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# ZONING ORDINANCE

AUGUST 5, 1997

ZONING ORDINANCE  
BOROUGH OF BERNVILLE  
BERKS COUNTY, PENNSYLVANIA

MAY, 1997

ORDINANCE NO. 249

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BOROUGH OF BