE	
Transfer stations						CU			
WECS, including Solar energy generation		A	A				CU	CU	
Notes and Comments:									
(2) Also as an emergency landing zone and as an accessory use for a hospital.									
(3) On sites of not less than 5 acres.									
(4) Other: College, seminary, other post secondary education									
(5) Excluding wind power and solar power generation									

PITTSTON TOWNSHIP
TABLE NO. 2
AGRICULTURAL USES

AGRICULTURAL USES

Nothing in this Section is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable State statutes. Such rights and projections, in terms of limiting the application of the standards in the Zoning Law, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the State statute.

Principal Permitted Uses

Agricultural uses as defined herein
Farm residences and accessory structures
Roadside stands for the sale of farm products grown or produced on premises
Tree farms and harvesting
Truck gardening

Accessory Uses

Accessory uses and structures customarily appurtenant to a principal permitted use

Special Exceptions

None.

Conditional Uses

Processing agricultural products produced on the premises, excluding meat products
Processing milk products, produced on premises, including bottling

SCHEDULE I
DIMENSION REGULATIONS
RESIDENTIAL AND CONSERVATION ZONES

FEATURES <u>REGULATED</u>	<u>R-1</u> <u>1-FAMILY</u>	<u>R-2(1)</u> <u>2-FAMILY</u>	<u>C-1 (2)</u> <u>CONSERVATION</u>
MIN. LOT SIZE (S.F.)			
W. CENTRAL SEWER	10,000	6,000	2 ACRES
ON-LOT SEWAGE	40,000	40,000	2 ACRES
MIN. LOT AREA PER D.U. (S.F.)			
W. CENTRAL SEWER	10,000	5,000	2 ACRES
ON-LOT SEWAGE	40,000	20,000	2 ACRES
MIN. LOT WIDTH (FT)			
W. CENTRAL SEWER	80	60	200
ON-LOT SEWAGE	150	150	200
MIN. LOT DEPTH			
W. CENTRAL SEWER	100	100	200
ON-LOT SEWAGE	200	200	200
MIN.. FRONT YARD (FT)	25	25	50
MIN. REAR YARD (FT)	40	30	50
MIN. SIDE YARD (EACH)			
W. CENTRAL SEWER	10	8	25
ON-LOT SEWAGE	15	15	25
MAX. LOT COVERAGE (%)			
-BUILDING			
W. CENTRAL SEWER	30	40 (30)	20
ON-LOT SEWAGE	20	20	20
-IMPERVIOUS			
W. CENTRAL SEWER	60	50	30
ON-LOT SEWAGE	30	30	30
MAX. BUILDING HEIGHT			
STORIES	2.5	2.5	2.5
FEET	35	35	35

NOTES:

(1) For 1-family and 2-family dwellings only; for multi-family dwellings refer to Schedule II

(2) Refer to Schedule III for cluster developments

SCHEDULE II
DIMENSION REGULATIONS
MULTI-FAMILY DWELLING STRUCTURES (1)

<u>FEATURES REGULATED</u>	<u>GARDEN APARTMENT</u>	<u>TOWN HOUSE</u>	<u>OTHER MULTI-FAMILY</u>
MIN. LOT SIZE	1 Acre	1 Acre	1 Acre
MIN. LOT AREA PER D.U. (S.F.)	5,000	5,000	5,000
MIN. LOT WIDTH (FT)	150	150(3)	200
MIN. LOT DEPTH	200	200 (4)	200
MIN.. FRONT YARD (FT) (5)	25	25	25
MIN. REAR YARD (FT) (5)	40	40	40
MIN. DISTANCE BETWEEN PRINCIPAL BUILDINGS (FT)	30	30	30
MIN. SIDE YARD (EACH) (5)	20	20 (2)	25
MAX. LOT COVERAGE (%)			
-BUILDING	20	40	40
-IMPERVIOUS	40	60	60
MAX. BUILDING HEIGHT			
-STORIES	3	3	4.0
-FEET	35	35	50

NOTES:

- (1) Central sewage disposal required
- (2) Only required for all end units
- (3) The minimum width for each unit shall be 15 feet
- (4) The minimum lot depth for each town house unit shall be not less than 100 feet
- (5) No off-street parking space shall be nearer to any property line than 15 feet

SCHEDULE III
DIMENSION REGULATIONS
RESIDENTIAL CLUSTER DEVELOPMENT

CLUSTER DEVELOPMENT

<u>FEATURES REGULATED</u>	<u>ONE FAMILY(1)</u>	<u>ONE FAMILY</u>	<u>TWO FAMILY</u>	<u>TOWN HOUSE</u>
MIN TRACT AREA(ACREES)	2 ac	10 ac	10 ac	10 ac
MIN. LOT SIZE	2 ac	1 Acre	0.1 ac	0.05 ac
MIN. LOT AREA PER D.U.	2 ac	0.625 ac	3000 sf	3000 sf
MIN. % PERMANENT OPEN SPACE	N.A.	50%	30%	30%
MIN. O.S. ACRES PER 10 AC TRACT	N.A.	5	3	3
MAX DEVELOPABLE SITE PER 10 ACRE TRACT	10 AC	5 AC	7 AC	7 AC
MAX DWELING UNITS PER 10 AC	5	8	101	101
TRADITIONAL MAXIMUM DWELLINGS PER 10 ACRES	5	5	87	87

NOTES:

(1) Traditional development in C-1 zone

SCHEDULE IV					
DIMENSION REGULATIONS					
NONRESIDENTIAL ZONES					
FEATURES REGULATED	B-1 COMMUNITY BUSINESS	B-2 HIGHWAY BUSINESS	I-1 INDUSTRIAL	I-2 INDUSTRIAL FLEXIBLE	I-3 INDUSTRIAL REDEVELOPMENT
MINIMUM LOT AREA			20,000 S F	40,000 S F	40,000 S F
with central sewage disposal	5,000 s f	20,000 s f			
with on-lot sewage disposal	40,000 sf {6}	40,000 sf			
MINIMUM LOT WIDTH		100 ft {10}	100 FT	100 ft	100 ft
with central sewage disposal	50 ft				
with on-lot sewage disposal	100 ft				
FRONT YARD	20 ft	50 ft	25 FT	50 FT.(1)	50 FT.(1)
REAR YARD	20 ft {7}	40 ft	30 FT.	NONE(2)	NONE(2)
SIDE YARD, EACH	5 ft {8}	5 ft {11}	20 {4}	NONE (3)	NONE (3)
MAXIMUM LOT COVERAGE				NONE	NONE
buildings	60%	60%	50%		
impervious	90%	90%	90%		
MAXIMUM BUILDING HEIGHT	25 ft {9}	120 ft {12}	70 FT {5}	100 FT	100 FT
NOTES:					
{1}	The front yard may be reduced to 20 feet if the adjacent property affected is not in a residential zone				
{2}	50 feet are required if the adjacent property affected is in a Residential zone				
{3}	50 feet each is required if the adjacent property affected is in a Residential zone				
{4}	35 feet each is required if the adjacent property affected is in a Residential or a C-1 zone				
{5}	5 stries or 70 feet, whechever is less.				
{6}	40,000 sf is applicable to any use that generates waste water in excess of 2 dwelling units per DEP standards				
{7}	35 ft are required if rear property line adjoins a dwelling use or a residential zone				
{8}	10 ft are required if side property line adjoins a dwelling use or a residential zone				
{9}	2 stries or 25 feet, whechever is less.				
{10}	60 ft for dwellings				
{11}	15 feet each when adjoining a dwelling use or a residential zone				
{12}	10 stries or 120 feet, whechever is less.				

ARTICLE 6: SPECIAL EXCEPTIONS

SECTION 601 PURPOSE

The purpose of a use classified as a “Special Exception” is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning districts, as provided in Article 5, hereof. This classification also provides the Township with the opportunity to determine if a use that is designated as a Special Exception is an appropriate/compatible use on the site specified for its location.

SECTION 602 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by Special Exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 15. No use shall be considered for approval as a Special Exception unless it is so designated herein as a Special Exception in a designated zoning district. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in this Article and in Section 1510.2 hereof. the respective zoning district in which the use is proposed, all other applicable regulations of this Ordinance, other ordinances of the Township and any applicable State and/or Federal regulations. All applications for Special Exception uses shall be initially referred to the Pittston Township Planning Commission for review and comment by the Planning Commission along with any recommendation it may wish to render to the Zoning Hearing Board.

SECTION 603 SITE PLAN

Applicants for a special exception shall file, in addition to an application for a zoning permit, a site plan at a scale of not greater than one (1”) inch equal fifty (50’) feet, which shall be submitted to the Zoning Officer. Such plan shall provide all information required for the Zoning Hearing Board to render a decision, including but not limited to the following:

- A. The location and size of all buildings and structures, both principal and accessory.
- B. The location of all off-street parking areas and/or loading areas.
- C. The location of all open space areas, including buffer areas and fencing, if applicable.
- D. Traffic access to the site and internal traffic circulation within the site.
- E. All streets, both public and private, within five hundred (500’) feet of the site.
- F. Contours of the site for each five (5) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted the survey and the date of the survey.
- G. The location, nature and terms of any existing or proposed easements on the site and any easements both on-site and off-site which are used or intended to be used for access to the site.

- H. Streams, ponds, watercourses, wetlands or any other type bodies of water, including natural or man-made drainage swales, located on the site or within five hundred (500) feet of the site.
- I. The location of any residential structure within five hundred (500') feet of any property boundary line of the subject site.
- J. The Map, Block and Lot Number of the subject parcel.

SECTION 604 GENERAL STANDARDS

The general standards contained herein shall be utilized in the review of applications and plans for any use which is classified as a special exception:

- A. The proposed use shall not jeopardize the objectives of the “Community Development Objectives” of this Ordinance.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size relative to the proposed use, and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences so that the use, development and value of adjacent property is not impaired.
- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, smoke, vapors, gases, odors, heat, glare, vibration, lighting or electrical disturbances than would be the operation of any permitted use in the district nor shall it constitute a “General Nuisance” as so defined in Article 2 of this Ordinance.
- G. Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be imposed by the Zoning Hearing Board in the interest of protecting the health, safety and welfare of the public.

SECTION 605 IMPACT ANALYSIS

In considering an application for a special exception, the Zoning Hearing Board shall have the authority to require the applicant to prepare an “Impact Analysis” on a particular aspect of the subject application and/or potential effect of the subject application in relationship to surrounding properties in accordance with the definition of said term as provided within Article 2 of this Ordinance. The cost of preparing and/or providing such information shall be borne by the applicant.

ARTICLE 7: CONDITIONAL USES

SECTION 701 PURPOSE

The purpose of a use classified as a “ Conditional Use” is to provide expressed standards to regulate uses classified as such in specified zoning districts, as provided in Article 5, hereof. Designation as a conditional use also provides the governing body and the general public the opportunity to review the subject proposal in a public forum to determine its suitability and to determine any additional requirements that should be imposed as a condition of approval in order to protect the public health, safety, and welfare.

SECTION 702 GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the Board of Supervisors. All conditional use applications shall be referred to the Township Planning Commission for its review and recommendation to the Board of Supervisors. Decisions by the Board of Supervisors shall be made in accordance with standards and criteria set forth in this Article, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Township and any applicable State and/or Federal regulations.

SECTION 703 PROCEDURE FOR SUBMISSION AND DECISIONS

The procedure for approval or denial of a conditional use shall be in accordance with the following:

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than one (1”) inch equals fifty (50’) feet. Such plan shall, at a minimum, indicate:
 - 1. The location and size of all buildings and structures, both principal and accessory, open space, parking areas, traffic access and circulation.
 - 2. All public or private streets within five hundred (500’) feet of the site.
 - 3. Contours of the site for each two (2) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted survey and the date of survey.
 - 4. Streams, ponds, watercourses, wetlands or any other bodies of water, including natural or man-made drainage swales located both on the site and within five hundred (500) feet of the site.
 - 5. The location, nature and terms of any existing or proposed easements on the site and any existing or proposed easements both on-site and off-site which are used or intended to be used for access to the site.
 - 6. The location, type and height of any required screening.
 - 7. The location of all residential structures within five hundred (500) feet of any property line boundary of the subject site

8. The Map, Block and Lot Number of the subject parcel.
 9. Any other information required by the Board of Supervisors for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Board of Supervisors shall conduct a public hearing pursuant to public notice. The Board of Supervisors shall submit the application for the proposed conditional use to the Township Planning Commission not less than thirty (30) days prior to the public hearing to allow for the submission of recommendations from the Planning Commission
 - C. The public hearing shall be held and conducted in accordance with the same procedural guidelines which govern the Zoning Hearing Board under Section 1508 of this Ordinance. The term "Board of Supervisors" shall replace the term "Zoning Hearing Board" in relevant passages of said Section.
 - D. The Board of Supervisors shall convene a public hearing within sixty (60) days from the submission of a completed application and supporting material and render a final decision on a conditional use application not less than forty-five (45) days following the conclusion of the last public hearing. Failure to convene a public hearing and/or render a decision within the aforementioned time periods, shall constitute approval of the application and plans as submitted.
 - E. The Board of Supervisors shall grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question.

SECTION 704 GENERAL STANDARDS

The general standards contained herein, shall be utilized in the review of applications and plans for any use which is classified as a conditional use.

- A. The proposed use shall not jeopardize the "Community Development Objectives" of this Ordinance or the public health, safety and welfare.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of location and size relative to the proposed operation and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences, so that the use, development and value of adjacent property is not impaired.

- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, gases, smoke, vapors, heat, glare, odors, vibration, lighting or electrical disturbances than would be the operations of any permitted use in the district.
- G. The submission of any reports and/or studies in accordance with the requirement for an "Impact Analysis" as specified in Section 605 hereof shall conclusively demonstrate that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Board of Supervisors. In their review of an Impact Analysis, the Board of Supervisors shall have the discretion to retain the services of firms or agencies which have expertise within the subject or subjects addressed therein. All fees and costs incurred for such consultation shall be paid by the applicant.
- H. Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be imposed by the Board of Supervisors in the interest of protecting the health, safety and welfare of the public.

SECTION 705 USES/DEVELOPMENTS CLASSIFIED AS CONDITIONAL USES

The following uses/developments are classified as conditional uses In Table No. 1 and Table No.2 included in Article 5 hereof:

- 1. Solid Waste Facilities, including sanitary landfills
- 2. Staging Areas
- 3. Transfer Stations
- 4. Sewage Disposal and Sewage Treatment Plants
- 5. Earth moving industries, including, but not limited to extraction, excavation, removal and/or surface mining of coal and/or coal by-products, and extraction, excavation and/or removal of other natural resources, and other mineral extraction, including drilling for gas
- 6. Halfway house
- 7. Adult Entertainment Uses
- 8. Mobile Home Parks, including the expansion of mobile home parks
- 9. Drug rehabilitation facilities, Methadone Clinic, and drug treatment centers
- 10. Treatment Centers
- 11. Central Heating Plant
- 12. Chemical plants and refineries
- 13. Incinerators
- 14. Power generation facilities
- 15. Recycling establishments
- 16. WECS, including solar energy generation
- 17. Large Scale Manufacturing Development
- 18. Airports, excluding the accessory structures and accessory uses
- 19. Processing of agricultural products. Refer to Table No. 2 hereof
- 20.. Any use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:
 - (a) the initial or cumulative disturbance which equals or exceeds 87,120 square feet of surface area.

- (b) the initial or cumulative construction, placement or installation which equals or exceeds 43,560 square feet of buildings, structures and/or other impervious surface area.

SECTION 706 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any use/development which is classified as a conditional use. The Board of Supervisors, at their sole discretion, may exempt uses and/or developments which are residential in character. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout Pittston Township and its environs. Applicants for a Conditional Use permit may request a waiver from those aspects of the required Environmental Impact Statement that they may consider to be superfluous for the proposed use and its proposed location. Such waiver may be granted at the sole discretion of the Board of Supervisors on the basis of recommendations made by the Township Engineer and/or the Township Planning Commission.

An Environmental Impact Statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Ordinance:

706.1 Soil Types

- A. U.S.D.A. Soil Types (illustrated upon map).
- B. Permeability of soil on the site.
- C. Rate of percolation of water through the soil for every five acres.

706.2 Surface Waters

- A. Distance of site from the nearest surface water and head waters of streams.
- B. Sources of runoff water from the site.
- C. Rate of runoff from the site.
- D. Destination of runoff water and method of controlling down stream effects.
- E. Chemical additives to runoff water on the site.
- F. Submission of a soils erosion and sedimentation control plan meeting the requirements of the Luzerne County Conservation District.
- G. A storm water management plan which shall be developed in coordination with the soils erosion and sedimentation plan.

706.3 Ground Cover Including Trees

- A. Extent of existing impervious ground cover on the site.
- B. Extent of proposed impervious ground cover on the site.

- C. Extent of existing vegetative cover on the site.
- D. Extent of proposed vegetative cover on the site.

706.4 Topography

- A. Maximum existing elevation of site.
- B. Minimum existing elevation of site.
- C. Maximum proposed elevation of site.
- D. Minimum proposed elevation of site.
- E. Description of the topography of the site and all proposed changes in topography.

706.5 Ground Water

- A. Average depth to seasonal high water table.
- B. Minimum depth to water table on site.
- C. Maximum depth to water table on site.

706.6 Water Supply

- A. The source and adequacy of water to be provided to the site.
- B. The projected water requirements (G.P.D.) for the site.
- C. The uses to which the water will be put.

706.7 Sewage System

- A. Sewage disposal system (complete description, plans and location on the site of system).
- B. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, other chemicals).
- C. Projected daily volumes of sewage.
- D. Affected sewage treatment plant and pumping stations present capacity and design capacity.

706.8 Solid Waste

- A. Estimated quantity of solid waste to be developed and/or processed on the site during and after construction.
- B. Method of disposal and/or processing of solid waste during and after construction.
- C. Plans for recycling of solid waste during and after construction.

706.9 Air Quality

- A. Expected changes in air quality due to activities at the site during and after

- B. Construction.
- C. Plans for control of emissions affecting air quality.

706.10 Noise

- A. Noise levels, above existing levels, anticipated to be generated at the site,(source and magnitude), for pre-construction, during construction and post-construction.
- B. Proposed method for control of additional noise on-site during and after construction.

706.11 Impact Of Proposed Use/Development A written report, which describes in full detail, the impact of the proposed use/development on the environment and any proposed mitigating action in relation to the following:

- A. Existing plant species, (upland and marine), and effects thereon.
- B. Existing animal species and effects thereon.
- C. Existing wild fowl and other birds and effects thereon.
- D. Effects on drainage and storm water runoff, both on and off site.
- E. Effects on ground water quality.
- F. Effects on surface water quality.
- G. Effects on air quality.
- H. Alternatives to proposed use/development, consistent with the zoning of the site.
- I. Effects on sites of historic significance.
- J. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways, based upon a traffic study.

706.12 Impact Upon Critical Areas The applicant shall define, describe and identify upon a map, critical areas as defined in Article 2 of this Ordinance. A statement of any potential impact upon critical areas shall be provided by the applicant, including but not limited to adverse impacts which cannot be avoided and/or fully mitigated as a resulting effect of the development.

706.13 Other Governmental Jurisdictions A list of all licenses, permits and other approvals required by County, State or Federal law and the status of each.

SECTION 707 REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

Sec. 707.1 Upon receipt of an Environmental Impact Statement, the Board of Supervisors shall promptly forward the Environmental Impact Statement to the Township Planning Commission, the Township Engineer and any other agency, firm or Individual which the Board of Supervisors may desire for their consultation and input.

Sec. 707.2 The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Board of Supervisors with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.

Sec. 707.3 The Board of Supervisors shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement. All fees and costs incurred for such consultation shall be paid by the applicant.

Sec. 707.4 A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Board of Supervisor's review of the same shall constitute a sufficient basis for the denial of a conditional use permit.

SECTION 708 SUPPLEMENTARY REGULATIONS FOR SPECIFIC CONDITIONAL USES

708.1 Solid Waste Facility

- A. General. All Solid Waste Disposal Facilities, Transfer Stations and Staging Areas are herein referred to as "the facility." Such uses shall be permitted only as conditional uses in the districts specified in Article 5 hereof. Sanitary landfills shall only be permitted as a conditional use in accordance with all applicable regulations contained in this ordinance governing conditional uses as well as all regulations contained herein governing earth-moving activities and all applicable State and Federal regulations. Staging areas required in conjunction with sanitary landfills shall only be operated within the confines of a licensed sanitary landfill site, but in no event shall such staging area be distant less than 1000 feet from any Residential Zone. Staging areas shall be screened from public view in accordance with Section 317.4 hereof.. All solid waste disposal facilities, including related facilities such as staging areas shall be required to provide evidence of a state-issued license and permit. Such uses shall comply with all applicable regulations specified elsewhere in this ordinance and with the following requirements: The following regulations are supplementary in nature, separate and distinct from the requirements of Section 706 of this Ordinance, and are applicable to any use/development which is classified as a solid waste facility in accordance with the definition of the same as contained in Article 2 of this Ordinance. A solid waste facility must demonstrate compliance and/or conformance with the following:
- B. Water Quality The applicant shall provide a comprehensive soil analysis and ground water report which shall conclusively demonstrate that the proposed design, construction and operation of the facility shall not pollute surface or ground water, nor otherwise cause any potential health or environmental hazard. Said report shall be jointly signed and certified by the applicant and the consultant who prepares the report, attesting to the accuracy of information and the validity of said report. Water quality shall also be protected, as follows:

- (1) Treatment and Disposal of Effluent. The facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in processing the solid waste. The facility must provide for treatment of all leachate and all other liquid effluent and discharge, unless a sewage treatment facility exists on a site which is approved by the Pennsylvania Department of Environmental Protection, and all leachate and/or liquid discharge will be transported from the site at regular intervals so as not to cause a hazardous situation at the site, and such leachate shall be removed from the site pursuant to any and all applicable ordinances of Pittston Township, regulations of the Pennsylvania Department of Environmental Protection and any and all other applicable statutes or ordinances.
- C. Subsurface Conditions The applicant of a proposed solid waste facility shall provide conclusive evidence, based upon a mining report, soil analysis, test boring and other appropriate technical data, which conclusively demonstrates that the subsurface conditions beneath any area to be used as a landfill is safe and capable of sustaining the bearing load of projected and/or planned quantities of material to be deposited and/or disposed of upon the site. The applicant and the person, party or firm providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.
- D. Hours of Operation A solid waste facility may conduct and operate all approved functional aspects of their operation within the facility from the hours of 7:00 A.M. to 3:00 P.M. from Monday through Friday. Said facility shall not conduct and/or operate any approved aspects associated with the facility on Saturdays, Sundays and all holidays legally recognized by the Federal Government and/or the Commonwealth of Pennsylvania.
- E. Fencing A solid waste facility shall be completely enclosed by an industrial gauge chain link fence not less than ten (10') feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing solid waste disposal facilities and within six (6) months after the issuance of a license for a new solid waste disposal 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. Such fence shall not be located closer than two hundred (200) feet to any property line. or seven hundred and fifty (750) feet from any public right-of-way existing at the time of adoption of this Ordinance.

- F. Setbacks No operation and/or activities permitted within a solid waste facility shall be permitted within 1,000 feet of any property line, boundary and/or within 2,500 feet of any residences and/or zoning districts in which residences are permitted.
- G. Screening The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be entirely screened. In cases where natural vegetation is not adequate to screen the facility from view from adjoining properties or roads, a dense evergreen planting to affect such screening shall be provided and maintained by the applicant in accordance with a planting plan submitted by the applicant and approved by the Township. Such screening shall consist of a variety of evergreen trees, approved by the Board of Supervisors, planted not more than six (6') feet apart and being not less than eight (8') feet in height at the time of planting. Said screening shall be located not greater than 300 feet from the operations and/or activities which are subject to be screened. The owner and/or operator of the facility shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow. An evergreen buffered area shall be provided outside of the fence, but on the same property. Such vegetation shall be designed to act as a visual screen against the site from all adjoining land owners.
- H. Enclosure Requirement All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, trucks, trailers or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building in accordance with the following procedures: All municipal solid waste which is brought to the site shall be removed from the site by the end of the business on the date that it is brought to that site, notwithstanding any DEP regulations which would allow said municipal waste to remain thereon for a longer period of time; provided, however, that not more than one (1) loaded or partially loaded vehicle may be stored overnight in an enclosed building for a period of not more than eighteen (18) hours.
- I. Disposal of Effluent A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Protection.

- J. Storm Water All storm water collected on the site shall be treated by the facility's waste water treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings with handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided. Storm water which does not come in contact with the on-site solid or residual waste shall be handled by the facility storm water management plan which must specifically provide that said water is segregated from exposure to the solid or residual waste located at the facility.
- K. Monitoring Water Quality The owner and/or operator of any solid waste facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three (3) months on any stream within 500 feet of any areas used for the storage, treatment or disposal of solid waste, if water drainage from the facility is discharged into said stream. For each testing period two (2) testing samples shall be collected: one sample shall be taken from the stream at a point upstream of the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location, if applicable, located on the premises shall also be sampled every three (3) months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Board of Supervisors, and the results shall be provided to the Township. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected. The cost of testing water samples shall be borne by the developer. If, however, the facility is maintained in accordance with the requirements of the Pennsylvania Department of Environmental Protection, then in lieu of the requirements of this subsection K, and the preceding subsections I and J, the operator of the facility shall submit to the Township Zoning Officer duplicate copies of all applicable permits, reports required by the permits, and any action taken by the permittee related to the permit.
- L. The owner/operator of a solid waste facility shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed facility, including the projected daily volumes and tonnage of solid waste being accepted for processing, storage and/or disposal. Said narrative shall address the type and classification of solid waste proposed to be accepted by the facility.
- M. The applicant shall submit to the Board of Supervisors a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.

- N. The owner and or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan shall be submitted for review and comment to the local fire companies which serve Pittston Township.
- O. All vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads, constructed in accordance with appropriate Penn Dot Standards related to the anticipated type and volume of traffic.
- P. The applicant shall sign an agreement, prepared by the Township's Solicitor, prior to final approval of the application for a Conditional Use Permit which shall specify all the terms and conditions of approval, including the Township's authority to revoke the permit for the violation of any terms and/or conditions under which the application was approved. Prior to formal action to revoke the Conditional Use Permit, the Board of Supervisors shall convene a public hearing, pursuant to public notice, to consider testimony and evidence relative to the alleged violations. Based upon the testimony and evidence provided, the Board of Supervisors shall render a decision.
- Q. Security guards shall be placed at the site for the purposes of control against illegal dumping
- R. Solid Waste Material Permitted at Facilities. No facility in Pittston Township shall accept any solid waste other than Municipal Solid Waste as defined herein in Article 2 hereof or Residual Waste as defined by D.E.P.
- S. Source of Solid Waste. No facility in Pittston Township shall accept solid waste generated elsewhere than in Luzerne County; provided, however, that on a case-by-case basis, the operator of a solid waste disposal facility may dispose of solid wastes generated outside of Luzerne County if approved as a Conditional Use. In approving such a Conditional Use, the Board of Supervisors shall determine that the disposal of such solid wastes in a solid waste disposal facility operated in Pittston Township shall not be, or shall not potentially be, hazardous to the health and safety of any resident of Pittston Township or its environs.
- T. Environmental Impact Statement. All proposed solid waste disposal facilities shall prepare and submit to the Township an Environmental Impact Statement pursuant to Section 706 hereof and shall fully comply with the regulations of the Pennsylvania Department of Environmental Protection. Such Environmental Impact Statements shall also include a traffic study and plan which shall comply with the following requirements:

- (1) Any facility located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration.
- (2) Any facility located adjacent to a State Highway shall comply with all regulations of the Pennsylvania Department of Transportation.
- (3) The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any hospital, residential home, commercial, retail establishment, public school or religious institution.
- (4) 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.

U. Traffic Control Requirements No trucks or other vehicles shall be allowed to be parked along any public right-of-way prior to entering the facility. It shall be the responsibility of the facility's operator to schedule vehicles in a manner which will preclude this occurrence and/or to provide adequate on-site vehicle storage facilities in order to comply with this standard.

V. Site Maintenance Facility operators shall be responsible for the cleanup of the facility's road entrance and surrounding area, throughout the work period, with a final cleanup at the conclusion of the work.

W. Vector Control. All facilities shall establish a vector control program designed to eradicate all rodent problems at the subject site and on surrounding sites. A description of the planned vector control program shall be submitted with all applications for facilities.

708.2 Excavation Of Natural Resources Extraction, excavation, removal and/or surface mining of coal and/or coal by products and the extraction, excavation and/or removal of other natural resources including sand, gravel, rock, topsoil and peat moss shall be considered a temporary use. All types of earth-extraction industrial activities shall be considered a temporary use of land and may be permitted by the Board of Supervisors as a Conditional Use in accordance with the procedures established herein for Conditional Uses; said application shall not include any such earth extraction activities which will be completed within 60 days of the passage of this Ordinance. Such use shall only be authorized as a temporary use for a period of not more than ten (10) years or such lesser period as may be established on a case-by-case basis by the Board of Supervisors. Such temporary use may be extended for periods of time equal to or less than the original temporary use permit; provided, however, that each such request for an extension shall be in accordance with the procedures for any new application for a Conditional Use. Any such request for an extension of authorization shall be initiated not less than 120 days prior to the scheduled termination of the

temporary use. No permit shall be issued until the required license or permit has been properly secured from the Pennsylvania Department of Environmental Protection. Earth extraction activities are further regulated, as follows:

A. Application Requirements All applications for earth extraction permits shall be filed with the Zoning Officer and shall include the following:

- (1) An operational plan which shall include, but need not be limited to the following :
 - a) Ownership and acreage of land proposed for use.
 - b) Type of resources to be extracted or quarried.
 - c) Estimated depth of the proposed operation.
 - d) Location map at a scale of one (1) inch = one-hundred (100) feet which shall show:
 - 1) The land area to be excavated or quarried with dimensions and the total property.
 - 2) Private access roads and abutting streets and highways.
 - 3) Abutting and/or adjacent districts and land uses.
 - 4) Existing watercourses, and proposed alterations to assure stream quality and quantity.
 - 5) Fencing and buffer planting - If fencing is to be vegetation, details of the size and type shall be provided.
 - 6) Title, scale, north arrow and date.
 - 7) Ownership, including lot lines of public and semipublic uses within a distance of 1,000 feet from the perimeter of the proposed use.
 - 8) The proposed maximum depth of any excavation.
 - e) A report setting forth the number and gross weight of trucks associated with the operation, the Township roads to be utilized by said trucks, and the probable effect of the truck traffic on the condition of the roads. Said information along with the advice of the Township Engineer shall be used by the Board of Supervisors

to establish conditions of approval to mitigate road impacts for the proposed use if such approval is granted.

- f) A bond payable to the Township of Pittston conditioned on saving the Township and its officials of and from any and all claims, suits or demands caused by any blasting and further, to guarantee backfilling as required herein. The amount of said bond shall be set by an engineer designated by the Township and based on his estimate of the reasonable cost of such replacement, but in no case shall the amount be less than \$1500 per acre of land to be excavated. Such bond shall be signed by the applicant and a corporate surety licensed to do business in the State of Pennsylvania, or the applicant may elect to deposit cash or United States Securities in lieu of surety bond. Upon covering the exposed surface and approval thereof by the Engineer, the Township will release the applicant and his surety from their bond.
- g) A Certificate of Insurance with limits of \$100,000 per person and \$300,000 per accident for personal injuries, and \$300,000 for property damage, be filed with the Board of Supervisors both for the benefit of all persons who might be injured or suffer property damage as a result of said mining operations, and to save the Township of Pittston and its Officials harmless from any and all claims, suits or demands caused by any earth extraction operation.
- h) A statement signed by the applicant agreeing to comply with the requirement that no earth-extraction activities will be operated earlier than 7:00 A.M. nor later than 4:00 P.M. during each day and such activities shall not be operated on Sundays.
- i) All such applications shall include evidence of a State-issued mining license and permit. In addition to all other applicable requirements set forth herein, all such uses shall also be required to comply with the requirements of Sections 706 regarding the submission of an Environmental Impact Statement.
- j) Rehabilitation and Reclamation Plan for Natural Resources. At the time the operations plan is submitted a rehabilitation and reclamation plan shall also be submitted setting forth the following information:
 - 1) An engineering drawing showing ownership, existing and future topography, streams, existing roads, buildings, boundaries, and legal description of the tract.

- 2) A description of the location, type, extent, methods, and time schedule for the operations proposed.
- 3) A drawing showing the location and/or proposed relocations of land, trees, buildings, structures, public roads, streams, drainage facilities and utility lines on the tract or adjacent tracts as may require protection, repairs, clearance, demolition, restoration either during or following completion of the operations proposed.
- 4) A statement describing methods for handling operations with respect to the “Operational Requirements,” plus any drainage, air pollution, soil erosion or other environmental problems created during the operations including production, transportation, processing, stockpiling, storage and disposal of by-products and wastes.
- 5) A plan for re-use of the land after completion of the operations which shall permit the carrying out of the purpose of this Ordinance and appropriately provide for any restoration, reclamation, reforestation or other correction work deemed necessary.
- 6) A soil erosion and sedimentation control plan and storm water control plan meeting the requirements of the County Conservation District and the Pittston Township Subdivision and Land Development Ordinance; and a storm water management plan meeting the requirements of the Township Subdivision Ordinance. For proposals located in the Susquehanna River Watershed, the storm water plan shall comply with the Township Storm water Control Ordinance adopted to implement the Susquehanna River Watershed Storm Water Management Plan adopted by Luzerne County, as amended.

B. Procedural Requirements

- (1) Setbacks/Buffers The setbacks and buffers required in this Section shall be considered the minimum requirements. The Township shall require larger setbacks, buffers or fencing in cases where the size of the operation, the topography, vegetation, or other physical features of the site, uses on adjoining properties or other public concerns dictate same. Except as otherwise provided herein, the perimeter of any excavation under this Section shall not be nearer than 300 feet to any building, property line or street, except that owned by the excavator.

Any required buffers/fences shall be continuously maintained in good repair. In addition, in order to reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than 300 feet from the right-of-way of any street, and/or 500 feet from any residential building or the boundary of a residential zoning district. Minimum setbacks shall be as follows:

- a) Residential - When adjacent to a Residential District or existing residence, no stockpiles, waste piles, processing or manufacturing equipment, subsurface mine entry location or facilities, and no part of the open excavation or quarrying pit shall be located closer than five hundred (500) feet to such property.
 - b) Street - From the right-of-way line of a public street or highway no part of a quarrying or excavating operation shall be closer than two hundred (200) feet. Where both sides of the right-of-way are in a quarry or excavation operation in single ownership the required street setback may be reduced to fifty (50) feet on each side of the right-of-way.
 - c) General Property Line Setbacks - No part of the quarrying or excavating operation shall be located closer than three hundred (300) feet to property in a Nonresidential District or any of the uses permitted therein.
 - d) Surface mining is prohibited within 500 feet, horizontally or vertically, of any developed parcel.
- (2) Fencing If required by the Board of Supervisors to ensure the public safety and welfare of persons and property in the immediate vicinity, open excavations and pits shall be enclosed with a fence of not less than six (6) feet in height. The applicant shall submit to the Township for approval by the Board of Supervisors a fencing plan which shall provide for the protection of the public health, safety and general welfare by restricting public access from areas of steep slopes, ponds, and/or other hazards. The Township shall determine the type and extent of fencing required as part of the conditional use process. However, in no case shall any fence be less than six (6) feet in height and all required fencing shall be of such design to restrict access. In all cases, fencing shall be required wherever the natural resource use abuts a public road right-of-way. All fence openings to provide access to the site shall be controlled by a gate and locks.

- (3) Water Resources In no case shall any use impede the flow of natural watercourses, and all uses or processes which pollute watercourses shall be prohibited. Collection of water in any excavation or quarry shall be avoided except as necessary for soil sedimentation control and shall not be permitted to become stagnant.
- (4) Subsidence All mining operations shall be conducted in such manner to prevent any subsidence of the surface of the site.
- (5) Blasting The use of explosives for the purpose of blasting in connection with coal operations shall be undertaken in accordance with regulations promulgated by and under the supervision of a representative of the Pennsylvania Department of Environmental Protection. Blasting in any coal operation shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time. The applicant shall provide the Township with not less than a twenty-four (24) advance notice.
- (6) Drainage All excavations both during operations and after completion shall be adequately drained to prevent the formation of pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the coal operation.

C. General Rehabilitation - Reclamation Requirements and Standards for Natural Resource Uses.

- (1) Backfilling Requirements All earth extraction operations shall be backfilled and all overburden material shall be replaced in a manner which will restore the premises to an equal or same grade as existed on the original site before the commencement of the proposed earth extraction operation.
- (2) Time Within the time frame approved by the Board of Supervisors, but in no case to exceed three (3) years after the termination of operations, the area shall be rehabilitated to conform with the rehabilitation plan as approved.
- (3) Standards In the rehabilitation of an area the following standards must be met:
 - a) No area of rehabilitation shall exceed a slope of 2:1.
 - b) The entire area disturbed by resource excavating, quarrying, mining, or other natural use shall be planted in such a manner so as to control soil erosion.

- c) The entire area shall be graded wherever necessary to provide for the conveyance of storm water. Finished grade shall not have a slope of less than two (2) percent so as to provide for a natural drainage.
 - d) Stockpiles, overburden, refuse, plant facilities or equipment shall be removed immediately upon the termination of operations and in no case shall such removal be permitted to exceed one (1) year.
- D. Existing Natural Resource Uses. Operations existing prior to the effective date of this Ordinance which are nonconforming as to setback requirements, shall not be required to correct such existing nonconformity. A rehabilitation plan and performance guarantee and any required fencing and/or buffers shall be provided within six (6) months after the effective date of this Ordinance, as amended. A plan meeting the requirements of this Section D, for existing natural resource uses shall be submitted to the Township within forty-five (45) days of the effective date of this Ordinance, as amended.
- E. Nonconforming Uses. Expansion of any natural resource use which is nonconforming as to Zoning District location shall be limited to the specific type of existing nonconformity, and any expansion to include natural resource use processing use(s) such as, but not limited to, stone crushers, cement plants and asphalt plants, shall not be permitted.
- F. Excavation of Topsoil, Gravel, Sand or Rock
 - (1) All excavations must be enclosed by a fence not less than six (6) feet in height located at least ten (10) feet from the sides or perimeter of the excavation. All such excavation must be adequately drained to prevent the formation of pools of water. The side walls of all such excavations shall slope at an angle no steeper than one (1) foot of vertical distance for each two (2) feet of horizontal distance.
 - (2) A rock crusher or processing plant shall not be located nearer than five hundred (500) feet to any adjoining residence.
 - (3) Topsoil or sod may be removed only under the following conditions:
 - a) As part of the construction or alteration of a building, or the grading incidental to such building.
 - b) In connection with normal lawn preparation and maintenance on the lot from which such topsoil or sod is removed.

- c) In connection with the construction or alteration of a street.
- (4) In no event shall any excavated materials be permitted to form waste piles or mounds, it being the intent of this provision that any excavated material be used as fill or refill or otherwise distributed so as to avoid any unsightly or unnecessary accumulation.

G. Removal of Earth and Stone as Part of Site Preparation for Development.

This Ordinance regulates the sale of top soil, stone, rock, sand and similar material as a commercial use. More specifically, such activity is defined as a “natural resource use,” and is considered a conditional use in certain districts. The Township recognizes that for certain properties, significant site preparation is required prior to development. This may include the removal of topsoil or stone for the construction of a driveway, bringing a site to grade level, providing access, or a similar activity. It is not unreasonable for the owners of such properties to sell the excavated material. Such sale is not the primary use of the property under development; but instead, is only undertaken in preparation for the development of another use. Requiring the transport of the material from the site prior to its sale would be onerous to the property owner; and would not be necessary to protect the public health, safety and welfare. The protection of the public health, safety and welfare will not be compromised by the limited sale of material excavated in association with the preparation of a site for development. However, without limiting the scale of the material removal to that which is specifically necessary for site preparation, the intent of the Zoning Ordinance to regulate “natural resource uses” would be compromised. Given the nature of the use, the most appropriate means of providing for the limited sale of excavated earth and stone is to treat it as an accessory use, as follows:

H. Accessory Uses Excepted

- 1) Accessory Use. The removal of earth or stone as part of the preparation of a site for development shall not be considered a commercial operation defined as a “natural resource use” by the Zoning Ordinance. Instead, it shall be treated as an accessory use.
- 2) Incidental Sale. Such sale must be clearly incidental to the site preparation and shall not go beyond what would be associated with the proposed development, neither in area nor depth of excavation.
- 3) Plan. The property owner shall submit to the Township, by letter and site plan, a description of the property, proposed development, extent of material excavation, and completion date; and, a copy of the soil erosion and sedimentation control plan for the site prepared in accord

with County Conservation District and PA Department of Environment Protection standards.

- 4) Duration. The accessory use permit shall be valid for six (6) months from its issuance, and an extension may be granted by the Township for good cause shown by the applicant.
- 5) Other Requirements. This issuance of the accessory use permit shall not invalidate the requirement for all other necessary approvals and compliance with all other applicable regulations (e.g., soil erosion and sedimentation control, sewage disposal, and storm water).
- 6) Enforcement. The issuance of an accessory use permit shall not prohibit the Township from proceeding with enforcement of the Zoning Ordinance should the Township determine that the sale of material goes beyond what is associated with site preparation and is reasonably considered a “natural resource use.”

Section 708.3 ADULT BUSINESSES/REGULATED USES

Adult Businesses are permitted only as a Conditional Use only in the I-2 zone district.

- A. Legislative Findings. In adopting these standards which apply to adult businesses, the Board of Supervisors has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of Pittston Township. 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 Board of Supervisors, 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, 426 U.S. 50 (1976), and Northend Cinema, Inc., v. Seattle, 585 P. 2d 1153 (Wash. 1978), and in re: appeal of Bucks, Bass and Balls Inc., d/b/a LaDolce Vita from the Deemed Denial by the Zoning Hearing Board of Springbrook Township in the Court of Common Pleas of Luzerne County, Civil Action - Law No. 97-CV-5379 and 100 Luzerne Jurist 223 (1999), and City of Erie, et al v. Pap's A.M. TDBA "Kandyland" (Slip Opinion - Supreme Court of the United States) No. 98-1161 decided March 29, 2000, 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.

The June 6, 1989 *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* from the State of Minnesota, and the November 1994, City of New York *Adult Entertainment Study*, each summarize a number of studies from around the country as follows:

Minneapolis

- The effects of sexually oriented businesses on the crime rate index is positive.
- There is a close association between adult businesses, crime rates, and low housing values.

St. Paul

- ☐ A significant correlation exists between the location of adult businesses and neighborhood deterioration.

Indianapolis

- Real estate appraisers overwhelmingly (80%) felt that an adult bookstore would have a negative effect on residential property values within one block of the site.
 - ☐ 71% believed there would be a detrimental effect on commercial property values in the one- block radius.
- X Major crimes such as criminal homicide, rape, robbery, assault, burglary, and larceny, occurred at a rate 23% higher in areas with
- X adult businesses.
- X The sex related crime rate, including rape, indecent exposure, and child molestation, was 77% higher in such areas .

Phoenix

- X Property crimes were 43% higher in areas with adult businesses.
- ☐ The sex crime rate was 500% higher in those areas.

Whittier, California

- X Higher occupancy turnover rates were documented in commercial and residential areas adjacent to adult businesses.
- X Numerous reports of excessive noise, drunkenness and pornographic litter associated with adult businesses were identified.

The Minnesota Working Group concluded that *a comprehensive approach is required to reduce or eliminate the impacts of sexually oriented businesses. Zoning and licensing regulations are needed to protect*

residents from the intrusion of “combat zone” sexual crime and harassment into their neighborhoods.¹

The New York City study concluded that *numerous studies in other locations found that adult entertainment uses have negative secondary impacts such as increased crime rates, depreciation of property values, deterioration of community character and the quality of urban life.²*

Municipalities typically allow adult uses in heavy commercial and industrial districts. The New York City study reported that:

A study in the Town of Islip, NY formed the basis of zoning regulations that allow adult uses only in Industrial I Districts by special exception.

The Indianapolis, Indiana study recommended that *adult uses should be allowed only by special exception in commercial districts oriented beyond a neighborhood, and not within 500 feet of a residential, school, church, or park property line, or historic area.³*

A study conducted by the Manatee County, Florida, Planning and Development Department recommended that *adult uses be limited to commercial locations at least 500 feet from a residential district and 2,000 feet from churches, schools, child care facilities and public recreation areas.⁴*

The ordinance adopted in 1992 by Jackson, Mississippi, limits topless bars and other adult businesses to areas zoned for light industrial uses and requires distances ranging from 250 to 1,000 feet from residential uses and commercial facilities.

Regulations in many Long Island, New York, communities *attempt to protect residential and commercial areas by allowing adult uses only in low-visibility Industrial districts.⁵*

¹*Report of the Attorney General’s Working Group on the Regulation of Sexually Oriented Businesses*, State of Minnesota, June 6, 1989, p. 2.

²*Adult Entertainment Study*. Department of City Planning. City of New York, November 1994. p. 67.

³*Ibid.*, p. 5.

⁴*Ibid.*, p. 8

⁵*Ibid.*, p. 9

Recent events and alleged criminal activity at an adult business in a nearby community document that secondary effects of adult businesses can affect rural areas as well as urban areas. (Hip Hop Club, Hamlin, Pa.)

The concern over sexually transmitted diseases is a legitimate health concern of Pittston Township which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.

Certain employees of sexually oriented business 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.

Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, including adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades, and especially those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. Offering and providing such space, encourages such activities, which create unhealthy conditions. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

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. 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.

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.

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.

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.

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.

The Board of Supervisors 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.

Based on the zoning principal established by the courts that all legitimate uses must be permitted somewhere in the community, adult uses should be permitted. Nevertheless, such uses must be regulated in terms of time, place and manner. In other words, the location and outward operation should be regulated, while remaining “content neutral” in terms of free speech protected by the First Amendment.

Specific standards for setbacks, visibility and signs must be included to protect adjoining residential, educational and other uses from the negative secondary impacts of any adult use.

B. Intent

It is the intent of this Section 708.3 to:

1. 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).
2. Prevent the concentration of regulated uses in order to minimize the secondary effects of such uses.

3. Designate a zoning district where adult businesses are permitted, and establish reasonable, content-neutral standards applicable to such uses.
4. 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.
5. 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
6. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
7. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

C. Conditional Use in the I-2 District

Adult businesses are classified as Conditional Uses in the I-2 Industrial zone, which provides a suitable areas for the development of such uses away from areas with concentrated residential development.

D. Definitions

1. 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 a “Regulated Use” for the purpose of this Ordinance.
2. Adult Bookstore. Adult Novelty Store or Adult Video Store: An establishment having a substantial part of its business, offering for sale or rental for any form of consideration, any one or more of the following: books, magazines, and other periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing or related to “specified sexual activities,” or “specified anatomical areas,” or instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities,” or an establishment with a segment or section devoted to the sale or display

of such material, where that segment or section exceeds an area of 10% of the sales space in such an establishment or 50 square feet, whichever is greater.

The term Adult Bookstore shall include but not be limited to an Adult Video Store, and all such uses shall be considered a “Regulated Use” for the purpose of this Ordinance.

3. Adult Business/Regulated Use. All of the following shall be considered “Adult Businesses/Regulated Uses”:
 - a. The 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. The 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 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 herein:
 1. adult arcade
 2. adult bookstore or adult video store
 3. adult live entertainment use or facility
 4. adult motel
 5. adult motion picture theater
 6. adult theater
 7. cabaret
 8. Drug paraphernalia stores
 9. escort agency
 10. massage parlor
 11. nude model studio
 12. sexual encounter center

4. 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, contractors, dancers, clerks, bartenders 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.

5. Adult Motel: A hotel, motel or similar commercial establishment which:
- a. Offers accommodations to the public for any form of consideration and as part of the 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.

6. 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.

7. Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or in 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.
8. Cabaret. An adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities.
9. Drug Paraphernalia: Any objects, devices, instruments, apparatus or contrivances, whose primary and traditionally exclusive use is involved with the illegal use of any and all controlled substances under Pennsylvania Law.
10. Drug paraphernalia stores. Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession of is subject to the provisions of “The Controlled Substance Drug, Device and Cosmetic Act,” 1972, April 14, P.L. 233, No. 64, 51 et seq., 35 P.S. Section 780-101 et seq., including but not limited to, water pipes, pipe “screens,” hashish pipes, “roach clips,” “coke” spoons, “bongs” and cigarette rolling paper, except that this shall not be deemed to include the sale of cigarette rolling papers by a store that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.
11. 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.
12. 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.
13. Massage: The performance of manipulative exercises using hands and/or a mechanical or bathing device on a person(s)’s skin other than the face or neck by another person(s) that is related to certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.
14. Massage Parlor: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish as one of its primary business purposes for a fee, tip, or other consideration a

massage which involves the exposure of any “specified anatomical areas” or the conduct of any “specified sexual activities,” except where such service is provided by a certified masseur/masseuse.

15. Nude Model Studio: Any place where a person who appears in a state of nudity exhibiting “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.
16. Nudity or a State of Nudity The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering or any portion thereof below the top of the areolae.
17. Obscene Materials: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, video tape, sound recording, article, instrument or any other written or recorded matter which depicts or describes any “specified anatomical areas” and/or “specified sexual activities.”
18. 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.

19. 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 areola.
 - b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.
20. 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.

E. Standards In addition to the other applicable provisions hereof, the following standards shall apply to adult businesses:

- 1. No regulated use shall be permitted within three thousand (3,000) feet of any other existing regulated use; and/or,
- 2. No regulated use shall be permitted within five hundred (500) feet of any establishment that sells alcoholic beverages; and/or,
- 3. No regulated use shall be permitted within five hundred (500) feet of any residentially zoned district, or any of the following residentially related uses:
 - a. Group care facility
 - b. Commercial enterprises catering primarily to persons under 18 years of age
 - c. Churches, chapels, convents, rectories, religious article or religious apparel stores;
 - d. Schools, up to and including the twelfth (12th) grade, and their adjunct play areas;
 - e. Public recreational facilities, and public libraries;
 - f. All other public buildings and offices.
- 4. For the purposes of this section, spacing distances shall be measured as follows:
 - a. From all property lines of any “regulated use” in Section B.3.d. above;
 - b. From the outward line or boundary of all residential zoning districts;
 - c. From all property lines of any uses identified in E.3.a through E.3.f. above.

5. Enlargement - Any enlargement or expansion of an existing, legally created adult business shall be considered a Conditional Use subject to the provisions of this Section 708.3 and all other applicable standards of this Zoning Ordinance.
6. 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.
7. 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 Section 708.3 shall be deemed a nonconforming use. Such nonconforming uses shall be increased, enlarged, altered or extended, only in accord with Article 9 Nonconformance's, and all other applicable standards of this Ordinance. The use may be changed to a conforming use. However, under no circumstances shall a nonconforming use as regulated by Article 9 hereof be changed to any type of adult business without applying for such change of use as a Special Exception.
8. Change of Use – Whenever an existing regulated use is proposed to be changed to another permitted regulated use, the applicant shall request consideration as another regulated use in accordance with the procedures set forth herein for such special exceptions
9. 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 of a Special Exception permit, a use from which an adult business is required to provide a setback under this Section 5.510 is developed within the required setback distance. Any additions or expansions of the adult business use shall comply with all setbacks required by this Section 708.3
10. Alcohol - No adult business shall be operated in combination with the sale and/or consumption of alcoholic beverages on the premises.
11. No regulated use shall permit the admission of minors to their regulated business establishment, and the sale of regulated services or materials to minors is also prohibited.
12. No regulated use shall operate between the hours of 2 A.M. and 8 A.M. from Monday to Friday, nor between the hours of 3 A.M. and 8 A.M. on Saturdays, nor between the hours of 3 A.M. and noon on Sundays.

13. Exemption for Modeling Class: It is a defense to prosecution under this Section 708.3 that a person appearing in a state of nudity did so in a modeling class operated:

- a. By a proprietary school, licensed by the State, or an academically accredited college or university;
- b. 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;
- c. In a structure -
 - 1) 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
 - 2) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - 3) where no more than one (1) nude model is on the premises at any one time; or
- d. By an organization which qualifies under Section 501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

F. Signs and Other Visible Messages. All regulated uses shall be permitted signs and visible messages based on the allowable sign area of the zoning district in which they are located; provided:

1. Signs.

- a. Sign messages shall be limited to verbal description of the name of the business and the hours of operation.
- b. Sign messages shall not include any graphic or pictorial depiction of material or services available on the premises.

2. Other Visible Messages.

Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display material, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing, or services offered on the premises.

G. Minimum Required Distances

1. No regulated use shall be permitted within five hundred (500) feet of any residentially zoned district, or any of the following residentially related uses:
 - a. Group care facility
 - b. Commercial enterprises catering primarily to persons under 18 years of age
 - c. Churches, chapels, convents, rectories, religious article or religious apparel stores;
 - d. Schools, up to and including the twelfth (12th) grade, and their adjunct play areas;
 - e. Public recreational facilities, and public libraries;
 - f. All other public buildings and offices.
2. No regulated use shall be permitted within three thousand (3,000) feet of any other existing regulated use; and/or,
3. No regulated use shall be permitted within five hundred (500) feet of any establishment that sells alcoholic beverages; and/or,
4. Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line of the above noted uses. The structure and/or premises of an adult use, including all off- street parking areas shall be completely enclosed by a fence, not less than eight (8') feet in height and screened by a variety of evergreen trees which shall be planted not more than six (6' feet apart and being not less than eight (8') feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

708.5 SEWAGE DISPOSAL AND SEWAGE TREATMENT PLANTS

The location and operation of a public or private sewage disposal and/or sewage treatment plant shall be in full compliance with the applicable regulations of the Pennsylvania Department of Environmental Protection. Written approval from DEP shall be secured prior to the installation of such facilities.

ARTICLE 8: SUPPLEMENTARY REGULATIONS GOVERNING CERTAIN USES

SECTION 801 PURPOSE AND INTENT

Certain uses of land and/or buildings, as specified herein, whether permitted by right, special exception and or conditional use, shall be subject to supplemental regulations in addition to those of the district in which the use is located.

SECTION 802 USE REGULATIONS

802.1 AMUSEMENT USES

A. Indoor Recreational Facilities

1. Such uses shall be conducted entirely within an enclosed structure.
2. The lot size shall be not less than two (2) acres.
3. Applications for indoor theaters, bowling alleys, indoor ice and roller skating rinks, gymnasiums, and indoor handball and tennis courts, and indoor shooting ranges and archery ranges shall be accompanied by a site development plan.
4. The site development plan shall show building placement and dimensions, parking, landscaping, internal circulation, and the size and location of signage.
5. Parking areas shall be screened from adjoining residential properties in accordance with Subsection 317.2 hereof.
6. A principal structure shall be not less than twenty (20) feet from any property line, or such greater distance as may be otherwise required in the district where located or as set forth in Article 5 hereof.
7. There shall be no offensive noise or vibration; such elements may be emitted only in accordance with the performance standards set forth in Article 8A hereof.

B. Outdoor Recreation Facilities

1. Such uses shall include golf courses, swimming pools, tennis courts and other similar uses.

2. No outdoor recreation activity shall be conducted closer than fifty (50') feet to any property line. and shall be effectively screened from adjoining dwelling uses in accordance with the provisions of Section 317.4 hereof.
3. A buffer area, at least ten (10') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
4. Access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
5. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.
6. Illuminated signs and other lights shall be directed away, or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.
7. Private Noncommercial Swimming Pools Private swimming pools, permanent and portable, which shall be accessory to a principal non-commercial dwelling use shall be regulated as follows; except that these regulations shall not apply to portable swimming pools which shall be not more than 24 inches in height nor more than 15 feet in length.
 - a. Such pools shall be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged. Such pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of five (5') feet from any rear or side yard lot line; if the rear or side yard abuts a street or an alley, a setback of ten(10) feet shall be required subject to compliance with Section 310 of this Ordinance.
 - b. All pumping, cleaning, filtering, and screening devices and water supply and discharge shall be of a type and source approved by local and/or State health department authorities
 - c. All swimming pools, capable of containing water to a depth, at any point, in excess of twenty-four (24) inches shall be enclosed in accordance with the following subsections:
 - d. May be erected only on the same zone lot as the principal structure.

- e. May be erected only in the rear yard of such structure and shall be distant not less than twenty (20) feet from the rear lot line nor less than ten (10) feet from any side property line, principal structure or accessory structure attached thereto. The side yard setbacks, however, may be reduced to five (5) feet on nonconforming lots of insufficient width.
- f. In-Ground Pools Fencing for in-ground swimming pools shall consist of fencing of the swimming pool or the property on which the pool is situated. Said fence shall be not less than four (4) feet in height above ground level, shall include a gate secured with a lock, and shall be designed and constructed to prevent uncontrolled access by children from the street or from adjacent properties; and, said wall or fence shall be maintained in good condition at all times. Said fence shall be installed not later than the time that water is placed in the pool.
- g. Above-Ground Pools An above ground pool shall be enclosed with a permanent fence not less than four (4') feet in height above the ground level. It shall also include a gate secured with a lock in accordance with the above requirements of Section F or in lieu of a fence, a barrier not less than four (4') feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4') feet. Access into the pool shall be secured by a gate with a lock, retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use or is concurrent with the current version of the property maintenance code. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall not project into any required yard setback for the pool. Above-ground pools shall be exempt from these fencing requirements if the pool includes an attached fence or fence/deck combination, and if;
 - 1) The fence is equipped with a gate that can be closed when the pool is not in use; and
 - 2) The height of the fence along the deck of the pool is not less than thirty (30) inches above the deck level of the pool.
 - 3) Said fence shall be installed not later than the time that water is placed in the pool.

802.2 Public and Semi-public Uses

A. Essential Services, Enclosed or Permanent Structures

Such uses are intended to include facilities for sewage treatment, electric substations, transformers, switches, and auxiliary apparatus, as well as local governmental services such as police stations, fire houses, water towers, and similar uses. Where such uses are proposed to be located in a Residential District, they shall be subject to the following regulations:

1. Such facility shall not be located on a residential street (unless no other site is available), and shall be so located as to draw a minimum of vehicular traffic to and through such streets. Water towers shall be located not less than 500 feet from existing dwellings or a Residential District.
2. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
3. Adequate fences, barriers and other safety devices shall be provided, and shall be landscaped in accordance with the provisions of Section 317 hereof.
4. Noise emitted from electric substations shall not be greater than permitted in accordance with the performance standards set forth herein.

B. Essential Services, Open

Such uses shall be limited to the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Such uses shall not include sanitary landfills and related uses such as staging areas or other means of solid waste disposal. Where applicable, the landscaping regulations of Section 317 hereof shall apply.

C. Community Facilities And Services

1. Hospitals, Churches, or other Religious or Philanthropic Institutions Such uses shall not be located on local streets; and, they shall maintain a landscaped buffered area in accordance with the provisions of Section 317 hereof on all property lines abutting R-Districts and all residential streets. Such uses shall not be located or designed in such a manner as would be detrimental to the privacy, convenience and property values of nearby residential development. A parking area shall accommodate all parking spaces as required in Article 11 of this Ordinance. Access driveways shall be not greater than twenty-five (25') feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60') feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines. Where the parking area abuts existing residences on the side or rear property line, a buffer area, consisting of shrubbery or evergreen trees, being not less than four (4) feet in height at the time of planting, shall be provided.
2. Public and Parochial Schools and Colleges and Private Schools and Colleges for Academic Instruction The size of a lot shall meet the minimum requirements as prescribed by the Pennsylvania Department of Education. Access to the site shall be from an arterial or collector street. Access driveways shall not exceed twenty-five (25') feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60') feet from the intersection of the two streets, as measured from the intersection of their right-of-way. Loading and unloading areas, parking areas and circulation shall be provided in accordance with Article 11 of this Ordinance. In any R-district, such uses, including play areas shall be located not less than 100 feet from any lot line, except where greater distances are otherwise required herein. Schools will be located on or within close proximity to State roads.
3. Nonprofit Social Halls, Clubs And Community Centers Buildings utilized for such purposes shall not be less than ten (10') feet from the property line, nor shall any designated parking area be within ten (10') feet from a property line.
4. Public Utilities Public utility facilities shall conform to the requirements of this section. and to the following regulations for properties containing such uses:
 - a. Access and parking shall be provided only for maintenance and servicing of such facilities.
 - b. A chain-link fence and locked gate not less than eight (8') feet in height shall surround the building or structures of such facilities.

- c. A buffer area not less than ten (10') feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities.
- d. Outside lighting shall be directed away from adjacent properties.
- e. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.

802.3 Nursery School, Child Day Care Center and Group Day Care Home

- A. Day Care Facilities All day care facilities, as so defined in Article 2 of this Ordinance, shall comply with the following:
 - 1. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval is required by the laws of the Commonwealth.
 - 2. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
 - 3. All outdoor play areas shall be completely enclosed with a fence being six (6') feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time.
 - 4. The applicant shall provide evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting children to and from the facility.
 - 5. Such uses shall be situated on a zone lot of not less than two (2) acres except where a greater area is otherwise required herein, and shall be screened in accordance with the provisions of Section 317.. Such uses shall provide evidence of all required State approvals.
 - 6. Such uses shall maintain screening on any property line abutting an R-District.
 - 7. Child Day Care Centers and Group Day Care Homes shall also comply with the following minimum space and site requirements:
 - a. Each facility shall have a minimum of 40 square feet (372 square decimeters) of indoor space for each child, measured wall to wall inclusive of space occupied by cupboards, shelves, furniture, and equipment, but exclusive of halls, bathrooms, offices, kitchens, locker rooms, and related areas.
 - b. Each facility shall have a minimum of 65 square feet (604 square decimeters) of accessible outdoor play space for each child. Outdoor play space is considered accessible if it is no more than

½ mile (.8 kilometer) from the building. The following exceptions to the space requirements shall be permitted:

- 1) a minimum of 32.5 square feet (302 square decimeters) 50% less space of accessible outdoor play space shall be required for each infant; a minimum of 48.89 square feet (453 square decimeters) 25% less space of accessible outdoor play space shall be required for each child from age 18-24 months;
- 2) less outdoor space if it is offset by a large indoor activity room, as long as the 65 square feet (604 square decimeters) per child requirement is met and the indoor activity room provides for equivalent activity as outdoor play space; and
- 3) less outdoor space if it is scheduled for alternate use, provided that the 65 square feet (604 square decimeters) per child requirements is met for each child based on the number of children using the space at any one time.
- 4) if there are unsafe areas, such as open drainage ditches, wells, holes, or heavy street traffic, in or near the outdoor play space, there shall be fencing or natural barriers to restrict children from these areas.

Section 803 Residential And Residential-Related Commercial Uses

803.1 Single Residential Structures, Containing Multi-Family Dwelling Units A lot area of two thousand five hundred (2,500) square feet shall be required for each dwelling unit. A minimum lot width of not less than one hundred (100) feet shall be required. Each side yard shall be not less than fifteen (15) feet.

803.2 Two-Family and Multi-Family Dwellings

- A. All two-family, townhouse and other multi-family development sites shall be provided with an existing or approved public and/or community type water supply and sanitary sewer system, approved by appropriate local and State health authorities having jurisdiction. Excepted from this regulation is the development of a two-family dwelling on an individual zone lot. Such uses shall comply with the following requirements, as well as the requirements of Schedules I and II hereof and other applicable requirements of this Ordinance as well as the Pittston Township Subdivision and Land development Ordinance. requirements of Schedules I and II hereof

B. Minimum Lot Area, Coverage and Yard Requirements

1. Two Family Dwellings. The minimum lot area per dwelling unit shall be as specified in Schedule I hereof for the zone district where situated. Minimum frontage, depth, yards, and maximum coverage shall be as specified for the zone district where situated.
2. Multi-Family Dwellings
 - (a) A building wall exposing both windows and an entrance way shall be located not closer to another building than a distance equal to the height of the taller building of the two, but in no case less than thirty (30) feet.
 - (b) A building wall exposing only windows or only an entrance way shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than twenty-five (25) feet.
 - (c) Maximum Number of Dwelling Units. Garden apartments and townhouses shall not exceed eight (8) dwelling units per structure.
 - (d) Permanent Open Space. In addition to the yard, setback, and off-street parking requirements of this Ordinance, there shall be provided a minimum of 20 percent of the gross area of the site to be permanently set aside for a usable open recreation area, which shall be for the common use of the residents thereof, as specified in the Pittston Township Subdivision and Land Development Ordinance.
 - (e) Off-Street Parking. Provision for off-street parking shall be as required in Article 11 hereof.
 - (f) Fire Escape. Fire escapes shall generally be located in the rear of a building. Where needed for safety; and, if incapable of serving dwellings by being placed in the rear of the building, they may be located on the side(s) of a building; but, in no event shall they be located in the front of a building.

803.3 Dwelling Over Or Attached To A Business Establishment

Dwellings units may be permitted over or attached to business establishments in any zoning district where dwellings are permitted. Such dwellings shall have private access and the required residence parking spaces in addition to commercial parking spaces as required by Article 11 hereof.

803.4 Housing For The Elderly

- A. Maximum Density. In any R-District where housing shall be designed exclusively for occupancy by elderly persons⁶, the minimum lot area required per dwelling unit shall be 2000 square feet of net land area per dwelling unit.
- B. Off-Street Parking. Accessory off-street parking required to serve housing for the elderly shall be provided in an amount of not less than one (1) space per 3 “elderly” dwelling units.

803.5 Boarding House The property shall maintain all yard areas for the zoning district in which it is located and shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each boarder.

803.6 Hotels, Motels, Motor Courts, Motor Hotels and Similar Uses

- A. Such uses shall have a minimum area for each unit of occupancy of 150 square feet and shall include a minimum of one (1) bedroom and an enclosed bathroom containing a bathtub or shower, commode and lavatory and be supplied with hot and cold running water.
- B. Illuminated signs and other lights shall be directed away from or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.
- C. Such uses shall not be closer than two hundred (200) feet to an R-District, shall be located on a State road, and shall provide ingress and egress so as to minimize traffic congestion.
- D. Site Development Standards In districts where permitted, motels shall be subject to the following safeguards and regulations:
 - 1. A site development plan shall accompany each application and shall show: building placement, parking, vehicular safety control features, including entrances, exits, driveways, roads and walks, specific landscaping components, plan for water supply, sewage disposal, and supply of electricity, and the size and location of signage.
 - 2. Lot size shall be not less than two (2) acres.

⁶Persons shall be considered to be elderly who meet the definitions of “elderly” as set forth by the U.S. Department of Housing and Urban Development; in the absence of such standards, however, elderly persons shall be all persons 60 years of age or older.

3. Lot width shall be not less than two hundred (200) feet.
4. There shall be more than ten (10) sleeping rooms.
5. Fifty (50%) percent or more of the gross floor area shall be devoted to sleeping rooms.
6. There may be club rooms, ballrooms, and common dining facilities.
7. Surface drainage shall be such that will not subject adjoining properties or streets to damage. A storm water management plan and a soil erosion and sedimentation control plan shall be designed to control runoff for a ten (10) year storm, and shall be in accordance with Act 167 of 1978. Such plans shall be accompanied by evidence of approval by appropriate agencies and authorities.
8. An architectural rendering showing the appearance of the facade(s) of the structure(s) visible from the highway which it faces must be submitted along with the site development plan.
9. No part of any motel unit shall be placed closer to any lot line than fifty (50) feet..
10. Every motel unit shall be provided with running water and toilet facilities for each accommodation.
11. In the case of a corner lot, access drives shall be not less than sixty (60) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

803.7 Manufactured Housing

- A. Manufactured (Mobile) Homes Manufactured housing, other than recreation vehicles, which are not placed on a permanent foundation, which meet the requirements of this section shall be permitted only in manufactured home parks and in granny flats.
 1. Bulk Requirements. Mobile Homes shall comply with lot area, yard, height, and other requirements established by this Ordinance.
 2. Foundation. All wheels and the tongue shall be removed and the mobile home shall be placed upon and permanently attached to a complete, permanent, frost-free foundation consisting of a full basement, a crawl space, piers, or floating slab meeting the requirements of the Township, and as required under the U.C.C.

3. Piers. If piers are utilized, skirting consisting of permanent building material attached to the mobile home and extending to ground level shall be provided in order to prevent exposure of the underside of the mobile home.

B. Manufactured (Mobile) Home Parks. Manufactured (Mobile) home parks shall be permitted only in zones specified in Table No.1 hereof, and only in accordance with Article 9 of the Pittston Township Subdivision and Land Development Ordinance:

803.8 Conversions

A. Conversions, Year-Round Dwellings. Conversion of a single-family residence to a two-family residence shall be permitted only in an R-2 district provided that:

1. The minimum lot area per dwelling shall be as required for the zone district where the zone lot to be converted shall be located.
2. Where such conversion is undertaken there shall be provided on the same zone lot not less than two (2) additional off-street parking space in accordance with the provisions of Article 11 hereof.
3. Such structure shall contain not less than 1,500 square feet of living space and no dwelling unit therein shall contain less than 600 square feet of living space, and shall be on a lot having an area of not less than 15,000 square feet.
4. There shall be no structural alteration to the exterior so it would appear as other than a single-family structure.

B. Conversion of Non-Dwelling Structures. Non-dwelling structures may be converted to dwelling structures or other non-dwelling structures provided that the new use shall be of equal or greater restrictiveness than the use being converted. No non-dwelling structure having plate glass windows shall, however, be converted to a residential use unless such windows are removed from the structure; and, no such building which has already been converted shall be further converted to provide for additional dwelling units unless the plate glass windows are removed.

803.9. Group Housing For Handicapped Persons Group housing for handicapped persons is permitted as a principal permitted use in all residential zones, and shall comply with the following standards:

- A. The maximum occupancy of a Group Residence shall not exceed eight (8) persons, excluding staff. recent housing code standards of the Uniform Construction Code and the International Building Code, as amended
- B. Prior to operation, it must show evidence of such licensing as may be required by the Pennsylvania department of Public Welfare
- C. It must include supervision by not less than one (1) person.
- D. The applicable requirements and standards which govern off-street parking for a single family dwelling shall also govern for a Group Residence, however two additional off- street parking spaces shall be provided if there is any required staffing associated with the management and operation of a Group Residence.
- E. It shall not be hazardous to the health, safety, and welfare of the residential Neighborhood where it is located.
- F. Such use shall not be a residence for transients, and there shall be no fixed length of time for occupancy by the residents.

803.10 Home Occupations A home occupation which is conducted within a single family dwelling unit or a building accessory to the dwelling shall be permitted as a Special Exception subject to the following provisions:

- A. The occupation shall be carried on by the owner-occupant, wholly indoors, within the principal building or within a building accessory thereto.
- B. There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.
- C. There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D. No articles shall be sold or offered for sale except those which are produced on the premises.
- E. There shall be no repetitive servicing by truck.
- F. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

- G. The occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than one (1) additional employee.
- H. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than twenty (20%) percent of the floor area of the principal residential structure.
- I. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
 - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
 - (2) Three (3) spaces for all other home occupations.
- J. Permitted Uses. A home occupation shall include not more than one (1) of the following uses:
 - a. Professional offices in accordance with provisions of Article 11 hereof, regarding off-street parking.
 - b. Rooming and/or boarding of not more than two (2) unrelated persons. Adequate off-street parking shall be provided pursuant to Article 11 hereof.
 - c. Adult day care for not more than two (2) persons to be in the care of the operator of the day care facility.
 - d. Custom dressmaking, tailoring, millinery, and quilting.
 - e. Foster family care (for not more than four (4) children simultaneously).
 - f. Commercial photography and other similar uses.
 - g. Barber shop and beauty parlor with not more than 1 non-resident employee. Adequate off-street parking shall be provided pursuant to Article 11 hereof.
 - h. Tutoring for not more than four (4) students simultaneously. Provided that the sound produced is not audible at any property line. It is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
 - i. Licensed family day care homes for not more than 6 non-resident children.

- j. Licensed massage therapy services.
- k. Woodworking shops, small engine repairs (e.g. snow blowers, lawn mowers, motorcycles, etc.) provided that such uses shall not operate between the hours of 8 P.M. and 8 A.M.

803.11 No Impact Home Businesses No impact home businesses shall be permitted as an accessory use by right in accordance with the provisions of Article 2 hereof.

803.12 Animals in Residential Districts

Except as otherwise provided herein, animal pets are permitted in dwellings, but exotic animals, including poisonous and other dangerous animals shall be permitted only as a Special Exception and shall require a State permit.

803.13 Animals Hospitals, Kennels, Pounds and Similar Uses

Such uses shall be subject to the provisions for the zone where they are located, and as follows where more restrictive provisions are established. Kennels shall be subject to the following conditions:

- A. Parcel Size. A minimum parcel of three (3) acres shall be required.
- B. Setbacks. In any zone district where permitted, no such use shall be located closer than one hundred (100) feet to any R-District, restaurant, or hotel, Animal kennels in which animals are kept, boarded or trained may be either enclosed buildings or a combination of buildings and open runways. If all activities are maintained within a completely enclosed building, no objectionable odors shall be vented outside the building. If open runways are used, the building and runways shall be located not less than one hundred (100') feet from all property lines. Where the property abuts a district having residences as a principal permitted use, the building and runways shall be not less than two hundred (200') feet from such property lines.
- C. Adequate measures and controls shall be taken to prevent offensive noise and odor.
- D. No incineration shall be permitted on the premises.
- E. Parking. Adequate off-street parking shall be provided pursuant to Article 11 of this Ordinance with one space for each non-resident employee and one (1) space per four (4) dogs kept on the premises.

- F. Noise Barrier. 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.
- G. 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.
- H. Nuisances. All animal waste shall be stored in an area meeting the setbacks in Subsection “B” of this Section and shall be disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

803.14 Assisted Living Facilities Assisted Living Facilities shall comply with the following site standards:

- a. Minimum lot size of three (3) acres.
- b. Minimum setback of 50 feet from all property lines.

803.15 Assisted Care Dwelling Unit. The Township recognizes that in certain cases the only economically feasible means of caring for a relative who is infirm, aged, or ill is to provide temporary housing with immediate access to the care provider. In terms of sewage disposal, the development of an additional dwelling unit will not necessarily create sewage flows which would exceed the flows created if the relative needing care resided in the same dwelling unit as the care provider. PA DEP provides, via TAB 51, for the development of *temporary elder houses* or *granny flats* to address sickness or other hardship without the requirement of processing a sewage planning module. Given the nature of the use, the most appropriate means of providing for such assisted care units is to treat assisted care dwelling units as accessory uses.

- A. Accessory Use Permit. A temporary dwelling unit for the care of a relative, defined as an “Assisted Care Dwelling Unit for Relative” by this Ordinance, shall be considered an accessory use and all applicable zoning permits shall be required. In addition, a renewable accessory use permit shall be required which shall be renewed annually provided all requirements of the Zoning Ordinance are met. Prior to issuance and renewal of the permit by the Zoning Officer the applicant shall document to the satisfaction of the Zoning Officer that the “relative” status of the occupant(s) of the accessory unit and their physical condition has not changed. In any case, the occupants of the principal dwelling unit shall immediately report to the Zoning Officer any change in the occupancy status of the accessory unit and the arrangements made for the elimination of the unit within ninety (90) days of the time when the occupancy status changed.

- B. Application Requirements. The applicant shall provide a completed building permit application including a plan showing, at a minimum, the information required by Section 803.6D.1. of this Ordinance, and any other information deemed necessary by the Zoning Officer to determine compliance. The application shall also include a legally binding agreement for execution between the property owner and the Township to provide for the elimination of the accessory unit in accord with the requirements of this Section 803.15 when the accessory unit is no longer occupied by the relative requiring care.
- C. Subdivision and Land Development Requirements. Approval under the Township Subdivision and Land Development Ordinance shall not be required for accessory units for the care of a relative meeting the definition of “Assisted Care Dwelling Unit For Relative.”
- D. Occupancy Care Requirement. The accessory unit shall be limited to occupancy by a “relative” (as defined by Article 2 of this Zoning Ordinance) of a permanent resident of the principal dwelling unit on the property. Such relative shall need care and supervision because of old age or illness as documented by a letter from a licensed medical doctor, and the Township shall have the right to obtain a second opinion. Such accessory unit shall be permitted only where the relative requiring the care occupies the accessory unit located on the parcel of the care provider, and only for as long as the ill or elderly relative requires care as evidenced by written documentation by a licensed medical doctor as requested by the Zoning Officer at his discretion from time to time to verify compliance.
- E. Sewage Disposal. The accessory unit may be connected to the existing sewage disposal system, provided that the Township Sewage Enforcement Officer (SEO) confirms that the system is in good operating condition, and the repair of any prior malfunction or installation of any sewage facilities necessary to accommodate the accessory unit shall be required. The SEO will make a determination as to whether the installation or upgrade of any sewage facilities will be necessary to accommodate the accessory unit. Projected sewage flows from the accessory unit shall not exceed four hundred (400) gallons per day. The determination by the SEO shall not place any liability on the Township or the SEO for any future sewage malfunction nor relieve the property owner from the responsibility of correcting any such malfunction. In all other respects, the accessory unit shall be subject to and comply with all other applicable local, State and Federal ordinances, regulations, laws and statutes.
- F. Bulk and Density Requirements. All standards for setbacks, lot coverage, building height and other bulk requirements shall apply and any accessory mobile home shall be not less than twenty (20) feet from the principal

dwelling; except as provided in Section 803.15G hereof. The accessory unit may be installed on any lot provided all bulk requirements can be met.

- G. Unit Design. The accessory unit, if attached to the principal unit, shall be designed and installed in such a way that it can easily be converted into part of the principal dwelling unit after its use as an assisted living unit is discontinued; or in the case of a mobile home, can be easily removed from the property. Any such attached unit shall not detract from the single family residential exterior appearance of a dwelling. Unattached accessory units shall be limited to mobile homes only.
- H. Removal of Unit Once the accessory unit is no longer occupied by the relative requiring care or if the illness no longer exists, the dwelling shall be reconverted into part of the principal dwelling unit or be completely removed within ninety (90) days of written notice provided by the Township, and such unit shall not be occupied in the interim. The time for removal may be extended by the Board of Supervisors upon petition by the property owner for good cause. When any unit permitted under this Section 5.490 is required to be removed, there shall be no physical evidence visible from exterior to the lot lines that such unit existed, other than possibly the expanded size of the dwelling.
- I. Enforcement. The issuance of an accessory use permit shall not prohibit the Township from proceeding with enforcement of the Zoning Ordinance should the Township determine that any of the provisions of this Section 803.15 hereof have been violated. In such case, the accessory use permit shall be revoked and the assisted care dwelling unit shall be removed by the property owner, and the Township may proceed with any enforcement action authorized by law.

Section 804 Commercial And Manufacturing Uses

- 804.1 Bakeries Bakeries first permitted in any B-1 District shall be located no closer to an R-District than fifty (50) feet and goods produced on the premises shall be sold only at retail on the premises.
- 804.2 Eating And Drinking Establishments (Including Night Clubs And Restaurants) All eating and drinking establishments shall meet the parking requirements as set forth in Article 11 of this Ordinance. Access drives shall not exceed twenty-five (25') feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60') feet of an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outside lighting shall be directed away from adjacent properties.

804.3 Entertainment Facilities Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than twenty (20') feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential district, and shall be conducted entirely within an enclosed structure.

804.4 Drug Rehabilitation Facilities and Drug Treatment Centers

- A. No methadone treatment facility shall be operated unless it is licensed by the PA Department of Health.
- B. Such use shall have frontage on a State road, and, it shall be accessible from such a road.

804.5 Trucking Facilities

The property shall not be less than four (4) acres in area. Access drives shall be no more than twenty-five (25') feet in width. Where the operation abuts on the rear or side lot lines of a zoning district containing residences as a principal permitted use, a solid wall or substantial, attractive fence not less than eight (8') feet in height shall be constructed and maintained in good condition along such boundary. No truck parking or terminal operation shall be allowed within fifty (50') feet of any lot line. Outside lighting shall be directed away from adjacent properties.

804.6 Industrial/Manufacturing Uses

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use within an "I" District shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and federal regulations governing the proposed use. Manufacturing uses in any "I" District, when abutting an R-District, shall be screened from such district in accordance with the provisions of Section 307.7 and, such uses shall be located not less than 250 feet from any R-District.

- 804.7 Retail Uses in "I" Districts Such uses, designated in Table No.1 hereof, shall be permitted only where the applicant proves that such use is or will be necessary to serve manufacturing uses and will not adversely affect the industrial development of adjoining land. Where such uses are permitted, the minimum lot size requirement shall be 10,000 square feet.
- 804.8 Junk Yards And Automotive Wrecking Yards All junk yards and automotive wrecking yards existing at the effective date of this Ordinance shall comply within one (1) year after the adoption thereof. All new junk yards and automotive wrecking yards shall comply with the following:
- A. Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
 - B. Burning of any materials shall be prohibited.
 - C. No oil, grease, tires or gasoline shall be burned at any time.
 - D. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
 - E. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom.
 - F. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
 - G. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A storm water drainage plan shall be required.
 - H. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4') feet.
 - I. There shall be a roadway fourteen (14') feet in width provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for proper access for fire fighting equipment and safety purposes.
 - J. Junk shall not be stored within one hundred (100') feet of any adjoining property line or nearer than one hundred (100') feet to any adjoining or abutting street.
 - K. All junk yards shall be completely screened from view on all sides by a solid wall or substantial fence being six (6') feet in height and an evergreen hedge with such evergreens being a minimum height of at least five (5') feet at the time of planting. Any fence or wall shall be no closer than five (5') feet to the property lines.
 - L. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday, through Saturday from 8:00 A.M. to 4:00 P.M., local time.

Section 805 Large-Scale Residential Developments

The purpose of this Section shall be to permit large-scale development in such a manner as to provide for the flexibility of design diversity of lot sizes, building densities, housing choices, and arrangement of structures which would achieve the objectives of this Ordinance but would not be bound by the standards established for individual lot by lot developments. Such developments shall, however, be subject to the broader standards set forth below. Large-scale residential development design is not mandatory, but is simply an option available to a developer. Large-scale residential developments as defined herein shall be permitted as a Special Exception in the districts enumerated in Table No. 1, and shall be developed in accordance with the following requirements;

- 805.1 Conformity with Comprehensive Plan The proposed Large-scale residential development shall conform to the Municipality's Comprehensive Plan in terms of general location.
- 805.2 Ownership The tract of land shall be a minimum of forty (40) acres, and shall be controlled by the Applicant and shall be developed as a single entity.
- 805.3 Spacing and Orientation of Residential Buildings Spacing between buildings and orientation in residential building groups shall be as follows:
 - a. In buildings containing multiple dwelling units, walls containing main window exposures or main entrances, shall be so oriented as to insure adequate light and air exposures.
 - b. Such building shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- 805.4 Vehicle and Pedestrian Circulation Adequate provision for vehicle and pedestrian circulation shall be designed as follows:
 - a. Any development of fifty (50) or more dwellings units shall have at least two (2) points of access to a public road.
 - b. The Development shall make maximum use of driveways entering onto an internal local street. Intersections and access shall be governed by the Pittston Township Subdivision and Land Development Ordinance.
 - c. Safe and convenient arrangement of walks, roadways, driveways, and off-street parking and loading space.
 - d. Separation of general vehicle traffic from pedestrian walks and public transportation loading places.

- e. A building group may not be so arranged that any temporary or permanently inhabited building is inaccessible by emergency vehicles.

805.5 Combined Dwelling Type The various dwelling types permitted by this section may be combined at the discretion of the Board, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purpose of this section.

805.6 Paving and Drainage The Developer shall install throughout any proposed large scale residential development, hard-surfaced streets, in accordance with this document and the Pittston Township Subdivision and Land Development Ordinance, which shall include curbs, gutters, catch basins and storm sewers.

805.7 Development Standards

A. Minimum Lot Area per Dwelling Unit

1. Single Family Detached Although the average minimum lot area per dwelling unit shall not be less than the minimum area requirement for the District where the development is located, the size of each lot may be reduced as needed, by up to 50% of the required Zone lot area, provided, however, that for Large-scale developments each lot may be reduced, but the average area per dwelling unit, within each development section including open space shall not be less than the minimum otherwise required for the
2. Two-Family Dwellings and Multi-Family Dwellings
 - a. Minimum Lot Area Per Dwelling Unit

The average minimum lot area per dwelling unit shall not be less than the minimum area required for each respective type of dwelling structure in the district where such principal permitted uses are first permitted. The dimensions of each individual lot may however, be reduced by up to 50% of the dwelling unit within each development district shall not be less than the area otherwise required.
 - b. Minimum Lot Size

There shall be no minimum lot size requirements for any housing types other than the average minimum lot area required for such dwellings as described herein.

c. Minimum Lot Frontage

The minimum lot frontage requirement shall be as follows:

- 1) 1-family and 2-family dwellings, detached: 80 feet
- 2) 1-family and 2-family dwellings, semi-detached: 50 feet for each side
- 3) 1-family dwellings, attached (townhouses): 20 feet per dwelling unit plus an additional 25 feet at each end of all rows

d. Minimum Lot Depth

No lot for any residential structure or group of residential structures shall have a lot depth of less than 100 feet.

e. Minimum Front Yards

The minimum front yard for all residential development shall be 30 feet, provided however that the minimum front yard requirements may be reduced by not more than 20 percent if the Developer shall provide justification reasonable acceptable to both the Planning Commission and the Township Supervisors.

f. Minimum Side Yards and Other Distances Between Buildings

Minimum side yards for all single-family dwellings shall be as specified in Schedule I here of for the District where located. There shall be no side yard requirements for all other residential structures, except as follows:

- 1) Side yard adjoining public rights-of-way or other thoroughfares shall be not less than 25 feet.
- 2) All other distances between buildings shall be as set forth under Sections 803/2D and 805.3 hereof.

g. Minimum Building Setbacks to Boundaries

- 1) The minimum building setback from an external road right-of-way is 100 feet.
- 2) The minimum building setback from external tract boundaries is 75 feet.

h. Maximum Lot Coverage

There shall be no maximum lot coverage limitation on a lot-by-lot basis; provided, however, That the overall coverage of land by buildings within any development section shall not exceed 35 percent of the net land area, (excluding land used for rights-of-way).

B. Supporting Commercial Coverage

1. General. Not more than 15% of the net land area of the development shall be devoted to any commercial use, including required off-street parking, off-street loading and landscaping; and, provided further that the location of such commercial facilities shall be subject to approval by the Planning Commission. Such permitted retail and service uses shall be designed to primarily serve the residents of the large scale development of which they are a part. commercial area, as a whole, shall be subject to review and approval only as a Conditional Use as an integral component of the residential large-scale development.
2. Maximum Size. No such commercial facility shall exceed two (2) stories in height nor a building floor area of more than 3500 square feet.
3. Permitted Uses Only the following commercial uses shall be permitted; they shall be allowed as principal permitted uses unless specified otherwise.

the large-scale development area will be compatible with that of the adjoining areas.

E. Landscaping

A landscaping plan will be required for all large scale residential developments in accordance with this Pittston Township Zoning Ordinance.

F. Open Space

1. Open space will be required in Large-scale residential design. Twenty (20%) percent of the tract being developed will be required. Open space whether on-site or included in Township planned recreation shall be for the enjoyment of the residents.
2. The open space will be owned by the Developer or a homeowner's association. The Township will not be required to accept ownership of any open space.
- 3.. Not less than fifteen (15%) percent of the open space shall be free of wetlands, floodway, and slopes in excess of fifteen (15%) percent.

G. Recreational Requirements

1. In accordance with the Municipality's recreation plan, upon consideration of the particular type of development proposed; the governing body may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the need created by such development for parks and recreation areas.
2. The applicant shall provide a minimum area of one thousand (1,000) square feet per dwelling unit for parks and recreation areas.
3. Recreation areas shall be laid out in accordance with the best principles of site design. The recreation areas shall form part of an interconnecting open space system that extends throughout the development. The following criteria shall be utilized to determine whether the recreation areas have been properly designed:
4. The municipality may accept or reject the dedication of any recreation area.

5. Except as otherwise provided herein, for any development of ten (10) or more dwelling units under one (1) or more applications, the developer shall, as a condition precedent to final plan approval, either pay a recreation fee or dedicate land to the Municipality in lieu of such a recreation fee. The Municipality, however, may reject an offer of dedication of land. Such decision shall be rendered by the Municipality prior to the approval of the Preliminary Application for the subject development. The procedure for such an alternative shall be as follows: Where it is determined that a recreation fee shall be paid, such fee shall be used only for the purpose of providing park or recreational facilities accessible to the subject development. The amount of such recreation fee shall be three hundred dollars (\$300.00) per dwelling unit included in the subject land development; provided, however, that said fee shall be refundable, with interest, upon request of the payer of the fee in the event that the Municipality has failed to utilize such funds for the purpose set forth herein within three (3) years of the date of payment of said fee.

Section 806 Large Scale Commercial Development

- 806.1 Purpose. The purpose of this Section shall be to permit large-scale commercial development in such a manner as to provide for the flexibility of design and arrangement of structures which would achieve the objectives of this Ordinance but would not be bound by the standards established for individual lot by lot developments. Such developments shall, however, be subject to the broader standards set forth below. Large-scale commercial developments as defined herein shall be permitted as a Conditional Use in the districts enumerated in Article 3. and shall be developed in accordance with the following requirements:
- 806.2 Conformity with Comprehensive Plan The proposed large-scale development shall conform to the Municipality's Comprehensive Plan in terms of general location.
- 806.3 Development Standards
 - a. Spacing and Orientation of Commercial Developments. Spacing between buildings and orientation in commercial building groups shall be as follows:
 - 1) Exterior walls of opposite buildings shall be located no closer than a distance equal to the height of the taller building.
 - 2) A building group may not be so arranged that any permanently or temporarily inhabited building is inaccessible by emergency vehicles.

- b. Individual Buildings on Public Rights-of-Way. The front facade of a building shall face the road/right of way which it abuts; provided, however, that if it is located on a corner parcel, it shall face the widest road; provided, however, that if both roads are of equal or near equal width, it may face on either road, unless the existing pattern of development has predetermined the road that shall be faced.
- c. Signs and Lighting. All signs and lighting devices shall be of a type and design that will not conflict with traffic control signs and lights and shall be so oriented that they do not produce glare on the highway or adjacent residential development.

In any commercial development of 5 acres or more, identification signs may be erected in accordance with the provision of Article 10 hereof, except as follows:

- 1) There shall be not more than one (1) such sign for each commercial establishment, but there may be a maximum of one additional sign identifying the large-scale development and the occupants thereof; provided, however, that where there is more than one (1) main entrance, such signs may be erected at each entrance.
- 2) Signs identifying a large-scale commercial development may be free-standing or attached to a wall.
- 3) Any free standing sign shall be located at the entrance way of the use which it identifies. No such free-standing sign shall extend more than 30 feet above the mean ground level where it is located.
- 4) No sign identifying a building group shall have an area of more than 10 percent of the vertical wall area of the front of the building nor shall the total area of the sign of each tenant exceed 10 percent of the vertical building wall area of the front of the space occupied by the tenant.
- 5) Except for signs identifying the large-scale development, all signs shall be attached to the principal buildings.
- 6) No business sign shall project more than two (2) feet from the building facade to which it is attached.
- 7) No business sign shall be erected or maintained upon the roof of a building nor shall any sign extend above the roof of a building a distance of more than five (5) feet, provided, however, that a business sign may be affixed to a parapet. It may not extend above the top of the parapet, except that it may extend not more than five (5) feet above

the roof of the building and no such sign shall project more than one (1) foot from the parapet.

- 8) The area of any sign shall include the entire face of the sign and any structural work incidental to its erection and/or decoration. If the sign is composed of individual letters, figures or designs, the space between and around such letter, figures, or designs shall be considered as part of the area.
- 9) Plans showing proposed location and design of all signs, including directional traffic signs and parking signs shall be submitted to the Planning Commission for its review and recommendation to the Zoning Hearing Board which shall be responsible for approval. In granting such approval, special attention shall be given to considerations of safety and convenience of traffic movement, and the appropriate and harmonious relationships between buildings, structures, and signs, both on the site and in adjacent areas.
- 10) Proper arrangement of signs and lighting devices with respect to traffic control equipment and adjacent residential districts shall be observed.
- 11) Directional signs indicating the location of the occupant(s) may be erected and maintained, provided, however, that the size of such sign shall not exceed an area of six (6) square feet nor a length of four (4) feet, and provided further that there shall be not more than one (1) such sign for each entrance to any premises.
- 12) The lesser dimension of any sign shall not exceed five (5) feet, provided, however, that for large-scale development signs, this provision shall not apply.

d. Planting and Screening.

In business building groups abutting or within one hundred (100) feet of residential districts, fences, walls or year-round screen planting shall be provided when necessary to shield adjacent residential districts from parking lot illumination, headlights, heat, blowing papers and dust and to reduce the visual encroachments of commercial architecture, signs and activity.

e. Miscellaneous Requirements Planned, integrated Shopping Centers shall be subject to the following requirements regardless of the applicants' request for consideration as a large scale development.

1. A tract of no less than 175,000 sq. ft. is required.

2. Only one ingress and one egress point is permitted for each 300 front feet along a Major Highway.
3. A site design plan showing building placement and vehicular safety control features, specific landscaping components, and the size and location of signage shall be submitted with all applications.
4. An architectural rendering showing the appearance of the facade(s) of the structure(s) visible from the Major Highway shall be submitted along with the site plan.

806.4 Justification for Exception

Where such exceptions are requested, they shall be granted solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such developments as well as of neighboring properties than would be obtained under the standard requirements of this Ordinance.

806.5 Esthetic Considerations

Due to the potential impact of a large-scale development on the Township as a whole; and since the developer is provided the opportunity to modify otherwise minimum development standards, the Governing Body may withhold the overall approval of such projects as well as the approval of reduced standards pending their review and approval of the proposed overall design, arrangement and layout of the buildings to be erected, including the exterior design of such buildings to insure that the architectural character of the large-scale development area will be compatible with that of the adjoining areas.

Section 807 Automotive Services

- 807.1 Automotive Sales: The outdoor display of new or used automobiles, panel trucks or vans, trailers, recreational vehicles, all terrain vehicles, motorcycles, snowmobiles, mobile homes or boats shall meet the appropriate yard requirements for the zoning district in which such use is located. Uses which are normally accessory to such sale establishments such as engine repairs, body repairs, painting, radiator repair and undercoating) shall be permitted, provided such uses are clearly incidental and subordinate to the principal use and further provided that such uses are conducted within a completely enclosed building designed and constructed to minimize noise, fumes, vibrations and glare. Where an automotive sales use abuts a rear or side lot line of any district having residences as a principal permitted use, a solid wall or substantial, attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties.

807.2 Automobile Service Stations Vehicular Service Stations, , automobile repair shops, or any vehicular access thereto are regulated as follows:

- A. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60') feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25') feet in width
- B. A site development plan shall accompany all applications and shall show building and fuel pump placement and dimensions, parking, landscaping, internal circulation, and the size and location of signage.
- C. All vehicular servicing activities except for those normally performed at fuel pumps shall be performed within completely enclosed buildings. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties
- D. Gasoline pumps and all other service equipment shall be set back not less than twenty-five (25) feet from any lot line and shall be so located that vehicles stopped for service will not extend over the property line.
- E. Fuel pumps shall not interfere with parking spaces or internal circulation and shall be located at least thirty (30) feet from all parking areas.
- F. A minimum width of two hundred and fifty (250) feet at the building setback line is required
- G. Such uses shall not be located within 100 feet of any boundary line of any R-District; provided, however, that where the rear lot line of the property shall be less than 100 feet distant from an R-District there shall be established along such rear lot line a solid wall or substantial attractive fence being six (6') feet in height which shall be constructed and maintained in good condition along such boundary.

807.3 Automotive Repairs (Repair Garage): Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear property line of a district having residences as a principal permitted use, a solid wall or substantial attractive fence six (6') feet in height shall be constructed and maintained in good condition along such boundary. Outside lighting shall be directed away from adjacent properties. Such uses shall be further regulated, as follows:

- a. Such uses shall not be located within two hundred (200) feet of property dedicated to or intended for schools, playgrounds, churches, hospitals, public libraries and institutions for dependents or for children, when located along the same street or road and in the same block as said properties.
- b. Vehicular access to the above automotive uses shall be well-defined driveways and shall not be closer to the intersection of any two (2) street right-of-way lines than sixty (60) feet.

807.4 Car Wash

Appropriate drainage facilities for washing activities shall be provided. The site shall be sufficiently large to accommodate three (3) cars per stall awaiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence being six (6') feet in height and well maintained along such boundary. Outdoor lighting shall be directed away from adjacent properties.

807.5 Convenience Store With Gasoline Pumps

The property shall have a lot area of not less than twenty-five thousand (25,000) square feet. The principal structure as well meet all the minimum setback requirements for all yards in the district in which it is located. Any the canopy over gasoline pumps shall be setback not less than fifteen (15') feet from front property line. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being six (6') feet in height shall be constructed and maintained in good condition along such boundary. A parking area accommodating all spaces required by Article 11 shall be provided. Access driveways shall be no more than twenty-five (25) feet wide at the street line, and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets, as measured from the right-of-way line. All lighting shall be directed away from adjoining property.

807.6 Commercial or Recreational Vehicle Parking

- A. Prohibited in R-Zones. Unless they shall be stored in an enclosed structure, off-street parking of the following commercial vehicles shall be prohibited in all residential zones:
 - 1. Tractors
 - 2. Tractor-Trailers

3. Pick-up trucks with a capacity of more than one (1) ton
4. Commercial machinery and equipment

B. Permitted in R-Zones. The off-street parking of the following commercial and recreational vehicles shall be permitted in all residential zones:

1. Pick-up trucks with a capacity of not more than one (1) ton
2. Vans and panel trucks
3. Recreational vehicles
4. Such vehicles shall be effectively screened from adjacent residential property.

C. Restrictions. The vehicles described above, (subsection B) shall be allowed only in accordance with the following requirements:

1. There shall be not more than two (2) such vehicles per dwelling unit.
2. Such vehicles shall not be located within a front yard.
3. Such vehicles shall not be visible from the public or private right-of-way on which the property abuts.
4. Such vehicles shall be screened from adjacent Residential property.
5. The motor of such a vehicle shall not be left running for more than thirty (30) minutes during any 24 hour period; provided, however, that said 30 minute period shall not be between 9:00 P.M. and 6:00 A.M.
6. No refrigeration units on such vehicles shall be operated on a residential zone lot.
7. No vehicle having a length in excess of 40 feet shall be parked overnight on a residential zone lot unless it is stored in an enclosed structure.

807.7 Truck/Tractor-Trailer Storage Areas

- A. Trucks and tractor trailers that are prohibited from being stored in all Residential Zones may be stored in B-2 and "I" zones.
- B. Trucks/trailers, accessory to a principal use, awaiting loading or unloading, may be stored on the same zone lot as the principal use to which they are accessory; provided, however, that such trucks/trailers may not be stored on such sites for a period of more than forty eight (48) hours. Such trucks/trailers, if they require a wait of more than 48 hours may only be stored for such periods beyond 48 hours if they are stored in designated areas that are not less than 200 feet distant from any public right-of-way.
- C. The use of such trucks/trailers and containers and similar facilities as a warehouse for future sale shall be permitted only as set forth in Section 314.2 hereof.

- D. The materials that are permitted to be stored shall be subject to the same limitations as specified for self-storage buildings in Section 808.4B2.

807.8 Drive-In Eating and Drinking Places

Except in the B-1 zone, such businesses, where persons are served in automobiles, shall be not closer than two hundred (200) feet to an R-District. Such businesses, in all zones where permitted, shall be located on a State road and shall provide ingress and egress so as to minimize traffic congestion, and shall comply with the following:

- A. A minimum of eight (8) on-site vehicular waiting spaces are required for occupied vehicles waiting for window service.
- B. The above spaces shall not interfere with parking spaces intended for non-drive through customers, internal circulation or pedestrian safety.
- C. A site development plan shall be submitted showing building placement and dimensions, vehicular and pedestrian access, internal circulation, landscaping, and size and location of signage.

807.9 Drive-Through Business

- A. For banks, financial institutions, fast food businesses, and any other business uses with “drive-through” service applications shall be accompanied by a site development plan showing building placement and dimensions, the location of all “drive-through” facilities, parking, internal circulation and the location and size of signage.
- B. Pedestrian traffic shall be separated from vehicular traffic for safety.
- C. Access driveways shall not be more than twenty-five (25) feet in width.
- D. Canopies over drive-through areas shall meet all yard setback requirements.
- E. Businesses where persons are served in automobiles shall be not closer than two hundred (200) feet to an R-District. Such businesses, in all zones where permitted, shall provide ingress and egress so as to minimize traffic congestion, and shall comply with the following:
 - 1. A minimum of eight (8) on-site vehicular waiting spaces are required for occupied vehicles waiting for window service.
 - 2. The above spaces shall not interfere with parking spaces intended for non-drive through customers, internal circulation or pedestrian safety.
 - 3. Trash receptacles shall be provided outside the restaurant for patron use.

807.10 Motor Vehicle Access to Businesses Whenever motor vehicle access to a business is provided from the street or private road onto the lot, the following regulations shall apply:

A. Driveways and Curbs. Access to the lot shall comply with the following regulations:

1. No driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than six (6) feet, and no flare shall cross an extended side property line.
2. There shall be not more than one entrance and one exit to any business or parking area on any one road. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.
3. Each driveway shall be not more than thirty-five (35) feet in width measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way.
4. No access to a public right-of-way shall be permitted within three hundred (300) feet of the intersection of said public right-of-way with interchange ramps.

Section 808 SERVICES, GENERAL

808.1 Cemetery, Mausoleum

A structure, grave or place of permanent burial shall be set back not less than fifty (50') feet from the property line. The cemetery shall be enclosed by a fence, wall or shrubbery. In accordance with Section 317 a permanently maintained planting strip shall be provided on all property lines abutting any R-District or residential street. The interior roads shall have a minimum width of twelve (12') feet and shall be properly maintained with either gravel or paving. These uses shall provide entrances on a street or road with ingress and egress so designed as to minimize traffic congestion,

808.2 Funeral Homes

Funeral homes shall accommodate all of the parking areas required as provided in Article 11 of this Ordinance. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances

and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence being six (6') feet in height. Outside lighting shall be directed away from adjacent properties.

The outward appearance of the building must not detract from the residential area where it may be proposed; and it is to be located on a street where the collection and movement of vehicles participating in a funeral procession will not adversely affect the major or secondary vehicular circulation pattern of the community.

Applications for such uses shall be accompanied by maps showing the proposed routing of funeral processions.

808.3 Crematoriums

This Section 808.3 sets standards for crematoriums in order to assure compliance with State and Federal standards for air emissions and disposal of remains, require all operations to be conducted entirely within a building under the supervision of a qualified operator, and otherwise protect the public health, safety and welfare. In addition to the requirement of Section 808.1 and all other applicable requirements of this Zoning Ordinance, the following standards shall apply to crematoriums.

- A. Operations. All operations, including but not limited to the transfer of bodies and remains from and to vehicles and the cremation process, shall be conducted entirely within a fully enclosed building, and only when a qualified employee of the crematorium is present on the site.
- B. State and Federal Regulations. The incineration of bodies and the disposal of remains shall comply with all local, State and Federal regulations and the applicant shall provide documentation of such compliance.
- C. Equipment and Air Emissions. All incinerators, crematories or other such devices shall meet accepted industry standards and the applicant shall provide details on the proposed equipment including the levels of air emissions and how such emissions relate to State and Federal standards.
- D. Bodies and Remains. Bodies shall not remain on the premises for more than forty-eight (48) hours and all remains shall be removed from the premises within forty-eight (48) hours of cremation.
- E. Water Supply and Sewage Disposal. All crematoriums shall be served by an adequate potable water supply and a sewage disposal system meeting the requirements of the Township and the Pennsylvania Department of Environmental Protection.

808.4 Miscellaneous Uses

A. Heliports

Heliports may be permitted, including the construction of runways and landing pads, provided that plans for such construction shall be approved by the Federal Aviation Administration and that such construction will not interfere with the comprehensive plan for the area which may be affected by it, nor create any hazards or inconvenience in presently developed areas. Except in the event of an emergency helicopter landings shall be permitted only at approved heliports. Except where they are explicitly allowed as principal uses, they shall only be allowed as accessory uses for hospitals, either on the site of the hospital or on an open space recreation area of not less than two (2) acres.

B. Self-Storage Buildings

1. These facilities may be a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of twenty-five (25') feet between buildings for traffic circulation, parking and fire lane purposes. No activities including off-street parking shall be allowed within twenty (20') feet of a property line abutting a district having residences as a principal permitted use. All outside lighting shall be directed away from adjacent properties.
2. No operator of a self storage building shall allow the storage of hazardous materials such as:
 - 1) Inflammable solids
 - 2) Oxidizing materials
 - 3) Highly toxic materials
 - 4) Radio-active materials
 - 5) Potentially explosive materials
 - 6) Pesticides or insecticides
 - 7) Corrosive liquid
3. Applications for zoning permits shall be accompanied by a copy of the lease document specifying the prohibition of the materials specified in Section 808.4 B.2. hereof.

4. The property shall be enclosed by a gated fence which shall be not less than eight (8) feet in height.

C. Warehouse And Distribution Facilities

All materials shall be stored within a completely enclosed building and yard areas shall be kept clear of junk, trash or other types of debris. Access drives shall not exceed twenty-five (25') feet in width; parking and loading areas shall conform with the regulations of Article 11 of this Ordinance. No warehouse activities, including parking and/or loading areas, shall be allowed within twenty (20') feet of any property line abutting a zoning district which allows residences as a principal permitted use.

D. Outdoor Storage Areas and Storage Facilities.

1. Outdoor storage, as defined in Article 2, when proposed as a principal use of land shall require a minimum lot size of one acre. The entire area to be utilized for storage shall be enclosed with a chain link fence being six (6') feet in height. . A storm drainage plan shall be required with the submission of a site plan, zoning application and a complete listing of all types of items to be stored therein.
2. In addition, such uses shall not abut existing residential development, a residential street or any R-District and the operation thereof shall be governed by the following provisions and any other conditions as may be required by the Zoning Hearing Board to protect the public health, safety, comfort, convenience, and general welfare and especially with regard to abutting properties and the occupants thereof.
 - a. Inflammables and Explosives. No highly inflammable or explosive liquids, solids or gases shall be stored in bulk above ground, except as permitted by state and federal regulations including, but not limited to the Commonwealth of Pennsylvania Flammable and Combustible Liquids Handbook. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same premises as the tanks or drums of fuel are excluded from this provision.
 - b. Fencing and Setbacks. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than 10 feet from any property line and shall be distant not less than 25 feet from any public street.

- c. Deposit of Wastes. No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.
- d. Hazardous Materials Hazardous materials shall be those specified in Section 808.4 B.2 hereof . In order to be authorized to store such materials, approval must be secured from D.E.P., and all containers must be labeled for spill, hazard, trash permit, and danger-if-in-contact
- e. Other Hazardous Materials. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
- f. Used Tires. No more than 50 used tires shall be stored on any parcel at any time.
- g. Bulk Fuel Storage Bulk fuel storage shall be located on a tract of land not less than five (5) acres. Storage tanks shall be located not less than one hundred (100') feet from any property line and shall be not less than five hundred (500') feet from any dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located two hundred fifty (250') feet from all property lines. The tank storage area shall be fenced with an eight (8') feet high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence, the fence shall be screened from view by a dense growth of evergreens at least five (5') feet in height at the time of planting. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.
- h. Contractors' Storage Yards Commercial or industrial uses utilizing outdoor storage space which exceeds an area of more than two thousand (2000) square feet shall be located on a tract of land of not less than twenty-five thousand (25,000) square feet. Supplies stored outdoors shall be neatly arranged and for required yard areas shall be used for storage. There shall be a roadway fourteen feet in width provided for in every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line of a district having residences as a principal permitted use, a solid wall or substantial fence being six (6') feet in height shall be constructed and maintained in good condition

along such boundary. Outside lighting shall be directed away from adjoining properties.

E. Temporary Uses

1. Temporary Tract Office, Tract Sign, Model Home. Such temporary use in any district shall be located on the property to which it is appurtenant and it shall be limited to a six (6) month period at the expiration of which time the applicant may request a further extension of time. Otherwise such temporary use shall be removed at the expense of the owner.
2. Other Temporary Uses
 - a. Types of Other Temporary Uses. Temporary uses, other than “sidewalk sales” and those specified in Section E hereof, shall be permitted only as Special Exceptions and may include such uses as a circus, carnival, bazaar, concert, and other special exhibits, as well as the removal of culm banks and other waste deposits.
 - b. Time Limitation on Permits. Except for tract offices, tract signs, model homes, and the removal of culm banks and other waste deposits, no temporary permits shall be issued for a period of more than thirty (30) consecutive days. For events of one (1) to two (2) day duration the permit shall be limited accordingly. Such limitation shall not, however, preclude the applicant from securing temporary permit renewals not to exceed a period of thirty (30) days covered by any such temporary permit. Application shall be filed with the Board of Supervisors not less than one (1) month prior to the regular meeting of the Board of Supervisors at which approval shall be considered.
 - c. Condition of Site of Temporary Event. Upon the termination of the temporary event, the applicant shall restore the site to its original condition with 24 hours of termination.
 - d. Other Conditions
 - (1) The applicant shall provide the Board of Supervisors with evidence of adequate liability insurance in an amount to be determined by the Township on a case-by-case basis, as well as evidence of adequate resources to assure the safety of the participants and the surrounding area.
 - (2) Provide bathroom facilities

- (3) Provide a site plan showing location of structure(s), parking layout, and ingress and egress.
 - (4) Provide one (1) or more container(s) adequate for trash removal
 - e. Any use which involves a structure such as a temporary tent shall conform with all other Township codes and ordinances such as the UCC codes.
 - f. Temporary uses which involve a structure on a fixed site shall provide evidence of a Highway Occupancy Permit for any site located on a State Highway.
 - g. Additional Requirements. The Board of Supervisors may establish additional requirements related to the terms and conditions, and the duration of each such temporary use on a case-by-case basis as needed to protect the public health, safety and welfare.
- F. Forestry By-Products. The owner/operator of a commercial forestry use may be permitted to provide by-products (such as maple syrup, fruits, etc.) for sale on the premises of the forestry use; provided, however, that such sales shall be not less than 1000 feet from any developed residential parcel; and, vehicular access to such a sales area or structure shall be only from a collector road, not from a minor street.

ARTICLE 8A

PERFORMANCE STANDARDS

8A 100 GENERAL APPLICATION

All existing and proposed permitted uses, special exceptions, and conditional uses and uses accessory thereto, are subject to the following performance standards and procedures.

8A.200 PERFORMANCE STANDARDS PROCEDURES

A. Prior to Construction and Operation

1. Any application for a building permit for a use, which shall be subject to performance standards, shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein. Any applicant for a manufacturing use must present evidence to the Township Engineer that the construction/operation of the manufacturing use will not produce a net increase in environmental pollution as compared with environmental conditions that exist at the time the construction of the facility commences.
2. Such application shall further be accompanied by a report prepared by a licensed professional engineer describing the methods or procedures to be undertaken to assure compliance with the Performance Standards specified herein; provided, however, that the Zoning Officer will consider requests for a waiver of this requirement for uses which are not considered likely to violate any of the standards set forth herein; such waiver may only be granted, however, upon the written concurrence of the Township Engineer.
3. Other Regulations. Documentation shall be provided by 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 Protection, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

B. Continued Compliance

Continued compliance with performance standards is required and enforcement of continued compliance with these performance standards shall be the responsibility of the Zoning Officer.

C. Determination of Violation

The Zoning Officer shall investigate any purported violation of performance standards and, if there is reasonable ground for the same, shall initiate the procedures set forth in Section 1304.5 hereof.

8A.300 REGULATION OF NUISANCE ELEMENTS

A. Definition of Elements

No land or building in any District which shall be used or operated in such a manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other nuisance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as "Dangerous or objectionable elements"); provided that any use permitted by this Ordinance may be undertaken and maintained in any District if it conforms to the regulations of this Subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

B. Locations Where Determinations Are to be Made for Enforcement of Performance Standards

The determination of the existence of any dangerous and objectionable elements shall be made at:

1. The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.
2. The property lines of the use creating such elements for noise, for vibration, for glare and for odors.

C. STANDARDS TO BE ENFORCED

1. Fire and Explosion Hazards

- a. In all activities involving, and all storage of, inflammable and explosive materials, the owner or operator of such use shall provide adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of State and local laws and regulations shall also apply.

- b. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above the ground except in structures according to Commonwealth and Federal Specifications.
- c. All outdoor storage facilities for fuel shall be enclosed by an approved safety fence to prevent access thereto by unauthorized individuals.
- d. All materials or wastes which might cause fumes, constitute a fire hazard, or attract rodents or insects may only be stored if enclosed in buildings or containers which are adequate to eliminate such hazards.
- e. No materials, fuels, wastes, or flammable substances may be deposited or stored on a lot in such a manner as to allow them to be transferred off the lot by natural causes or forces. No substances, including but not limited to gasoline, oil, waste oil, and chemicals which can contaminate a stream or water course or render such stream or water source unusable or undesirable as a source of water supply, or recreation or which will destroy or damage aquatic life shall be stored in such a location so that it could be introduced into the said stream or water course by natural causes or forces, or by rupture of storage containers or accidental discharge.

2. Radioactivity or Electrical Disturbance

No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

3. Noise

At the points of measurement specified in Section 8A 300B, the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table III after applying the corrections shown in Table IV. 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.

(American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds Z24.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y., shall be used.)

TABLE III

Octave Band Frequency (Hz)		Residential District (Decibels)	Non-Residential (Decibels)
>	≤		
20	75	72	79
75	150	67	74
150	300	59	66
300	800	52	59
800	1200	46	53
1200	2400	40	47
2400	4800	34	41
4800	-	32	39

If the noise is not smooth and continuous and is not radiated between the hours of 10 P.M. and 7 A.M. one or more of the corrections in Table IV shall be applied to the octave band levels given in Table III.

TABLE IV

Type or Location of Operations or Character of Noise	Correction in Decibels
1. Daytime operation only	5
2. Noise source operates less than*	
a. 20% of any one-hour period	5
b. 5% of any one-hour period	10
3. Noise of impulsive character, hammering, etc.	-5
4. Noise of periodic character, hum, screech, etc..	-5
5. Property is located in an "I" District and is not within 500 feet measured horizontally or vertically of any R District	10

* Apply one of these corrections only.

4. Vibration

No activity or operation shall produce at any point along the property line continuous earthborn vibrations greater than the maximum displacement as permitted in the following table:

Frequency (Hz)	Residential District Displacement (In Inches)	Non-Residential District Displacement (In Inches)
> 0 ≤ 10	.0004	.0020
10 20	.0002	.0010
20 30	.0001	.0006
30 40	.0001	.0004
40 50	.0001	.0003
50 -	.0001	.0002

Discrete pulses that do not exceed 100 impulses per minute may not produce more than twice the displacement specified in the table.

5. Glare

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified in Subsection 8A 300B This restriction shall not apply to signs otherwise permitted by the provisions of this Ordinance. In no event shall a lighting intensity greater than one twenty-five hundredths (.25) foot-candles (2.7 lux), measured at grade, be permitted beyond property lines.

6. Smoke, Dust, Fumes, Vapor, and Gas Control

No activity in any commercial or industrial district shall be reactivated, established, modified, constructed, or operated without having obtained valid permits and/or certificates from the Pennsylvania Department of Environmental Protection or its successor agency for airborne emissions. Such proof of compliance shall consist of duplicate copies of such permits and/or certificates for the current time period. In addition to the requirements of the Department of Environmental Protection or its successor agency.

7. Heat

No activity or use shall produce heat perceptible beyond its property lines and no use shall be permitted that would cause the ambient water temperature, as defined by the Pennsylvania Department of Environmental

Protection, or its successor agency, to rise or fall more than five (5) degrees Fahrenheit (2.8 degrees Celsius) during the ten (10) year, seven (7) day low flow in any natural pond, stream, river, or other watercourse.

8. Waste Materials

- a. Liquid and Solid Wastes No operation shall discharge wastes of any kind into a surface water or a groundwater source. All methods of waste disposal shall be approved by the Pennsylvania Department of Environmental Protection. Such evidence of approval shall be provided to the Township. The owner of any parcel governed by this ordinance may be required at the discretion of the Township to monitor the ground water and surface water in the vicinity of his premises. Water testing shall be conducted at an interval deemed appropriate by the governing body on any stream located on the premises or any stream within five hundred (500) feet of any area used for storage of liquid or solid wastes. In addition, the well located on the premises shall also be sampled at an interval to be deemed appropriate by the governing body. The sample shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the governing body and results shall be provided to the Township. If samples exceed the limits established by the Pennsylvania Department of Environmental Protection, remedial action shall be taken in accordance with this Ordinance.

No liquid, solid, toxic, radioactive or hazardous waste shall be stored or disposed of 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, storm water disposal system, stream, open body of water or onto the ground. All waste materials shall be disposed of only in accord with all applicable State and Federal regulations, and applications for any use which results in waste materials regulated by the State or Federal government shall include a list of all such wastes and the method of temporary storage, handling and disposal.

b. Sewage Disposal

The installation of any sewage disposal system shall meet the requirements of the Pennsylvania Department of Environmental

Protection. Discharge to such system shall be limited to normal, domestic and human bodily wastes unless the treatment system has been specifically designed to handle other wastes or the wastes are pre-treated in accord with Pennsylvania Department of Environment protection or local sewer authority requirements. No discharge of wastes, by-products or materials in any way associated with a production process, health care or veterinary facility, medical wastes, funeral home wastes, or other commercial wastes shall be permitted to any subsurface, land application or other soil based sewage disposal system.

9. storm water Management and Soil Erosion

A storm water management plan and soil erosion control plan may be required by the Township for review and approval. Said plan shall be prepared and implemented pursuant to the applicable standards contained in the Township Subdivision and Land Development Ordinance; and the County Conservation District standards. For proposals located in the Susquehanna River Watershed, the storm water plan shall comply with the Township storm water Control Ordinance adopted to implement the Susquehanna River Watershed Storm Water Management Plan adopted by the Luzerne County as amended.

The protection of the quality of ground water and surface water shall be an integral part of all proposed storm water management practices; and all storm water management plans shall include an element specifically addressing water quality. The plan shall provide for the minimization of the discharge of “first flush” sediments off the project site or directly to infiltration structures. Containment of “first flush” sediments shall be accomplished by accepted and proven engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps, and special inlet devices.

ARTICLE 8B

TELECOMMUNICATIONS FACILITIES

8B.101 Purposes

- A. To accommodate the need for cellular phone and similar antennae while regulating their location and number in the Township 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.

8B.102 Conditions That Apply to the Location of All Telecommunications Towers and Telecommunications Facility Buildings

- A. All applications for the location of Telecommunications Towers and Telecommunications Facility Buildings are subject to the requirements of the Pittston Township Subdivision and Land Development Ordinance, and are subject to the Site Plan Review by the Planning Commission and Approval by the Board of Supervisors.
- B. The Telecommunications tower shall be designed and constructed to all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended.
- C. A soil report complying with the standards of Appendix I, Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, shall be submitted to the Township to document and verify design specifications of the foundation for the Telecommunications Tower, and anchors for the guy wires if used.
- D. Telecommunications Towers shall be designed to withstand wind gusts of at least 100 miles per hour.

- E. A Telecommunications Tower may not be located on a lot that is listed on a historic register or in an officially designated state or federal historic district.
- F. The applicant for the placement of a Telecommunications Tower shall be required to submit to the Township evidence of the need for the Telecommunications Tower and that the applicant has exhausted all alternatives to constructing a Telecommunications Tower. Applicants are required to prove need by:
 - (1) Demonstrating via written evidence that, in terms of location and construction, there are no existing towers, Telecommunications Towers, buildings, structures, elevated tanks or similar uses able to provide the platform for the Telecommunications Antenna; and,
 - (2) Providing evidence, including coverage diagrams and technical reports, demonstrating that co-location on existing Telecommunications Towers is not technically possible in order to serve the desired need. Co-location is not possible if:
 - (a) Planned equipment would exceed the structural capacity of existing Telecommunications Towers within the Township, considering existing and planned use of those Telecommunications Towers, and existing Telecommunications Towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost; or
 - (b) Planned equipment will cause radio frequency (RF) interference with other existing or planned equipment for the Telecommunications Tower, and the interference cannot be prevented at a reasonable cost; or
 - (c) Existing or approved Telecommunications Towers do not have the space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned; or
 - (d) Other reasons make it impractical to place the equipment planned by the applicant on existing and approved Telecommunications Towers.
- G. Telecommunications Towers shall not be closer than five hundred (500) feet to another Telecommunications Tower, such distance being measured as a horizontal from tower to tower.

- H. Telecommunications Towers shall be subject to a minimum setback from all overhead electric transmissions lines of a distance equaling the height of the tower.
- I. The applicant shall present documentation that the Telecommunications Tower is designed in accordance with all applicable state and federal regulations. Except as required by the Federal Aviation Administration, or other Federal or state agencies, no Telecommunications Tower may use artificial lighting or strobe lighting at night.
- J. An applicant for a Zoning Permit for a Telecommunications Tower, shall:
 - (1) Execute an agreement with the Township, in a form legally sufficient to the township, requiring the removal of the tower within one (1) year after the tower ceases to function as such;
 - (2) Agree to erect a tower with sufficient capacity to accommodate not less than two (2) antennas in addition to their own;
 - (3) Agree to rent or sell such additional capacity to another developer that requires antennae space to serve a similar purpose;
 - (4) Agree to submit to binding arbitration and to share the cost of such arbitration equally with the other parties desiring space on the subject tower in the event that the developer and the other party do not reach an acceptable settlement within thirty (30) days of notification to the Township; and, the tower developer shall be responsible for prompt reporting of an offer within five (5) days thereof.
- K. Except when located on the roof of a building, a security fence, of approved design, of not less than eight (8) feet, and no greater than ten (10) feet, shall completely enclose the Telecommunications Tower. A fence of not less than eight (8) feet and no greater than ten (10) feet shall also completely enclose the anchored locations of guy wires, if used. This fencing shall be designed to be compatible with surrounding land uses.
- L. Except when located on the roof of a building, the applicant shall submit a landscaping plan. Sites in which Telecommunications towers are located shall be required to comply with the following landscaping requirements:
 - (1) Landscaping and planting of an approved design shall be provided for a depth of ten (10) feet along all public rights-of-way abutting

the lot where the Telecommunications Tower is located. This requirement may be waived by the Zoning Hearing Board, provided that there is existing acceptable vegetation along the public rights-of-way abutting the lot.

- (2) Landscaping, consisting of trees and shrubs, shall be required at the perimeter of the security fences and the Telecommunications Facility Building. Evergreen trees of ten (10) feet height at planting, and growth of a minimum of fifty (50) feet at maturity, shall be planted a maximum of fifteen (15) feet from each other around the perimeter of the security fence. Areas between the trees shall be interspersed with approved shrubbery planting of a height of not less than five (5) feet.
- (3) Landscaping, consisting of approved evergreen trees of ten (10) feet height of planting, at a maximum of fifteen (15) feet from each other shall be required along all property lines abutting an existing residence, school, park or church. This requirement may be waived by the Zoning Hearing Board provided the abutting property owner(s) submit in writing to the Township that they are waiving their right to this landscaping, or the Zoning Hearing Board may waive this requirement if there is existing acceptable vegetation along the property lines.
- M. A minimum of two (2) parking spaces shall be required. Spaces shall meet the applicable requirements of Article 11 hereof.
- N. Telecommunications Towers shall be fully automated and unattended on a daily basis. The site shall be visited only for periodic maintenance.
- O. The Telecommunications Facility Buildings shall be identified as Accessory Buildings, and the applicable regulations for the host zoning district shall apply.
- P. Guy wires, if utilized, must be anchored no closer than twenty-five (25) feet from any property line. Guy wires shall not cross or encroach any overhead telephone or electric power lines.
- Q. Tower height shall be measured from the top of the foundation to the top point of the tower or the top point of the Telecommunications Antenna, whichever is higher.
- R. Internal access to the Telecommunications tower shall be provided by a minimum twelve (12) foot width cart way with a durable and dustless surface, such as concrete or a bituminous concrete surface for a minimum of fifty (50) feet from any public or private street. The length

of the cart way beyond this fifty feet shall, at a minimum, be surfaced with a durable and dustless gravel surface. The vehicular access to the Telecommunications Tower and Telecommunications Facility Building, shall, whenever feasible, be provided along existing circulation driveways.

- S. Setbacks: Telecommunications Towers shall be required to be set back from adjacent property lines a minimum of one and one-half (1.5) times the height of the Telecommunications Tower. Such distance shall be measured in a straight line from the Telecommunications Tower to the property line. This setback shall be increased if a zoning district with a higher setback requirement abuts the property in which the Telecommunications Tower is located. In that situation, the largest setback requirement shall apply.
- T. A Telecommunications Tower shall be no higher than two hundred (200) feet.
- U. There shall be no more than one Telecommunications Tower on one lot.

8B.200 Conditions on the Location and Placement of Telecommunications Antennas

Telecommunications Antennas may be attached to any nonresidential building or structure that is a permitted use in the district, including but not limited to, a church, a municipal or governmental building or facility, a building owned by a utility, or a Telecommunications Tower. Subdivision and Land Development Review is not required by the Planning Commission or the Governing Body for the location of Telecommunications Antennas on a building. The following conditions shall be met:

- A. No more than one (1) Telecommunications Antenna may be attached to any nonresidential building as a Permitted Use. A permit for one (1) Telecommunications Antenna on one building may be issued by the Zoning Officer after a review of the requirements stated in this Section.
- B. The location of two (2) or more Telecommunications antennas on any nonresidential building shall be considered as a Special Exception. There shall be a minimum distance equal to the height of the Telecommunications Antenna located on a nonresidential building and the location of any additional Telecommunications Antennas.
- C. The location of one (1) or more Telecommunications Antennas on any non-occupied structure, such as a Telecommunications Tower, a water tank, or an observation tower shall be considered as a Principal Permitted Use. Permit(s) for Telecommunications Antenna on non-occupied structures may be issued by the Zoning Officer after a review of the requirements stated in this Section. Subdivision and Land Development Review is not required by the Planning

Commission or the Board of Supervisors for the location of Telecommunications Antenna on a non-occupied structure.

- D. Height Limits for Telecommunications antennas: not to exceed 20 feet above the structure or building on which it is located.
- E. The top point height of any Telecommunications Antennas located on a Telecommunications Tower shall not exceed the height requirements for Telecommunications Towers stated in this Ordinance.
- F. Setback: Telecommunications Antennas located on buildings and structures shall be required to be set back from all property lines a minimum of the front yard setback requirement of the host district plus the height of the Telecommunications Antenna.

8B.300 Telecommunications Towers and Telecommunications Antennas That are Related to the Operations of a Principal Use on the Same Lot

The following regulations shall apply to Telecommunications Towers and Telecommunications Antennas that are related to the operations of a principal use in any zoning district:

- A. No subdivision of land shall be required for the placement of a Telecommunications Tower on any lot where the use of that Telecommunications tower relates to the operations of a principal use on that lot.
- B. Telecommunications Antennas located on any building or structure where the use of that Telecommunications Antenna relates to the operations of a principal use on that building or structure shall be considered as Principal Permitted Uses in all zoning districts where they are authorized, and shall not require Site Plan and Land Development Approval from the Governing Body.

8B.400 Exclusion of Residential Television and Radio Antennas From Height Regulations

The height regulations prescribed herein shall not apply to residential T.V. and radio antennas.

8B.500 T.V. Satellite Dish Antennas and Other Antennas

- A. Purpose. The following regulations governing antennas are designed to protect the aesthetic environment of the vicinity where they are to be located as well as to protect the public health, safety and welfare. The provisions of this Section 8B.500 shall not apply to a T.V. Satellite Dish Antennas and Other Antennas having a diameter of 36 inches or less.

- B. Permit Requirements. A special Satellite Reception Permit shall be required only for specific situations described below in Sections 8B.500C and 8B.500D hereof.
- C. Allowed Locations. In B-districts and I-Districts they shall be allowed only in rear yards; provided, however that they may be located in front yards or side yards if they are effectively screened from public view and from the view of adjacent properties. In R-districts they shall be limited to the rear yard. If the applicant adequately documents that reception is infeasible in the rear yard they may be located in any side yard. If, however, reception is infeasible in either of these areas, they may be located in the front yard or on the roof of the building to which they are appurtenant. If they are to be located in the front yard or on the roof of the building, a special Satellite Reception Permit shall be required as specified in Section 5.955b. hereof.
- D. Size and Height. In C-districts and I-Districts, there shall be no restrictions regarding their size or height. In all R-districts, however, except as otherwise provided herein, they shall not exceed a diameter of 12 feet or a height of 15 feet. However, where such height and/or size restrictions preclude the feasibility of reception, these dimensions may be exceeded, but a special Satellite Reception Permit shall be required.
- E. Additional Requirements
1. Except in a B-district or I-District, satellite television antennas shall be located and designed (to the extent reasonably feasible) to reduce visual impact on surrounding properties.
 2. Antennas shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.
 3. Every antenna must be adequately grounded for protection against a direct strike of lightning.
 4. Every Antenna shall be effectively screened from the adjoining premises and/or public right-of-way.

ARTICLE 8 C,

SOLAR ENERGY SYSTEMS

8C.100 Applicability

- A. Solar Energy Systems shall be allowed as an accessory use in ally zoning districts and may be installed upon receipt of the necessary zoning, construction, electrical and/or mechanical permit(s). These regulations apply to Solar Energy Systems to be installed and constructed for residential or commercial use. Such systems shall comply with the following minimum requirements:
- B. This Section applies to Solar Energy Systems to be installed and constructed after the effective date of the ordinance on existing structures or property.
- C. Solar Energy Systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this Section.
- D. Any upgrades, modifications or changes that materially alter the size or placement of an existing Solar Energy System shall comply with the provisions of this Section.

8C.200 Purpose

The purpose of this Section is to promote the use of Solar Energy and to provide for the land planning, installation and construction of Solar Energy Systems in the Township of Pittston subject to reasonable conditions that will protect the public health, safety and welfare.

8C.300 Design and Installation

- A. To the extent applicable, the Solar Energy System shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended and the regulations adopted by the Department of Labor and Industry.
 - B. The design of the Solar Energy System shall conform to applicable industry standards., and other applicable codes , such as the National Electrical Code.
- B. A Solar Energy System may be installed as long as it meets the requirements of this Section and all other applicable construction codes, and demonstrates compliance with fire, safety , and electrical standards.

8C.400 Setbacks and Height Restrictions:

A. Ground-mounted Solar Energy System

1. Solar Energy Systems must comply with all setback and height requirements for the zoning district where the Solar Energy System is installed.
2. All exterior electrical and/or plumbing lines must be buried below the surface of the ground and be placed in a conduit.
3. A ground-mounted Solar Energy System must comply with the accessory structure restrictions contained in the zoning district where the ground-mounted Solar Energy System is installed.

B. Roof -Mounted Solar Energy System.

1. A Solar Energy System shall conform to the height regulations of the zoning district where the Solar Energy System is installed.
2. Conduit runs shall be kept not less than ten (10) inches below roof decking .
3. All conduit and other equipment shall be set back from the edge of the roof not less than three (3) feet.
4. Upon request, the Zoning Hearing Board may grant waivers of the setback or height requirements, provided that the waiver will not present any undue hardships on the adjoining properties.

C. Additional Setback Requirements

No solar panels or other elements of the solar power equipment shall be nearer to any property line than the distance equal to the height of such equipment measured from the mean ground level where it is located; and, no such equipment shall be located within the front yard of any property.

8C.500 Other Installation Procedures and Requirements

- A. A Solar Energy System shall be installed only by a PV or solar thermal installer who:
1. Evidences certification by the North American Board of Certified Energy Practitioners
 2. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ), accredited PV training program or a PV manufacturer's training program and has successfully installed a minimum of three (3) PV systems
- B. Has up to date Commercial General Liability Insurance of at least \$1,000,000.00 for any occurrence.

ARTICLE 8 D

WIND FARMS

8D.100 Purpose

- A. The purpose of these regulations is to enable the Township to regulate wind farms within the Township, to encourage the siting of wind farms in nonresidential areas, to address the safety, visual and aesthetic aspects of such facilities, and to provide for public input in the process of siting wind farms.
- B. The Governing Body has determined that such regulation is needed to protect schools, parks, churches, playgrounds, sites, and structures; to preserve scenic areas; to minimize aesthetic impacts; to preserve the health and safety of residents; and to respect the need of wind farm developers to provide for suitable sites, while not unreasonably limiting competition among them.
- C. The Governing Body declares that the protection of residential dwellings is of paramount importance and that any local regulations of wind farms must furnish all possible protection for residential areas and further declares that these regulations are to be interpreted to favor protection of residential dwellings. The Township shall, before issuing a permit for any wind farms affecting a dwelling, satisfy itself that all other alternatives have been exhausted.

8D.200 Location; Applicability, Exemption

- A. Wind farms shall be permitted only as Conditional Uses in the I-2 and I-3 zones.
- B. In addition to the requirements of this Ordinance wind farms shall be subject to all other applicable local, state and federal requirements
- C. A windmill accessory to a principal structure which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall be permitted in all zones as a Special Exception on a parcel of not less than one (1) acre. There shall be a clear fall zone for any accessory windmill; no such use shall be nearer to any property line than the height of the windmill plus five (5) feet.
- D.. On-site transmission and power lines between wind turbines shall, to the maximum extent possible, be placed underground.

8D.300 Permit; Procedures; Fees; Temporary Permits

- A. Permits A zoning permit as well as a building permit shall be required for every wind farm and each individual windmill installed at any location in the Township.
- B.. Procedure; Public Hearing In accordance with the procedures for Conditional Uses, as provided herein, the Governing Body shall refer all such applications to the Township Planning Commission for their review and comment, and shall conduct a public hearing pursuant to public notice within forty-five (45) days after the submission of a formal, complete application, including such technical information from the applicant as may be required by this Ordinance. Accessory windmills shall be reviewed and approved by the Zoning Hearing Board in accordance with the procedures for Special Exceptions.
1. The hearing notice shall indicate that the application may be examined and that further information is available at the Township Secretary's office during regular business hours.
 2. The Township Supervisors shall approve, approve with conditions, or disapprove the application under the provisions of this ordinance within sixty (60) days after a public hearing.
 3. The period in which the Township Supervisors shall take action may be extended with the written consent of the applicant.
- C. Planning Commission Review Planning Commission comments, if any, shall be provided to the Governing Body within thirty (30) days of the Commission's receipt of the application.
- D. Application Fees; Review Fees The applicant shall pay the application fee for the wind farm and each windmill as established by resolution of the Governing Body. In addition, the applicant shall pay all professional costs incurred by the Township for review of structural, radio frequency and other technical aspects of the proposal and shall deposit with the Township an amount deemed adequate by the Governing Body to cover the anticipated costs. If the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the applicant. No approval shall become effective until all costs have been paid by the applicant.
- E.. Temporary Permit for Site Evaluation The Township may issue a temporary permit for the erection of a tower and necessary equipment on a site to determine if it has adequate wind for cost-effective wind farm development. The requirements of this Ordinance shall apply to such structures; however, the Governing Body may waive those requirements which are not applicable to the temporary facility or which are not necessary to protect the public health, safety, and welfare.

8D.400

Site Plan; Information Requirements; Notice; Consent

- A.. Land Development and Site Plan A full site plan shall be required for all wind farm sites showing all information required to determine compliance with this Ordinance. New windmills and/or the construction of any equipment building or other roofed structure which have a combined gross floor area of greater than one hundred (100) square feet shall be considered a land development subject to the Township's Subdivision and Land Development Ordinance.
- B.. Information Requirements For all proposed wind farms, in addition to the information required by other Township Ordinances, the following minimum information shall be provided. Items 10 through 15 shall be included in a report prepared by a registered professional engineer or other professional deemed qualified by the Township. The Township shall require any additional information deemed necessary to determine compliance with this Ordinance.
1. Name and address of the property owner and the applicant.
 2. Address, lot and block and/or parcel number of the property.
 3. Name and address of person preparing the plan.
 4. Size of the property and the location of all lot lines.
 5. Approximate location of nearest residential structure.
 6. Approximate location of nearest occupied structure.
 7. Location of all structures on the property which is the subject of the application.
 8. Location, size and height of all proposed and existing antennas and all appurtenant structures on the property.
 9. Type, size and location of all proposed landscaping and fences.
 10. A report by a Pennsylvania registered and licensed professional engineer, documenting compliance with applicable structural standards and describing the general structural capacity of any proposed installation.
 11. The number and type of windmills and other structures proposed.
 12. A description of the proposed windmills and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.
 13. A description of the noise generated by the windmills.
 14. The make, model and manufacturer of any proposed windmill.
 15. Generator capacity of the turbines
 16. A visual analysis of the wind farm as seen from public viewing points in the Township.
 17. Wind speed maps
 18. Maps of migratory bird routes
 19. Information on the bat population in the area

- C. Existing and Planned Facilities The applicant shall provide details about the location, height and operational characteristics of all existing facilities of the applicant in and immediately adjacent to the Township. The applicant shall also provide a five-year plan for the provision of additional facilities in and immediately adjacent to the Township showing proposed general locations or areas in which additional facilities are planned. Subsequent applications shall confirm or modify the facility service plan, so that the Township will be kept up to date on future activities.
- D. Operational Compliance - Within ninety (90) days of operating any wind farm, the owner or operator shall submit to the Township a written certification by a Pennsylvania registered and licensed professional that the wind farm complies with this ordinance and all other applicable government regulations.
- E. Change in Ownership/Operation If the name or address of the owner or operator of the wind farm is changed, the Township shall be notified of the change within ninety (90) days.
- F. Associated Uses - All other uses ancillary to the wind farm (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the wind farm site, unless otherwise permitted by Township ordinances. 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 wind farm.

8D. 500

Requirements Applicable to All Wind Farms and Windmills

The following requirements shall apply to all wind farms and windmills:

- A. Location Requirement and Number - The Applicant shall demonstrate to the satisfaction of the Township, using technological evidence, that the wind farm and windmills must go where proposed in order to function to industry standards.
- B. Windmill Height Design
 - 1. Minimum Height - The applicant shall demonstrate that the windmills are constructed to a height no greater than the minimum required to function to industry standards. The wind farm shall comply with any applicable Airport Hazard Zoning Ordinance.
 - 2. Blade Height. The minimum height between any windmill blade and the ground shall not be less than thirty (30) feet.

3. Visual Impact The applicant shall provide to the Township graphic information that accurately portrays the visual impact of the proposed wind farm and individual windmills from various vantage points selected by the Township, such as, but not limited to key roads and recreation areas. This graphic information may be provided in the form of photographs or computer-generated images with the windmills superimposed, as may be required by the Township. The Township may require the applicant to conduct a balloon test to confirm the visual impact. The Township may require specific colors, consistent with applicable federal regulations, to ensure that the wind farm is compatible with the surrounding landscape.
- C. Controls and Braking. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- D. Climb Protection/Locks.
 1. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
 2. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- E. Noise and Shadow Flicker
 1. Audible sound from a wind energy facility shall not exceed 55 dBA, as measured at the exterior of any occupied building on a non-participating landowner's property. Minimum standards for measurement shall be in accordance with "Procedures for Measurement and Reporting of Acoustic Emissions from Turbine Generation Systems, Volume 1: First Tier."
 2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.
- F. Signal Interference The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television, or similar signals, and shall mitigate any harm caused by the wind energy facility.
- G. Setbacks The following minimum setbacks shall apply.
 1. Separate Parcel If the parcel on which the wind farm is a separate and distinct parcel, the required minimum lot size shall apply; and, in all cases, the lot shall be of such size that all required setbacks are satisfied.

2. Lease, License or Easement If the land on which the wind farm is leased, or is used by license or easement, the setback for any windmill, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, no windmill, including the blades, shall be located closer to any property line (not lease, license or easement line) than its height plus thirty (30) feet.
3. Setbacks from Occupied Buildings
 - a. Wind turbines shall be set back from the nearest occupied building a distance not less than the required setback for the zone district, or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
 - b. Wind turbines shall be set back from the nearest occupied building located on a non- participating landowner's property a distance of not less than five (5) times the Hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
4. Setback From Other Structures No windmill shall be nearer to an occupied structure than five (5) times the height of the windmill at the height of its highest blade level; provided, however, no windmill shall be located less than one thousand (1,000) feet from any principal residential structure existing prior to the erection of the windmill, whichever distance is greater. Individual, accessory windmills are exempt from this setback requirement.
5. Setback From Property Lines. All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirement of the zone where it is located or 1.1 times the turbine height, whichever is greater, as measured to the center of the wind turbine base.

H. Access: Travel Route: Road Bond

1. Access to the wind farm shall be provided by means of a public street or easement to a public street. All access easements shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a durable, dust-free, all weather surface. No access easement shall exceed a grade of fifteen (15) percent.

2. The applicant shall provide a route of travel plan detailing which roads through the Township will be used to access the wind farm during construction and for any maintenance activities requiring the use of heavy trucks.
 3. The Township may require a bond, letter of credit or other financial guarantee to ensure that any damage to Township roads caused by the construction or operation of the wind farm is repaired at the cost of the person causing such damage. The amount of the bond shall be based on the extent of the operation, the Township roads used by the operation and the recommendation of the Township Engineer, and the term and form of the bond shall be approved by the Township Solicitor.
- I. Parking. If the wind farm 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 be equal to the number of people on the largest shift.
- J. Structure Safety. The applicant shall demonstrate that the proposed windmills are safe and the surrounding areas will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All windmills shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania Registered Professional Engineer that all windmills will be designed and constructed in accord with accepted engineering practices and all requirements of any applicable construction code. Within forty-five (45) days of initial operation, the owner and/or operator of the wind farm shall provide a certification from a Pennsylvania Registered Professional Engineer that the wind farm and all structures comply with all applicable regulations.
- K. Wind Farm as a Second Principal Use. A wind farm shall be permitted on a property with an existing use subject to the following standards:
1. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind farm and support structure 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, density and other requirements.
 2. The vehicular access to the wind farm shall, whenever feasible, be provided along the circulation driveways of the existing use.
 3. The applicant shall present documentation that the owner of the property has granted an easement filed of record or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

- L. Licenses: Other Regulations. The applicant shall demonstrate that the required permits and licenses from the Federal Energy Regulatory Commission, the Pennsylvania Department of Environmental Protection, the Pennsylvania Public Utility Commission, and other agencies have been obtained. The applicant shall also document compliance with all applicable state and federal regulations by providing to the Township with copies of all required documents, studies, and responses (e.g., National Environmental Policy Act, Pennsylvania Natural Diversity Index submission, Pennsylvania Historical and Museum Commission compliance.)
- M. Insurance. The applicant shall submit a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$2,000,000 per occurrence and property damage coverage in the minimum amount of \$2,000,000 per occurrence covering the wind farm and all its facilities. The applicant shall provide the Township with proof of annual renewal prior to expiration.
- N. Discontinued Use. If the use of any wind farm and/or windmill is discontinued, the owner or operator or then owner of the land on which the wind farm and/or windmill is located shall be required to remove the same within ninety (90) days from the abandonment of use. Failure to do so shall authorize the Township to remove the facility, including foundations to a minimum of four (4) feet below grade, and assess the cost of removal to the foregoing parties. In addition, at the time of permit issuance for any wind farm the Township shall require a financial guarantee, in a term, form and amount determined by the Governing Body with the advice of their Solicitor, to guarantee the removal of the wind farm and/or windmill. If such guarantee is inadequate, the Township shall be authorized to use all means provided in law, including a municipal lien, to recover all costs of removal.
- O. Noise. The Applicant shall provide details on the noise generation of the types of windmills proposed. The noise associated with the operation of the wind farm (as opposed to noise during construction) shall not exceed fifty (50) dBA (A-weighted sound level in decibels) when measured at the property line of the wind farm.
- P. 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.
- Q. Vibration. No vibration associated with the operation of the wind farm 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.
- R. Signs; Lighting; FAA and P A DOT Notice

1. No signs or lights shall be mounted on any windmill except as may be required by this Ordinance, the Federal Aviation Administration, or other governmental agency which has jurisdiction.
2. No windmill shall be artificially lighted, except as required by the Federal Aviation Administration or for security purposes approved as part of the zoning permit. No approved security 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. No direct or sky-reflected glare, whether from overhead lighting or floodlights shall be permitted.
3. 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 wind farm and support structure shall comply with all FAA and P A DOT requirements.

S. Landscaping

1. Existing vegetation on and around the site shall be preserved to the greatest extent possible.
2. Landscaping installation and maintenance may be required to screen as much of the windmills as possible, the fence surrounding the support structure, any other ground level features (such as a building), and, in general, buffer the windmills and other structures from neighboring properties and the sight lines from prominent viewing locations.
3. The Governing Body may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

T. Soil Erosion and Sedimentation Control; storm water Management. All earth disturbance shall comply with the soil erosion and sedimentation control requirements of the Luzerne County Conservation District and the Pennsylvania Department of Environmental Protection; and, no approval shall be granted under this ordinance until the Applicant provides a copy of the approved soil erosion and sedimentation control plan and any required permits. A storm water control plan and storm water management facilities shall be provided in accord with the Township's storm water management requirements.

U. Emergency Services Plan. The applicant shall provide an emergency services plan covering such services as fire, rescue, medical emergencies, etc. At a minimum, the plan shall include details about any fire suppression system proposed for any

windmill or structure. The plan shall be provided to the applicable fire company for review and comment.

- V. Maintenance: Identification: Notice of Problems. Wind farm maintenance and continued compliance with this Ordinance shall be monitored by the Township Zoning Officer. There shall be affixed to the windmill or security fence in an accessible, visible place the name and mailing address of the owner(s) and a 24-hour emergency telephone number. This information shall be kept current by the owner(s). The Zoning Officer shall inform the owner(s) of any safety problems, maintenance problems or any matter relative to the wind farm in accordance with the enforcement requirements of this Ordinance, sent to the posted address. If the problem outlined in the letter from the Zoning Officer is not resolved within thirty (30) days of receipt of notice, or within such other period as allowed in writing by the Enforcement Officer, this shall constitute a violation of the Ordinance. An unresolved violation shall constitute grounds for revoking the windmill permit.
- W. Mitigation Plan. The Applicant shall provide for approval of the Township, a plan for how complaints about noise, communications interference and vibration will be addressed by the operator of the wind farm.

ARTICLE 8 E

OUTDOOR WOOD-FIRED BOILERS

8 E.100 Applicability

These regulations apply to the following:

- a. A person, manufacturer, supplier or distributor who sells, offers for sale, leases, or distributes an outdoor wood-fired boiler for use in the Township of Pittston
- b. A person who installs an outdoor wood-fired boiler in the Township of Pittston
- c. A person who purchases, receives, leases, owns, uses or operates an outdoor wood-fired boiler in the Township of Pittston

8 E.200 Regulations Governing Phase-2 Outdoor Wood-fired Boilers

- a. Acceptable Outdoor Wood-Fired Boiler Models Only Phase-2 outdoor wood-fired boilers shall be installed in the Township of Pittston after the effective date of this ordinance. No homemade outdoor fuel burning appliances will be allowed.
- b. Setback Requirements No Phase-2 outdoor wood-fired boiler shall be installed less than fifty (50) feet from the nearest property line.
- c. Minimum Stack Requirements
 - (1) No Phase-2 outdoor wood-fired boiler shall be installed without a permanently attached stack/chimney
 - (2) The stack must be installed in accordance with manufacturer's specifications.
 - (3) The stack must be not less than ten (10) feet above the ground.
- d. Emissions All new outdoor fuel burning appliances are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
- e. Compliance With Manufacturer's Instructions All new outdoor fuel burning appliances shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations

promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

- f. A permit must be acquired prior to the installation of any new outdoor furnace appliance, and an inspection completed prior to the operation of subject appliance. The permit fee is \$75, and the inspection will be completed by a representative of Code Inspections, Inc.

- g. Owners Manual

Each outdoor wood-fired boiler offered for sale or lease in the Township must be accompanied by an owner's manual that shall contain all of the following information:

1. Proper thermal output capacity for matching with the building's thermal demands
2. Proper installation information
3. Operation and maintenance information
4. Wood loading procedures, recommendations on wood selection, and warnings on improper fuels
5. Fire starting procedures
6. Proper use of air flow devices, if applicable.
7. Ash removal procedures
8. For catalytic models B information pertaining to maintaining catalyst performance, maintenance procedures, procedures for determining catalyst failure or deterioration, procedures for replacement, and information on warranty rights.
9. Persons operating this outdoor wood-fired boiler are responsible for operation of the outdoor wood-fired boiler so as not to cause a nuisance condition. Manufacturer guarantees, however, that proper operation of the outdoor wood-fired boiler in accordance with manufacturer's operating and maintenance procedures will not create a nuisance condition.

- h. Notice to Buyers No outdoor wood-fired boiler subject to the requirements of this ordinance, shall be offered, sold, offered for retail sale, or leased for use within the Township unless prior to any sales or lease agreement, the seller or the dealer provides the prospective buyer or lessee with a copy of these regulations and a written notice stating that:

1. It is unlawful to burn garbage, treated or painted wood, coal, plastic and plastic products, rubber products, yard waste, lawn clippings, glossy or colored papers, construction and demolition debris, plywood and particleboard, salt water driftwood, manure, animal carcasses, asphalt products, waste petroleum products, paints, chemicals, or any substance that normally emits dense smoke or obnoxious odors.

2. Installation of an outdoor wood-fired boiler shall be subject to other applicable State and local stack height and setback requirements.
3. Use of an outdoor wood-fired boiler that meets the distance and setback requirements set forth herein may not be adequate in some areas due to terrain that may render the operation of an outdoor wood-fired boiler to be a nuisance or a public health hazard.
4. Gives the specific test results of the average and the maximum emission rate for the particulate matter for the outdoor wood-fired boiler in grams per hour.
5. This written notice shall be signed by the buyer or lessee at the time of purchase or lease to indicate receipt of notification of the requirements of this Section. Within seven (7) days of making delivery of the Outdoor wood-fired boiler into the possession of the buyer or lessee, the seller or the dealer shall mail or otherwise provide a copy of the signed notice specified above to the Township Code Enforcement Officer. Said notice shall contain the name, address, telephone number, of both the seller or dealer and the buyer or lessee, the location where the outdoor wood-fired boiler will be installed, and the make and the model of the outdoor wood-fired boiler

8 E. 300 Regulations Governing All Outdoor Wood-fired Boilers

- a. All outdoor fuel burning appliances must have or meet the following:
 - 1) A “scrubber” or filter type system attached to the appliance.
 - 2) A fan or blower attached to the appliance to increase the efficiency of the appliance.
 - 3) Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with your trash.
 - 4) All outdoor fuel burning appliances may only be utilized for the sole purpose of furnishing heat to a residence and hot water during the period of October 1 through April 30; and only if the outdoor fuel burning appliance meets the requirements of this Ordinance. No person shall operate an outdoor wood-fired boiler from April 15 to September 30 of each year

- 5) If any outdoor fuel burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit.
- 6) All storage of materials being burnt in the outdoor fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents
- 7) All outdoor wood-fired boilers shall comply with all applicable laws and regulations of the Commonwealth of Pennsylvania, the County of Luzerne and the Township of Pittston.
- 8) No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration that are injurious to human, plant, or animal life, or to property, or that unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits (e.g. Pittston Township Zoning Ordinance) this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, toxic , or deleterious emission, either alone or in combination with others.
- 9) Fuel Requirements

Only one (1) or more of the following fuels may be used in an outdoor wood- fired boiler:

- a. Clean wood
- b. Wood pellets made from clean wood
- c. Home heating oil, natural gas or propane that :
 - i. Complies with all applicable sulfur limits
 - ii. Is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boiler:
- d. Other types of fuel approved by the Pa. Department of Environmental Protection (DEP) upon receipt of a written request.

8E. 400 Regulations Governing Existing Outdoor Wood-fired Boilers

All existing Outdoor Wood-fired Boilers that are not Phase-2 units or do not meet Phase-2 emission standards, shall comply with the following requirements in addition to those specified above in section 8E.300. Such units shall:

- a. Provide a safe flue or chimney which has a minimum termination height of twenty (20) feet) above the natural ground level upon which the appliance is located.
- b. Be located not less than one hundred (100') feet from any property line
- c. Be operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

8 E.500 Definitions

Chimney/Stack - any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired outdoor heating device, especially that part of such structures extending above a roof

Clean Wood B AClean wood@ means wood that has no paint, stains, or other types of coatings, and wood that has not been treated with, including but not limited to copper chromium arsenate, creosote, or pentachlorophenol.

Distribute or Sell B ADistribute or sell@ means to distribute, sell, advertise for sale, offer for sale, lease, ship, delivery for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. This term does not include the distribution or sale by a manufacture of an outdoor wood-fired boiler that is installed outside the State.

Manufactured B AManufactured@ means built and operational, and subsequently ready for shipment (whether packaged or not).

Manufacturer B AManufacturer@ means any person who constructs or imports into the United States an outdoor wood-fired boiler..

Model Line B AModel line@ means all outdoor wood-fired boilers offered for distribution or sale by a single manufacturer that are substantially similar in design and make as determined by the Department.

Nuisance B ANuisance@ means any unreasonable, unwarrantable or unlawful course of conduct or use of private or public property which causes or may cause injury, damage, hurt, inconvenience, interference, or discomfort to others in the legitimate use and enjoyment of their rights of person or property.

Opacity B AOpacity@ means the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.

Outdoor wood-fired boilerB AOutdoor wood-fired boiler@ means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specified for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

Particulate Matter or PM B AParticulate matter or PM@ means total particulate matter including PM10 and PM2.5 (condensable and non-condensable fraction).

Phase-2 Boiler V. Non- Phase 2 Boiler - After May 31, 2011 only Phase-2 Outdoor wood-fired boilers will be allowed to be sold and installed anywhere in the Commonwealth of Pennsylvania.. Phase-2 units are defined as units which are 90% cleaner than unqualified units; Phase-2 units will be sold with tags authorized by EPA identifying them as Phase-2 units

ARTICLE 9: NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS

SECTION 901 INTENT

Within the zoning districts established by this Ordinance or subsequent amendments thereto, there may exist or will exist certain nonconforming uses of structures and/or land which if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such uses would be prohibited, regulated or restricted under the terms and provisions of this Ordinance or subsequent amendments thereto.

SECTION 902 NONCONFORMING LOTS OF RECORD

- A. In any zoning district, structures, both principal and accessory, may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and side yard requirements for the zoning district in which such lot is located.
- B. If two (2) or more adjacent lots, with continuous frontage, in single ownership, are lots of record at the effective date of the adoption or amendment of this Ordinance, and if such lots do not meet the required lot area and/or width requirements, such lots shall be considered to be an undivided parcel and no portions of such parcel shall be used or sold in a manner which further diminishes compliance with the required lot area and/or width requirement for the zoning district in which such lots are located.

SECTION 903 CONTINUATION OF NONCONFORMITY

Any lawful nonconforming use and/or nonconforming structure may be continued except as otherwise provided in this Article, but any nonconforming use and/or structure shall not be enlarged, reconstructed, structurally altered or changed except as permitted by provisions of this Article.

SECTION 904 REGISTRATION OF NONCONFORMING USES AND STRUCTURES

The Zoning Officer may prepare and maintain an accurate listing of all nonconforming uses and structures. The Zoning Officer or the property owner may initiate the process of certifying the nonconformity of a given property. The Zoning Officer shall issue a Certificate of Nonconformity where he finds the use or structure, although not in compliance with all applicable requirements of the zoning district in which it is located, to be a lawful nonconforming use or structure.

SECTION 905 CHANGES OF NONCONFORMING USES

Nonconforming uses may be changed to other uses only in accordance with the provisions of Section 405 hereof.

SECTION 906 ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

A nonconforming use may be enlarged only if the enlargement complies with all of the following requirements:

- A. The enlargement will not replace a conforming use.
- B. The nonconforming structure and/or use, after enlargement, shall comply with the yard and lot coverage requirements applicable to the zoning district in which it is located.
- C. The use and/or structure, after enlargement, shall comply with all applicable off-street parking and/or loading requirements for said use and/or structure.
- D. Not more than one (1) enlargement of a nonconforming use and/or structure shall be permitted.
- E. A nonconforming structure and/or use shall not be enlarged beyond the limits of the zoning lot on which it is located. Expansion to an adjoining lot shall be prohibited, even if such adjoining lot was in the same ownership at the effective date of the adoption of this Ordinance.
- F. The enlargement shall not exceed twenty-five (25%) percent of the floor area or land area as it existed at the time the structure or use first became nonconforming.

SECTION 907 RESTORATION OF USE

A nonconforming use and/or structure, other than a single family dwelling structure, which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than sixty (60%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located. When damage is less than sixty (60%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage.

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may be reconstructed on the same lot; provided, however, that it shall not exceed the footprint and the size of the original structure.

SECTION 908 TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1 NONCONFORMING USE AND/OR STRUCTURE

A nonconforming use and/or structure, other than a single family dwelling structure shall not be reconstructed when damaged to an extent greater than sixty (60%) percent of its reproduction value at the time of the damage and said nonconforming use and/or structure shall be deemed terminated.

908.2 CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of a nonconforming use, , shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

908.3 ABANDONMENT OF NONCONFORMING USE

A nonconforming use shall be deemed abandoned, if it is changed as set forth in Section 908.2 of this Ordinance or if it is discontinued for a continuous period of one (1) year. A legally existing nonconforming use shall be considered to be abandoned when the use has been terminated, either voluntarily, by a court or other legal order, or by fire or other catastrophe, unless the operator of such a use provides adequate evidence to demonstrate that there was only a temporary closing and there was a clear intent to subsequently reopen the use. Such evidence may consist of the retention of business-related fixtures, such as a walk-in cooler in a florist shop, or a bar in a tavern or restaurant, etc.

908.4 UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to the lack of maintenance or repairs and it has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in conformity with uses permitted within the zoning district in which such structure is located.

ARTICLE 10: SIGN REGULATIONS

SECTION 1001 SIGNS

1001.1 TYPE AND USE OF SIGNS

All signs shall be classified according to type and use as provided herein:

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.
- E. SUBDIVISION/DEVELOPMENT SIGN: A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- F. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.

SECTION 1002 CONSTRUCTION TYPES

All signs shall be classified according to construction types as provided herein:

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and/or accessory structures.

- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2') feet from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than two (2') feet from the building or structure.
- D. VEHICULAR SIGN: A sign attached to a motor vehicle parked in a parking lot.

SECTION 1003 PERMITTED SIGNS BY ZONING DISTRICT

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

- A. IDENTIFICATION SIGN: Such signs shall be permitted in all zoning districts.
- B. BUSINESS SIGNS: Such signs shall be permitted only in B and I-1 Zoning Districts only.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all Zoning Districts.
- D. SUBDIVISION/DEVELOPMENT SIGNS: Such signs shall be permitted in all zoning districts.
- E. INSTITUTIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- G. BILLBOARD SIGNS: Such signs shall be permitted in a B-2 zoning district.

SECTION 1004 AREA, HEIGHT AND SETBACK REQUIREMENTS

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than ten (10') feet from the front lot line. The maximum height of an identification sign, if free standing, shall not be higher than the parapet of the building to which it is attached.
- B. BUSINESS SIGN
 - (1) Setback A business sign shall have a minimum front yard setback of not less than fifty (50%) percent of the required setback for a principal structure in the zoning district in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.
 - (2) The maximum height of any business sign shall not exceed eighteen (18') feet.

- (3) Single Use. For properties that contain a single use/business, a business sign shall not exceed:
 - (a) forty (40) square feet in a I Zone,
 - (b) three times the frontage of a lot in a B-2 Zone (in square feet) or,
 - (c) four times the frontage of a lot in an I-Zone (in square feet).
 - (4) Shopping Center Or An Integrated Grouping Of Commercial Or Industrial Uses In a shopping center or in an integrated grouping of commercial or industrial uses, in addition to permitting each individual business establishment to display a business sign, one (1) sign shall be permitted on the lot, which indicates the name of the shopping center and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed two hundred (200) square feet in area; provided, however, that if the property fronts on two (2) or more roads, another sign shall be permitted in order to have a sign facing two (2) separate roads.
- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot as the property that is offered for sale or rental. The sign shall be setback not less than ten (10') feet from the front lot line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.
- D. SUBDIVISION/DEVELOPMENT SIGN: A subdivision/development sign shall be considered a temporary real estate sign and shall not exceed sixty (60) square feet in area. The sign shall be located on the same property as the lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision; provided, however, that if the property fronts on two (2) or more roads, another sign shall be permitted in order to have a sign facing two (2) separate roads; and, such signs shall be setback not less than thirty-five (35') feet from the front lot line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.
- E. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed thirty (30) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10') feet from the front lot line.
- F. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5') feet shall be required for such signs. The maximum height of such signs shall not exceed six (6') feet.

G. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN:: The following regulations shall apply to any billboard and/or off-premise advertising sign:

- (1) The advertising surface area of any panel shall not exceed 300 square feet and not more than one double-faced panel shall be permitted on the same structure or standard.
- (2) Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.
- (3) There shall be a minimum spacing distance of 500 feet between all such signs.
- (4) Such signs shall be setback not less than 200 feet from the center line of any limited access highway and/or a State Legislative Route.
- (5) Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.
- (6) Signs on stationary vehicles shall be permitted only in I-zones.

H. FLASHING AND ILLUMINATED SIGNS

Illuminated, flashing signs are permitted only as Special Exceptions in “B” or “I” Districts, and shall be subject to the following conditions:

- (1) Such signs shall not create a traffic hazard.
- (2) Such signs shall not be portable signs; they may be attached to a building wall or permanently installed as a free-standing sign; provided, however, that no free standing signs are allowed in the B-1 district.
- (3) Such signs shall not abut or face any residential property or any residential zone lot, nor shall they be located nearer than 250 feet to the nearest point of a residential property or a residential zone lot or a school (public or private.)
- (4) If located less than 500 ft from a residential property or a residential zone lot, they shall not operate between the hours of 10 P.M. and 6 A.M.
- (5) Such signs shall be shielded, as needed, to prevent the glare of the illumination from interfering with occupants’ enjoyment of their nearby residences.
- (6) Such signs shall not be located less r than 250 ft. from the nearest point of a signalized intersection.
- (7) The message shall not change at intervals of less than 5 seconds.
- (8) The time interval used to change from one complete message/display to the next complete massge/display shall be a maximum of one (1) second.

- (9) There shall be no appearance of a visual dissolve or fading, in which any part of one electronic message/display appears simultaneously with any part of a second electronic message/display.
 - (10) Any illumination intensity or contrast of light level shall remain constant.
 - (11) Such signs shall be registered with the Amber Alert System
- I. NUMBER OF SIGNS: Excluding on-site directional and/or informational signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

SECTION 1005 SETBACK FOR FREESTANDING SIGNS

The minimum side yard setback and rear yard setback for any freestanding sign shall be the same as the minimum side yard or rear yard setback for a principal structure in the zoning district in which the sign is located. The minimum front yard setback, with the exception of Section 1004 (F), On-Site Directional and/or Informational Sign and Section 1004 (G), Billboard Sign or Off-Premise Advertising Sign, shall be fifty (50%) percent of the required setback for a principal structure in the zoning district in which the sign is located, or ten (10') feet, whichever is greater.

SECTION 1006 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, which may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Article 5 and for the zoning district in which it is located.

SECTION 1007 AREA COMPUTATION OF SIGNS

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
 - B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
 - C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
 - D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.
- SECTION 1008 VERTICAL CLEARANCE A freestanding sign and a projecting sign shall have a vertical distance of not less than nine (9) feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.

SECTION 1008 PROHIBITED SIGNS

The following types of signs shall not be permitted in any zoning district:

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.
- D. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

SECTION 1009 PERMITS REQUIRED

- A. Permits shall be required for the erection, alteration, or relocation of all signs, except temporary political signs, real estate signs, subdivision/land development signs, and accessory residential signs. For signs in the interest of public information and convenience, the Zoning Officer may issue or deny a temporary permit for the period applicable to the event.
- B. When a sign is changed, for either a change of design, lighting, structure, size or location, a permit shall be required. For the as-is replacement of damaged signs, no permit shall be required.
- C. When outdoor advertising (billboard) signs are to be located on a State highway, Penn DOT requires a permit. The applicant will first apply to the Township Zoning Officer for a permit. The Zoning Officer may then approve or disapprove the application for a permit. If the permit is to be

approved, it shall be approved conditionally, pending evidence of approval of the application by Penn DOT.

- D. Fees. Fees for sign permits shall be in accordance with a separate schedule of fees adopted by the Governing Body.
- E. Portable Signs. Portable signs other than temporary artisans' signs are prohibited; provided, however, that portable signs shall be permitted only on a temporary basis, for a period of not more than one (1) month; provided, further, that, upon written application such temporary permit for a portable sign may be extended by the Zoning Officer, for cause, for a period of not more than one (1) additional month.
- F. Removal of Temporary Signs. Temporary signs shall be removed within 48 hours of the time that they identify has been concluded, or at the time that the temporary permit has expired. The earliest date shall be applicable
- G. Removal of Other Signs Upon the closing of a business, all signs related to the identification of such business shall be removed within ten (10) days of the date of such termination.

ARTICLE 11: OFF-STREET PARKING AND LOADING

SECTION 1101 PURPOSE

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As used herein, the term “parking space” includes covered garage or carport or uncovered parking lot space not located in a public right-of-way.

SECTION 1102 SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred sixty-two (162) square feet, being nine (9') feet in width and eighteen (18') feet in length, exclusive of access drives or aisles.

SECTION 1103 SIZE OF OFF-STREET LOADING SPACES

Each off-street loading space shall be not less than fifty (50') feet in depth, twelve (12') feet in width and provide an overhead clearance of not less than fourteen (14') feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

SECTION 1104 ACCESS REQUIREMENTS FOR OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10') feet in width for residential uses and not less than twenty (20') feet, nor greater than thirty (30') feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) locations along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35') feet from the intersection of streets, as measured along the right-of-way lines.

SECTION 1105: LOCATION REQUIREMENTS OF OFF-STREET PARKING AND LOADING AREAS

- A. No parking space shall be nearer to any front property line or right-of-way line than the minimum setback required for a principal building on the subject lot, but in no case less than fifteen (15) feet.
- B. The required off-street parking spaces for any type of use shall be located on the same lot as the principal use to which it is accessory. The required off-street parking may be permitted on another lot subject to the following requirements:

- (1) The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- (2) The lot to be used for off-street parking and the lot on which the principal use is located shall be held under the same ownership or under a long term lease of not less than twenty (20) years.
- (3) the lot to be used for off-street parking shall be not less than four hundred (400') feet to any lot line on which the principal structure is located.

SECTION 1106 DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

All off-street parking area shall provide for adequate drainage in accordance with the Township's Storm Water Management Ordinance. .

SECTION 1107 INTERIOR CIRCULATION

Interior access ways and aisles shall be designed so as to prevent the blocking of vehicles entering or exiting the site.

SECTION 1108 SCREENING

Properties which contain off-street parking for five (5) or more vehicles and/or any amount of off-street loading, along a side yard or rear yard which abuts a residential district or a residential use, shall be screened by a substantial, tight fence not less than six (6') feet in height and a planting strip not less than five (5') feet in depth, with shrubbery, plants or trees which are a minimum of three (3') feet in height at the time of planting.

SECTION 1109 LIGHTING

Any lighting used to eliminate off-street parking or loading areas shall be arranged to reflect the light away from adjoining properties and the public right-of-way.

SECTION 1110 PARKING IN YARD AREAS

Required parking shall be permitted within the required front or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than five (5') feet to the nearest point of a side yard property line and not less than ten (10') feet from the front yard property line. Any off-street parking areas for a nonresidential use, when abutting a residential zoning district or a residential property shall be setback a minimum of fifteen (15) feet from the rear yard and any side yard.

SECTION 1111 RESERVED.

SECTION 1112 CHANGES OF STRUCTURES OR USES

Whenever the existing use of a building, structure or land shall hereafter be changed to a new use, off-street parking and/or off-street loading facilities shall be provided as required for such new use. However, if said building or structure was erected or the use of the land established prior to the effective date of this Ordinance, additional off-street parking or off-street loading facilities shall be mandatory only in the amount by which the requirements for the new use would exceed those for the existing use.

SECTION 1113 FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half (.50) shall be disregarded and any fraction equal to or greater than one-half (.50) shall be construed to require a full space.

SECTION 1114 MULTIPLE ACTIVITIES OR USES

In any instance where a nonresidential structure, building or use of land contains more than one (1) defined use, the required parking for each specific use shall be provided.

SECTION 1115 OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

- Single-family Structure: Two (1) spaces for each dwelling unit.
- Two-family Structure: Two (2) spaces for each dwelling unit.
- Multifamily Residential, (Townhouses and Garden Apartments): Two (2) spaces for each dwelling unit.
- Home Occupation: Three (3) spaces, in addition to those required for the dwelling unit.
- Residential Conversion: Two (2) spaces for each additional dwelling unit.
- Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length.
- Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
- Schools:
 - 1) Junior, Middle, Elementary schools - 1 per 10 students plus 1 per employee in the maximum working shift

- 2) High schools – 1 per 3 students plus 1 per employee in the maximum working shift, and 1 per 3 seats in a stadium.
 - 3) Other schools, such as trade schools – 1 per student, plus one (1) per employee in the maximum working shift.
- Commercial, Business or Vocational Trade Schools: One (1) space for each staff and/or faculty member, plus one (1) space for every five (5) classroom seats.
 - Nursery or Day Care Schools: One (1) space for each employee, plus one (1) space for every five (5) children, based upon the maximum number of children which the facility is licensed to serve.
 - Nursing Homes: One (1) space for every five (5) beds, plus one (1) space for each employee on the maximum working shift.
 - Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
 - Nonprofit Social Halls, Clubs and Lodges: One (1) space for every 5 seats or every three hundred (300) square feet of gross floor area if there are no seats, plus 1 per employee in the maximum working shift.
 - Public Utility Facilities: Two (2) spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) for each employee assigned to work at such facility.
 - Outdoor Recreational Facilities: In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
 - Retail Businesses: One (1) space for every one hundred (100) square feet of gross floor area.
 - Eating and Drinking Establishments: One (1) space for every three (3) seats, plus two (2) spaces every three (3) employees based upon the maximum working shift.
 - Fast Food Restaurant: One (1) space for every eighty (80) square feet of service or dining area, with a minimum of five spaces. A fast food restaurant with a drive-in

- window shall, in addition to the above requirements, provide eight (8) stacking spaces for the drive-in window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.
- Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every one hundred (100) square feet of gross floor area.
- Automotive Sales: One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet open sales or display area .
- Equipment Sales and Repairs: One (1) exterior space for every two hundred (200) square feet of gross floor space.
- Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every one thousand (1000) square feet of gross floor area; plus one (1) space for every two (2) employees on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.
- Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area; the following exceptions include:
 - A. Self-service Coin Operated Laundries and Dry Cleaners: Shall provide one (1) space for every two (2) washing or drying machines.
 - B. Health Clubs: Shall provide one (1) space for every two hundred (200) square feet of gross floor area; any such club which also serves food and/or beverages shall also comply with the parking requirements of any eating or drinking establishment.
 - C. Animal Hospital: Five (5) spaces for every veterinarian.
 - D. Funeral Homes: Twenty (20) spaces for each viewing parlor.
 - E. Professional Offices: One (1) space for every two hundred (200) square feet of gross floor area.
 - F. Motels and Hotels: One (1) space for each unit for guest accommodations; any such facility which also serves food and/or beverages shall also comply with the parking requirements of an eating or drinking establishment.
 - G. Self Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.
 - H. Gasoline Service Stations: Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200)

square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.

- I. Automobile Car Washes: One (1) space for each employee on the maximum working shift.
- J. Automotive Repairs: One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
- K. Off-street parking for warehouse, freight terminals and trucking terminals, shall require one parking or storage space for all vehicles used directly in the conduct of such business, plus one (1) parking space for each person regularly employed on the premises.

1115.1 OFF STREET PARKING REQUIREMENTS IN THE I-2 AND THE I-3 DISTRICT

Off street parking and loading regulations for uses located in the I-2 and the I-3 district shall be governed by this Article 11, except for the following modifications:

- (a) Shared parking shall be permitted.
- (b) Off-street parking shall be permitted on a lot other than the proposed development site provided adequate assurances are given that such parking will not be eliminated by future development.
- (c) Variance requests for a reasonable reduction of the minimum off-street parking and loading facilities standards based on the proposed use may include but shall not be limited to:
 - (1) providing for up to 30% of total parking required as compact spaces; compact spaces shall have a minimum dimension of 8 feet in width and 16 feet in length;
 - (2) credit for other methods of transportation to the site, including bus and rail service; and
 - (3) recent authoritative standards information including parking use studies supplied by the applicant regarding parking standards for individual uses shall be employed.

SECTION 1116 PARKING FOR OTHER COMMERCIAL USES

Any commercial use or other nonresidential use of a structure, building or land, not specifically listed within Section 1115 of this Ordinance shall provide off-street parking as required for a similar use; the identification of a similar use shall be by the Zoning Hearing Board's interpretation of a similar use. If no such similar use can be identified by the Zoning Hearing Board, the Board of Township Supervisors shall adopt an amendment to this ordinance establishing minimum off-street parking requirements for the subject use.

SECTION 1117 OFF-STREET LOADING REQUIREMENTS

All commercial and industrial establishments and other public or semi-public uses that require the loading of materials (such as schools, hospitals, etc.) shall provide off-street loading, unloading and commercial vehicle storage space adequate for their needs. In no case shall a public right-of-way be used for the loading, unloading or storage of such vehicles.

SECTION 1118 PROVISION OF HANDICAPPED PARKING SPACES

Any business, individuals, or corporations that own, lease or operate a facility which includes the provision of public accommodations and/or commercial facilities* shall be governed by the provision of this section. A facility which provides public accommodations shall include, but may not be limited to the following:

- places of lodging
- establishments serving food or drink
- places of exhibition or entertainment
- places of public gathering
- sales or rental establishments
- service establishments, stations used for specified public transportation.
- places of public display or collection
- places of recreation
- places of education
- social service center establishments, and places of exercise or recreation.

*A commercial use shall include any business whose operations are open to the general public.

SECTION 1119 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.
3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9.5) feet.
4. An off-street parking area shall be designed to provide accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area. Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

SECTION 1120 SIGNAGE FOR HANDICAPPED PARKING

Handicapped accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designed for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be placed in a manner so they cannot be obscured by a vehicle.

SECTION 1121 MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1115 and/or Section 1116 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

TOTAL NUMBER OF SPACES REQUIRED NUMBER OF ACCESSIBLE SPACES

1	TO	25	1
26	TO	50	2
51	TO	75	3
76	TO	100	4
101	TO	150	5
151	TO	200	6
201	TO	300	7
301	TO	400	8
401	TO	500	9
501	TO	1000	2 PERCENT OF TOTAL

ARTICLE 12: FLOOD PLAIN MANAGEMENT

SECTION 1201 INTENT

The intent of the regulations set forth in this Article is to:

- A. Promote the general welfare, health, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and nature drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

SECTION 1202 SPECIAL DEFINITIONS

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Article.

- 1202.01 Base Flood
A flood having a one percent chance of being equaled or exceeded in any given year and also referred to as a 100 Year Flood.
- 1202.02 Basement
The lowest level or story of a building which has its floor subgrade (below ground level) on all sides.
- 1202.03 Construction
The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.
- 1202.04 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, drilling operations, storage of equipment or material, and the subdivision of land.
- 1202.05 FEMA
The Federal Emergency Management Agency
- 1202.06 Flood Maps
The most recent map prepared by FEMA which delineates the special hazard areas and risk premium zones applicable in Pittston Township.

- 1202.07 Flood
The temporary inundation of normally dry land.
- 1202.08 Flood, One Hundred Year
See “Base Flood.”
- 1202.09 Flood Insurance Study A study prepared by FEMA, for Pittston Township which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.
- 1202.10 Flood Fringe
The portion of a One Hundred Year Flood Plain which is beyond the delineated limits of the Floodway, based upon the most current Flood Insurance Study and Flood Maps.
- 1202.11 Flood Plain, One Hundred Year
The areas specifically identified as being subject to inundation by the Base Flood and/or the One Hundred Year Flood, which is comprised of a Flood Fringe Area and Floodway as delineated upon the Flood Maps.
- 1202.12 Flood proofing
Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate and/or improved real property, water and sanitary facilities, structures and their contents.
- 1202.13 Floodway
The designated area of a Flood Plain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the Floodway shall be capable of accommodating a flood of the One Hundred (100) Year magnitude.
- 1202.14 Freeboard
A margin of safety, expressed in feet above the flood elevation of a One Hundred Year Flood.
- 1202.15 Lowest Floor
The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is designed and built to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be certified by either a registered professional engineer or architect or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

1202.16 Manufactured Home

A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, 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 with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

1202.17 Manufactured Home Park

A parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

1202.18 Obstruction

Any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

1202.19 Recreational Vehicle

A vehicle which exhibits the following:

- (a) is built upon a single chassis;
- (b) is 400 square feet or less when measured at the largest horizontal projections;
- (c) is designed to be self-propelled or permanently towable by a light duty truck;
- (d) is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

1202.20 Substantial Improvements

Any repair, reconstruction, or improvement of a structure, the cost of which equals 50% of the market value of the structure either before the

improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either (a) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) any alteration of a “historic structure.”

SECTION 1203 APPLICATION OF REGULATIONS

The regulations set forth in this Article supersedes any zoning district regulations, but if existing zoning district regulations are more restrictive for the particular district in which the property is located, then the more restrictive requirements shall apply.

SECTION 1204 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of the Article is considered reasonable for regulatory purposes and is based upon acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice jams, and bridge openings restricted by debris. This Article does not imply that areas outside identified flood prone areas or that land uses permitted within such areas will be free from flooding or flood damages.

The provisions and regulations contained within this Article shall not create liability on the part of Pittston Township or any officer or employee thereof for any flood damages that result from reliance on this Article or of any decision lawfully made thereunder.

SECTION 1205 OVERLAY OF FLOOD PLAIN AREAS

The various One Hundred (100) Year Flood Plain areas within a One Hundred (100) Year Flood Plain shall include all areas which are subject to inundation by waters of a One Hundred (100) Year Flood. The source of delineating the boundaries of the various One Hundred (100) Year Flood Plain areas shall be based upon the most recent Flood Insurance Study and Flood Boundary and Floodway Maps as prepared by FEMA. The various One Hundred (100) Year Flood Plain areas shall be deemed an overlay on any existing or hereafter established zones or districts upon Pittston Township’s Official Zoning Map or the current FEMA map.

SECTION 1206 IDENTIFICATION OF ONE HUNDRED (100) YEAR FLOOD PLAIN AREAS

1206.1 ONE HUNDRED (100) YEAR FLOODWAY

The portion of a One Hundred (100) Year Flood Plain subject to inundation and designated to carry and discharge the waters of the One Hundred (100)

Year Flood without any increase in the water surface elevation of that flood. The delineation of such areas shall be based upon the Flood Insurance Study and the Flood Maps.

1206.2 ONE HUNDRED (100) YEAR FLOOD FRINGE AREA

The portion of a One Hundred (100) Year Flood Plain subject to inundation which is outside of the delineated floodway. The delineation of such areas shall be based upon the Flood Insurance Study and Flood Maps.

A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood prone areas which constitutes a “development” in accordance with the definition of said term as provided under Section 1202.04 of this Ordinance.

SECTION 1207 CHANGES TO DELINEATED BOUNDARIES

The delineation of a One Hundred (100) Flood Plain as provided for under Section 1206, may be modified by the Board of Supervisors, subject to approval to FEMA, where studies and/or information documents the need for such revision. Any change shall be subject to compliance with the following:

- A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations.
- B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study for Pittston Township. Said confirmation from FEMA shall be secured in writing.
- C. All information and documentation provided for under this Article for any proposed modification of the boundaries of a One Hundred (100) Year Flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community Affairs.
- D. Prior to the Board of Supervisors’ approval of any proposed modifications of the boundaries of a One Hundred (100) Year Flood Plain, written approval and concurrence of the subject modification from FEMA shall be secured.
- E. Any proposed modification of a boundary of a One Hundred (100) Year Flood Plain, shall be governed by the provisions contained in Section 1401 (Amendment Procedure) and Section 1404 (Enactment of Amendments) of this Ordinance.

SECTION 1208 INITIAL DETERMINATION OF BOUNDARIES

The Zoning Officer, in the course of reviewing proposed developments, shall be responsible for determining the applicable boundaries of a One Hundred (100) Year Flood Plain. Any party who wishes to dispute or challenge the determination of the

Zoning Officer may appeal such decision to the Pittston Township Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1209 ALTERATIONS TO WATERCOURSES

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by Pittston Township or the party proposing such, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Resources, Bureau of Dams and Waterway Management, and FEMA. In addition, Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse. Any party proposing an alteration to a watercourse must provide all necessary documentation to certify that the flood carrying capacity within the watercourse shall be maintained upon completion of the proposed alteration.

SECTION 1210 FLOODWAY RESTRICTIONS

Within an identified Floodway no encroachment shall be permitted, including fill, new construction, substantial improvements, and other type of development, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of a One Hundred (100) Year Flood. Such analysis shall be performed by a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations. The applicant's engineer shall be required to:

- A. Contact the FEMA Regional Office in Philadelphia to confirm that the proposed methodology and data are consistent with those used in the preparation of the applicable Flood Insurance Study for Pittston Township. Said confirmation from FEMA shall be secured in writing.
- B. Include with said analysis all necessary information including but not necessarily limited to valley cross sections, plan views, all assumptions and computations, and bridge, culvert, drainage basins and dam data, if applicable.
- C. Provide written certification that the proposed encroachment will not result in any increased flood heights during the occurrence of a One Hundred (100) Year Flood.
- D. In the event that a proposed development or encroachment includes modifications or alterations to the channel of the watercourse, as a means to offset any anticipated rise in the elevation of a base flood, Section 1209, in addition to the provisions of this Section, shall apply: The above information shall be submitted to the Zoning Officer, the Township Engineer, FEMA and DER for review and comment. In addition to receiving a positive review and approval from FEMA, the applicant shall be required to secure a Water Obstruction Permit from DER under Title 25, Chapter 105 of the Pennsylvania Code. No zoning permit shall be

issued until the Zoning Officer finds that all applicable requirements have been met.

SECTION 1211 ON-SITE REPLACEMENT - FLOODWAY

When a structure, which is located within a Floodway, is demolished or destroyed by fire or other casualty, a new development shall be permitted on the subject parcel of land, and shall be exempt from the provisions under Section 1210 when the following conditions are met:

- A. The maximum permitted size of a new structure or development shall not exceed the linear dimensions and the total cubic feet of the previous development or structure.
- B. The new structure or development shall not represent the replacement of a nonconforming use or a new use which is not permitted within the underlying district.
- C. The new structure or development shall be flood proofed to an elevation not less than one and one-half (1 1/2) feet above the base flood elevation.
- D. The replacement shall not cause any increase in the One Hundred Year flood elevation.

SECTION 1212 STRUCTURAL ANCHORING AND FLOOD PROOFING REQUIREMENTS

All buildings and structures which represent new construction and/or substantial improvements shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement.

The Zoning Officer shall require the applicant to submit the written opinion of registered professional engineer that the proposed structural design meets this standard prior to the issuance of a zoning permit.

SECTION 1213 ISSUANCE OF BUILDING PERMIT

Prior to the issuance of any building permit, the Building Permit Officer or the person so authorized by Pittston Township to issue building permits shall review the application for permit to determine if all other necessary government permits required by the State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety Act and Encroachment Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No building permit shall be used until this determination has been made.

SECTION 1214 FLOODPROOFING

Zoning approval of any proposed use, development and/or substantial improvement, which is located within a One Hundred (100) Year Flood Plain shall be conditioned upon strict compliance with all applicable flood proofing provisions as contained within this Article, and all other applicable codes and ordinances of Pittston Township, including but not limited to following standards:

1214.1 RESIDENTIAL

Any new construction or substantial improvement of residential structures located, completely or partially, within an identified One Hundred Year Flood Plain shall be designed and constructed to have the lowest floor, including basement, elevated not less than one and one half (1 1/2) feet above the corresponding base flood elevation.

1214.2 NONRESIDENTIAL

Any new construction or substantial improvement of nonresidential structures located, completely or partially within an identified One Hundred Year Flood Plain shall be designed and constructed to provide:

A. The lowest floor, including basement, shall be elevated not less than one and one-half (1 1/2) feet above the corresponding base flood elevation.

OR

B. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one-half (1 1/2) feet above the one hundred (100) year flood elevation, shall be flood proofed in a completely or essentially dry manner in accordance with the standards contained in the publication entitled "Flood proofing Regulations" publication published by the U.S. Army Corps of Engineers dated March 31, 1992 or with a demonstrated equivalent standard. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the aforementioned standards.

1214.3 MANUFACTURED HOMES

Where permitted in accordance with the underlying zoning districts, all manufactured homes and additions thereto which are located completely or partially within an identified One Hundred Year Flood Plain shall be governed by the following provisions:

A. Placed on a permanent foundation.

- B. Elevated so that the lowest floor of the manufactured home is one and one-half (1 1/2) feet or more above the elevation of the hundred year flood.
- C. Anchored to resist flotation, collapse, or lateral movement. Within any identified floodway, manufactured homes shall be prohibited.

1214.4 USE OF FILL

If fill is to be used to raise the lowest floor of a structure, including basement, to an elevation of one and one-half (1 1/2) feet base flood elevation, the fill shall:

- A. extend laterally at least fifteen (15) feet beyond the building line from all points;
- B. consist of soil or small rock materials only;
- C. be compacted to provide necessary permeability and resistance to erosion, scouring, or settling;
- D. be no steeper than one (1) vertical to two (2) horizontal, unless substantial data justifying steeper slopes are submitted to, and approved by, the Building Permit Officer or the person so authorized by Pittston Township to issue building permits.
- E. be used to the extent to which it does not adversely affect adjacent properties.

SECTION 1215 UTILITIES

1215.1 New and replacement public and private utilities and facilities such as sanitary sewers, gas lines, electric systems, telephone systems, and water systems shall be designed and constructed to minimize or eliminate flood damage.

1215.2 Within any structure the following items shall be elevated to be not less than one and one-half feet above the base flood elevation.

- A. Water heaters of any type
- B. Furnaces
- C. Air Conditioning and ventilating systems
- D. Electrical distribution panels
- E. Similar mechanical equipment or apparatus

Water supply systems and sanitary sewage systems of structures shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters.

Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

SECTION 1216 CERTIFICATION OF FLOODPROOFING

When flood proofing methods are utilized in accordance with Section 1214 of this Ordinance, a registered professional engineer or architect shall certify in writing that the flood proofing methods utilized are adequate to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with a One Hundred (100) Year Flood. The certification shall also indicate the specific elevation (in relation to mean sea level) to which such structures are flood proofed. In addition to certification of as-built drawings, a certification by an architect or professional engineer shall be required immediately following the completion of construction or substantial improvement, including the completion and filing of an Elevation Certificate and/or a Flood proofing Certificate as provided by FEMA. This certification must indicate the mean sea level of the first floor and/or as applicable the mean sea level to which flood proofing measures have been taken. Such certification is required prior to the issuance by the Zoning Officer of the Occupancy Permit.

SECTION 1217 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR

Within any identified One Hundred Year Flood Plain, any fully enclosed areas of a structure below the lowest floor shall be limited to unfinished space limited to the parking of vehicles, building access or storage. Such enclosed areas, including new construction and substantial improvements may be located below the base flood elevation subject to the following:

- A. be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters;
- B. provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- C. the bottom of the aforementioned openings shall be no higher than one foot above grade with the option of being equipped with screens, louvers, valves, or other covering or devices provided that they permit the automatic entry and exit of floodwaters;
- D. provide written certification from a registered professional engineer or architect that the criteria of the above items, (A.), (B.), and (C.) have been met. In addition to the above, the owner of the property shall record upon the deed of said property, a restriction which limits the use of the parking of vehicles, building access and/or storage. A copy of the deed with said restriction shall be provided to the Zoning Officer.

SECTION 1218 PROHIBITED USES

The following uses, activities and/or development shall be prohibited within a delineated boundary of a One Hundred Year Flood Plain:

- A. Hospitals; public or private
- B. Nursing homes; public or private
- C. Jails or prisons
- D. New manufactured home parks and manufactured home subdivisions, including substantial improvements to such existing parks and/or subdivisions
- E. On-lot sewage disposal system, including the encroachment of such a system within fifty feet of any wetlands.

SECTION 1219 HAZARDOUS MATERIALS

1219.1 CLASSIFICATION

For the purpose of administration the following materials and substances are hereby deemed and classified as potential hazards when located in a One Hundred (100) Year Flood Plain:

Acetone
Ammonia
Benzene
Calcium carbide
Carbon disulfide
Celluloid
Chlorine
Hydrochloric acid
Hydrocyanic acid
Nitric acid and oxides of nitrogen
Petroleum products (gasoline, fuel oil, etc.)
Phosphorus
Potassium
Sodium
Sulphur and sulphur products
Pesticides (including insecticides, fungicides and rodenticides)
Radioactive substances
Polychlorinated Biphenyl (PCB)
Dioxin

1219.2 PROHIBITED USES

The use of any property for the production of or requiring the storage or maintenance of any quantities of radioactive substances, Polychlorinated Biphenyl PCB or Dioxin shall be expressly prohibited anywhere within a One Hundred (100) Year Flood Plain.

1219.3 RESTRICTIONS IN FLOOD FRINGE AREAS

With the exclusion of Radioactive Substances, Polychlorinated Biphenyl and Dioxin, the use of any property which includes the storage, production or maintenance of a supply of more than 550 gallons or comparable volume of those materials and substances listed in Section 1219.1 of this Article, may be located within a Flood Fringe area subject to the use being permitted in the underlying zoning district and further subject to being elevated or flood proofed to remain completely dry to an elevation not less than one and one-half (1 1/2) feet above the base flood elevation.

1219.4 RESTRICTIONS FOR FLOODWAY

The use of any property which includes the storage, production or maintenance of material and substances listed in Section 1219.1 of this Ordinance shall be prohibited in a designated Floodway.

SECTION 1220 SUBSTANTIAL IMPROVEMENTS

Any modification, alteration, reconstruction or improvement of any kind to any existing structure which equals or exceeds fifty (50%) percent of its market value, shall constitute a substantial improvements and shall be permitted subject and conditioned upon full compliance with all applicable flood proofing provisions of this Ordinance.

SECTION 1221 VARIANCES

In addition to the criteria contained in Section 1510.1 of this Ordinance, the following additional standards and criteria shall apply:

1. No variance shall be issued for any proposed development, use and/or activity within any designated floodway which would result in any increase in flood levels during a One Hundred Year Flood.
2. No variance shall be issued which would allow any of the development specifically prohibited in Section 1218, PROHIBITED USES, and Section 1219, HAZARDOUS MATERIALS, of this Ordinance.
2. A variance shall authorize the least reduction and/or modification necessary to provide relief in consideration of the flood hazard.
3. A variance shall only be issued only upon:
 - A. a showing of good and sufficient cause.
 - B. a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
 - C. a determination that the granting of the variance will not result in a prohibited increase in flood heights, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimize the public or conflict with any local laws or ordinances.

SECTION 1222 MODIFICATION OF FREEBOARD REQUIREMENT - ADMINISTRATIVE PROCEDURES

The Township shall notify the applicant in writing over the signature of the Chairman or Secretary of the Zoning Hearing Board that:

- A. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five (\$25.00) dollars for one hundred (\$100.00) dollars of insurance coverage.
- B. Such construction below the base flood elevation increases risks to life and property.
- C. The issuance of a variance from the required one and one-half (1-1/2) feet of freeboard per Section 1212 of this Ordinance, but above the base flood elevation may result in increased premium rates for flood insurance and increased risks to the structure, its contents, and occupants.

Such notification shall be maintained with a record of all variances approved and/or considered by the Zoning Hearing Board, including justification for their issuance or denial. Such information shall be placed upon file with the Secretary to the Zoning Hearing Board be submitted annually to FEMA and the Board of Supervisors.

ARTICLE 13: ENFORCEMENT AND ADMINISTRATION

SECTION 1301 ZONING OFFICER

1301.1 APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Pittston Township, shall be appointed by the Board of Supervisors. The Zoning Officer shall meet qualifications established by Pittston Township, which shall at minimum include, a working knowledge of municipal zoning.

1301.2 DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but are not limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits, when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure.
- (D) Issue permits as authorized by the Zoning Hearing Board or the Planning Commission, pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- (F) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.
- (H) Notify the Zoning Hearing Board of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Board is either required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.

- (I) Participate in proceedings before the Zoning Hearing Board and Planning Commission and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.

SECTION 1302 ZONING PERMIT

1302.1 PURPOSE

To determine compliance with the provisions of this Ordinance. No person shall erect, alter or convert any structure or building, or part thereof, nor alter the use of any land, subsequent to the adoption of this Ordinance, until a Zoning Permit has been issued by the Zoning Officer.

1302.2 ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use, including a change of use, without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or be considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written order from the Zoning Hearing Board in the form of a Special Exception, Variance or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure.

1302.3 FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or the equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications shall be accompanied by two sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.
- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.

- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

1302.4 PROCESSING APPLICATIONS

The Zoning Officer shall return one copy of the application, plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One copy of the application, plans and accompanying information shall be retained by the Zoning Officer and kept on file.

1302.5 TIME PERIOD FOR PROCESSING APPLICATION

A zoning permit application shall be approved, denied or referred to the Zoning Hearing Board in accordance with the provisions of this ordinance within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

1302.6 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one year from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed one year period, the permit shall expire two years from the date of issuance.

1302.7 REVOCATION OF PERMITS

- (A) If it shall appear at any time, to the Zoning Officer that the application or accompanying plans are in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the applications filed with him under existing laws or ordinances, he may forthwith revoke the Zoning Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Zoning Officer. After the Zoning Permit has been revoked, the Zoning Officer may, in his discretion, before issuing a new Zoning Permit, require the applicant to file an indemnity bond in favor of the Municipality with

sufficient surety conditioned for compliance with this Ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

- (B) Any development authorized by a zoning permit shall be completed within a period of one (1) year of the date of such permit. If such development is not completed within one (1) year, the zoning permit shall be automatically revoked, unless the applicant requests an extension not less than 30 days prior to the expiration of the permit. Each request for an extension shall be required to pay a fee in accordance with the Township's fee schedule. No such extension shall be for a period of more than one (1) year, and an applicant may request a total of two (2) extensions. Any future development of the subject project beyond the final extension period shall require a new application and a new permit.
- (C) The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other just cause as set forth in this Ordinance.

1302.8 DENIAL OF PERMITS

When the Zoning Officer is not satisfied that the applicant's proposed use, construction and/or development will meet the requirements of this Ordinance, he shall refuse to issue a Zoning Permit and the applicant may then file an appeal to the Zoning Hearing Board or a reversal of the Zoning Officer's decision. Any appeal of the Zoning Officer's decision to deny a zoning permit application must be filed with the Zoning Hearing Board within thirty (30) days from the date the denial was issued.

1302.9 OTHER RELATED PERMITS AND PERMIT ISSUES

A. USES REQUIRING APPROVAL AS A LAND DEVELOPMENT

In addition to zoning approval, the proposed construction, development and/or use of a property classified as a "land development" under the applicable provisions of the Luzerne County Subdivision and Land Development Ordinance, shall also secure the necessary approvals from Luzerne County Planning Commission under the governing terms of said Ordinance. No zoning permit or building permit shall be issued until such approval is granted.

B. PUBLIC UTILITIES

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

C. HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Township road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable governing body and/or agency.

D. ISSUANCE OF PRELIMINARY OPINION

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 of Act 247 as amended by the following procedure:

- (A) The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- (B) If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the Municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 of Act 247 as amended and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

SECTION 1303 CERTIFICATE OF ZONING COMPLIANCE/OCCUPANCY PERMIT

1303.1 For New Uses

After completion of the whole building or structure, and upon the sworn application by the owner or his duly authorized agent, setting forth such facts as the Zoning Officer may require, and after actual inspection of the premises by the Zoning Officer or his duly authorized assistant, he shall upon finding the facts to be as represented, issue in duplicate an Occupancy Permit, certifying that the premises comply with the provisions of the Ordinance and may be used for the purposes set forth in the permit, which purposes shall conform with the requirements of this Ordinance. No change of use shall be made in any building, structure, or premises, or premises now or hereafter erected or altered that is not consistent with the requirements of this Ordinance. Any person desiring to change the use of his premises shall apply to the Zoning Officer for an Occupancy Permit, setting forth under oath such facts as may be required.

A copy of the Occupancy Permit shall be kept at all times upon the premises effected, and shall be displayed upon request made by an authorized official. A record shall be kept of all Occupancy Permits issued and the original applications therefore shall be kept on file in the same manner as applications for Zoning Permits. No owner, tenant, or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Ordinance without first procuring an Occupancy Permit; provided that an Occupancy Permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

1303.2 For Existing Uses

Upon written request from the owner, tenant or occupant, the Zoning Officer, after inspection, shall issue an Occupancy Permit for an existing use legally existing at the time this Ordinance is made effective, certifying the extent and kind of use and whether any such existing use conforms with the provisions of this Ordinance.

1303.3 EXCEPTIONS

Residential accessory structures uses shall be exempt from securing an Occupancy Permit.

1303.4 APPLICATIONS

All applications for a Certificate of Zoning Compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Ordinance.

1303.5 TIME LIMITATION

An application for a Certificate of Zoning Compliance shall be approved or denied within thirty (30) days after the Zoning Officer has been officially notified of either the completion of construction or the request to occupy and use land where no construction is involved.

SECTION 1304 VIOLATIONS

1304.1 COMPLAINTS OF VIOLATIONS

Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate and report thereon.

1304.2 NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- (A) The name of the owner of record and any other person against whom Pittston Township intends to take action.
- (B) The location and/or address of the property in violation.
- (C) The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- (D) The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- (E) That the recipient of the notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty days from the issuance of the violation notice.
- (F) Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1304.3 CAUSES OF ACTION

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

1304.4 JURISDICTION

District Justices shall have initial jurisdiction over proceedings brought under Section 1304.5 of this Ordinance.

1304.5 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Pittston Township or the Zoning Officer, shall pay a judgment of not more than five hundred dollars, plus all court costs, including reasonable attorney fees incurred by Pittston Township as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, Pittston Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Pittston Township. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than Pittston Township the right to commence any action for enforcement pursuant to this Section.

1304.6 APPEALS

Any recipient of a notice of violation shall have the right to appeal to the zoning hearing board to remove such notice. Such appeals, however, must be filed with the zoning hearing board not more than thirty (30) days following the issuance of the violation.

SECTION 1305 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Board of Supervisors shall establish by resolution a schedule of fees, charges and expenses and collection procedures for Zoning Permits, Certificates of Occupancy, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the Board of Supervisors. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees.

SECTION 1306 PLANNING COMMISSION

1306.1 Review Application and Appeals

The Zoning Hearing Board may refer to the Planning Commission all applications for Special Exceptions, and any other applications or appeals which in their opinion require review by the Planning Commission.

1306.2 Criteria for Review

The Planning Commission shall review such applications in accordance with applicable criteria set forth in Section 1510.2c and any special requirements for the intended use.

1306.3 Report to the Zoning Hearing Board

The Planning Commission may recommend approval, disapproval, or approval subject to conditions or modifications, and shall report its findings to the Zoning Hearing Board within thirty (30) days of receipt thereof; such report shall state all recommended conditions and modifications and the reasons for such approval or disapproval.

1306.4 Report to Governing Body

Following the enactment of this Ordinance the Planning Commission shall, from time to time prepare and file with the Governing Body, but in no case at less than two (2) year intervals a report on the operation of this Ordinance including

recommendations on the enactment of amendments, supplements or changes thereto. The Planning Commission shall also review and report on all proposed conditional uses referred to it by the Governing Body.

ARTICLE 14: AMENDMENTS

SECTION 1401 PROCEDURE

The procedures set forth in Section 609 of Act 247 as amended shall be followed in the preparation of zoning ordinance amendments.

1401.01 Enactment

Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

1402.2 Referral to Township Planning Commission

In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least thirty (30) days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

1401.03 Referral to County Planning Commission

At least thirty (30) days prior to the public hearing on the amendment by the local governing body, the Municipality shall submit the proposed amendment to the Luzerne County Planning Commission for its recommendations. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the LCPC.

1401.04 Lack of Recommendations

Proposed action shall not be taken until the Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Board of Supervisors. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Board of Supervisors may proceed without such recommendation.

1401.05 Zoning Map Amendments

- (A) Posting Notice If a proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by Pittston Township at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the public hearing.

- (B) Written Notices In addition to posting the tract, written notice may be provided to the owners of all properties within a distance of two hundred (200) feet of any property boundary line of the property subject to the proposed zone change. It shall be the responsibility of the applicant to provide the Township with the names and mailing addresses of the true and correct owners of record whose properties fall within the required distance of two hundred (200) feet. While it shall be the intent of Pittston Township to provide written notice to such owners who may be substantially interested in the proposed amendment to the Zoning Map, failure to do so, shall not invalidate an otherwise duly enacted ordinance which provides for a change in the Zoning Map.

SECTION 1402 APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1401 of this Ordinance. An application shall contain the following information when applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or he equitable owner.
- (B) A signed statement by the owner of record attesting to the truth of the facts of all information contained within the application.
- (C) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of property owners within two hundred feet of the area proposed to be rezoned.
- (D) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (E) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1403 CURATIVE AMENDMENTS

1403.1 INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Board of Supervisors. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Board of Supervisors shall commence a public hearing pursuant to public notice within sixty days of the landowner's request. The sixty day period shall not

commence until all required information and material is submitted, along with all related fees. The curative amendment and supporting information shall be referred to the Planning Commission and the Luzerne County Planning Commission for their review and comment at least thirty (30) days prior to the public hearing. The public hearing before the Board of Supervisors shall be conducted in accordance with the procedures contained in Section 1506 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Board of Supervisors. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public. If the Board of Supervisors determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider in addition to the proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) When the Board of Supervisors notifies the landowner that it will not adopt the curative imminent.
- (B) When the Board of Supervisors adopts another curative amendment which is unacceptable to the landowner.
- (C) When the Board of Supervisors fails to act on the request within forty-five days after the close of the last public hearing on the request, unless the time

is extended by mutual consent by the landowner and the Board of Supervisors.

1403.2 INITIATED BY THE TOWNSHIP

If the Board of Supervisors determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Board of Supervisors shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions. Within 180 days from the date of the declaration and proposal as set forth in this Section, the Board of Supervisors shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, pursuant to Section 1509 A of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Board of Supervisors' resolution. The Board of Supervisors, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and proposal, there is a substantially new duty or obligation imposed upon Pittston Township by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Pittston Township may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1404 ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Board of Supervisors shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1401 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Pittston Township where copies of the proposed

amendment may be examined without charge or obtained for a charge not greater than the cost thereof.

- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Board of Supervisors shall, at least ten days prior to enactment, advertise in one newspaper of general circulation in Pittston Township, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1405 NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.

SECTION 1406 PUBLICATION, ADVERTISEMENT AND AVAILABILITY OF ORDINANCES

1406.1 Publication. Publication shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendments may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- A. A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.
- B. An attested copy of the proposed ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

1406.2 Rehearing's

In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall at least ten days prior to enactment advertise, in one newspaper of general circulation in the

municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

1406.3 Recording

Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

SECTION 1407 APPLICABILITY OF ORDINANCE AMENDMENTS

When an application for either a special exception or a conditional use has been filed with either the Zoning Hearing Board or Governing Body, as relevant, and the subject matter of such application would ultimately constitute either a land development as defined in Section 107 of the MPC or a subdivision as defined in Section 107 of the MPC, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the Zoning Hearing Board or Governing Body, as relevant, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or longer or as may be approved by either the Zoning Hearing Board or the Governing Body following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before either the Zoning Hearing Board or Governing Body, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508(1) through (4) of the MPC, and specifically to the time limitations of Section 508(4) of the MPC which shall commence as of the date of filing such land development or subdivision plan.

ARTICLE 15: ZONING HEARING BOARD

SECTION 1501 ORGANIZATION AND PROCEDURE

1501.1 Establishment

Pursuant to the provisions of the Pennsylvania Municipality Planning Code, Article IX, a Zoning Hearing Board is hereby established.

1501.2 Appointment

Members of the Board shall be residents of the municipality, appointed by resolution of the Governing Body. The Zoning Hearing Board shall consist of three (3) members, and each shall have a term of three (3) years. Each year, on the first day of January, one member's term shall expire. Their successors shall be appointed on the expiration of their respective terms to serve three (3) years. Members of the Board shall hold no other public office in the municipality.

1501.3 Appointment to Fill Vacancies

The Board shall promptly notify the Governing Body of any vacancies which occur. Appointment to fill vacancies shall be for the unexpired term of the member or members whose term or terms become vacant and such appointments to fill vacancies shall be made in the same manner as the original appointment.

1501.4 Removal

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Governing Body who appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

1501.5 Organization of Board

- (A) The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1508 hereof. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth. The Board shall keep full public records of its

business which records shall be the property of the Township and shall submit a report of its activities to the Governing Body as requested by the Governing Body.

- (B) If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the board shall designate as many alternate members of the board to sit on the board as may be needed to provide a quorum. Any alternate member of the board shall continue to serve on the board in all proceedings involving the matter or case for which the alternate was initially appointed until the board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

1501.6 Appointment of Alternate Members

The governing body may appoint up to three (3) alternate members of the Zoning Hearing Board in accordance with the provisions of Section 903(b) of Act 247 as amended. The term of office for an alternate member of the Zoning Hearing Board shall be one (1) year.

1501.7 Expenditures for Services

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

1501.8 Hearings. The Board shall conduct hearings and make decisions in accordance with the following requirements:

Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of such hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing. Written notice shall be given to the following parties:

The applicant; the owner of record of the subject property before the Board, if different than that of the applicant; The Zoning Officer; to any

party or person who has submitted a written request to receive notification on the subject property.

To each property owner who has an adjoining or contiguous boundary with the subject property before the Board; with the applicant responsible for providing the Township with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of Pittston Township Zoning Hearing Board to provide written notice to such owners, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.

In the event a hearing is continued to a future date for the purpose of obtaining additional information, additional testimony or to render a decision, and the Zoning Hearing Board publicly announces during the course of the hearing the time and date for the resumption of the hearing, additional written notice need not be provided to any of the above parties.

- 1501.9 The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.
- 1501.10 The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent on the record by the applicant and municipality, be

granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

- 1501.11 The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
- 1501.12 The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose. The Chairman or acting Chairman of the Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- 1501.13 The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- 1501.14 The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the board. The cost of the original transcript shall be paid by the board if the transcript is ordered by the board or hearing officer or shall be paid by the person appealing from the decision of the board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- 1501.15 The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the

site or its surroundings after commencement of hearings, with any party or his representative unless all parties are given an opportunity to be present.

- 1501.16 The Board or the Hearing Officer, as the case may be, shall render a written decision, or when no decision is called for, make written findings on the application within forty-five days after the last hearing before the Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this ordinance, rules, or regulations shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Except or challenges filed under Section 916.1 of the MPC, where the Board fails to render the decision within the period required by this subsection, or fails to commence, conduct or complete the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection 8.141 of this section. If the Board fails to provide such notice, the appellant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- 1501.17 A copy of the final decision, or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 1502 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges from a landowner regarding the validity of any land use ordinance or map, or any provision thereunder, which prohibits or restricts the use or development of land in which he has an interest, except for those brought before the Board of Supervisors under Section 1403.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon procedural questions or alleged defects shall be raised by an appeal to the Board within thirty days after the effective date of the Ordinance subject to the appeal.
- C. Appeals from the determination of the zoning officer, including by not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- E. Applications for variances, pursuant to Section 1510 of this Ordinance.
- F. Applications for special exceptions pursuant to Section 1510.2 of this Ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.
- H. Applications seeking approval of a use on a temporary basis pursuant to Section 1504 of this Ordinance.

SECTION 1503 ZONING HEARING BOARD FUNCTIONS

1503.1 VARIANCES

A. INITIAL DETERMINATION BY THE ZONING OFFICER

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance.
2. The Zoning Officer, in reviewing the subject application, renders a determination that the proposed development and/or use of property

fails to comply with an applicable provisions and/or regulations of this Ordinance.

3. The Zoning Officer specifies in writing the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

B. PROCEDURE FOR GRANTING VARIANCES

The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of this property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

- C. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this zoning ordinance and Act 247 as amended.

- D. Upon approval of a variance, the Board shall direct the Zoning Officer to issue a permit to the applicant, which permit shall authorize the applicant to proceed with development in accordance with the terms of the approved variance.
- E. Variance approvals shall be valid a period of one (1) year from the date of approval. If the proposed development is not completed within one (1) year of approval, the applicant shall submit a new application for a variance and shall require approval thereof.

1503.2 SPECIAL EXCEPTIONS

- A. Initial Determination By Zoning Officer An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:
 - 1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 603 of this Ordinance. If the application addresses new construction or the Site Plan shall be based upon a survey drawing of the subject property, which includes and identifies both existing and proposed improvements. The survey drawing shall be prepared by a registered professional land surveyor or a professional registered engineer.
 - 2. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 603 of this Ordinance.
 - 3. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.
- B. Board Action. Special Exceptions, as enumerated in Article 5 shall be permitted only upon authorization by the Zoning Hearing Board. The Board shall refer such applications to the Planning Commission for their review and recommendations. The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria set forth herein. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in this ordinance, as it may deem necessary to implement the purposes of this zoning ordinance and Act 247 as amended
- C. Revisions For Granting A Special Exception Approval Approval of special exceptions shall be authorized only if they are found to comply with the following requirements and other applicable requirements asset forth in this Ordinance.

1. That the use is a permitted Special Exception as set forth in Article 3 hereof.
2. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.
3. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
4. That the use shall be compatible with adjoining development and the character of the zone district where it is proposed to be located.
5. That adequate landscaping and screening is provided as required in Section 4.700 and as otherwise provided herein.
6. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
7. That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large-scale development.
8. That such use shall be located on a site where the soils are suitable to safely support any structure to be erected; and, where soils are not deemed suitable, a plan shall be submitted, describing proposed methods to compensate for such unsafe soils conditions.
9. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
10. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
11. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the location and site relative to the proposed operation, and the nature and intensity of the operation involved.
12. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
13. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the district.

- D. Special Exceptions: Affect of Filing an Application. When an application for a special exception has been filed with the Zoning Hearing Board, and the subject matter of such application would ultimately constitute either a “land development” as defined in Section 107 or a “subdivision” as defined in Section 107 of the PA Municipalities Planning Code, Act 247, as amended, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in

accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by the Zoning Hearing Board, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer or as may be approved by the Zoning Hearing Board following the date of such approval in accordance with the provisions of the governing ordinance or plans as they stood at the time the application was duly filed before the Zoning Hearing Board. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508 (1) through (4) of the PA Municipalities Planning Code, Act 247, as amended, and specifically to the time limitations of Section 508 (4) which shall commence as of the date of filing such land development or subdivision plan.

SECTION 1504 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1509 of this Ordinance, may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

SECTION 1505 TIME LIMITATIONS

- 1505.1 No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such Person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
- 1505.2 Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30)

days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty day time period shall preclude any further appeal of the Board's decision.

SECTION 1506 MEDIATION OPTION

The Township may offer a mediation option as an aid in resolving conflicts which may arise under this Ordinance. In exercising such an option, the Municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Section 908.1 of Act 247 as amended, as follows:

- 1506.1 Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.
- 1506.2 Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board, the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the selected mediator, and the Zoning Hearing Board.
 - A. Method and commitment of funding of mediation.
 - B. The mediator shall be an attorney and/or an individual who is certified by the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.
 - C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
 - D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
 - E. Identification of all subject parties and affording them the opportunity to participate.
 - F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
 - G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
 - H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues

subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.

- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 1507 STAY OF PROCEEDINGS

- 1507.1 Upon filing of any proceeding referred to in Section 15 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.
- 1507.2 After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- 1507.3 The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- 1507.4 If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

SECTION 1508 APPROVAL OF TEMPORARY USES

1508.1 The Zoning Hearing Board may authorize the approval of a special exception and/or variance on a temporary basis. The proposed use of a building, structure or land on a temporary basis shall be in accordance with the following:

1. Shall not exceed a twelve (12) month period for any reason.
2. Shall not involve the structural alteration of any existing structure and/or building.
3. Shall not involve construction of any new structure and/or building.
4. Shall not generate excessive traffic.
5. Shall not create excessive smoke, noise, odor, dust, vibration, electrical disturbance or other similar hazards and/or nuisances.
6. Shall not impair the use and/or development of adjoining properties.

1508.2 In granting approval to a temporary use, the Zoning Hearing Board shall have the discretion to include any additional conditions which it deems necessary to safeguard the health, safety and general welfare of the public. The Zoning Hearing Board may revoke their approval prior to the expiration of the twelve (12) month period if any standards, conditions, or terms under which approval was granted, are violated.

1508.3 The Zoning Hearing Board's approval shall become null and void at the termination of the twelve (12) month time period, with renewal of any additional term on a temporary basis prohibited. The applicant shall, however, have the right to seek a variance and/or special exception approval, whichever is appropriate, on a permanent basis on or before the termination of the twelve (12) month time period. Failure of the applicant or property owner to cease all operations and activities at the termination of the twelve (12) month time period, unless granted approval on a permanent basis, shall constitute a violation of this Ordinance.

SECTION 1509 GENERAL GRANT OF POWER

The Zoning Hearing Board shall perform all the duties and have all the powers prescribed by the Pennsylvania Municipalities Planning Code and as herein more particularly provided.

SECTION 1510 ZONING APPEALS TO COURTS

The procedure for appeals for any decision made under Act 247 as amended shall be pursuant to Article X-A of said Act.

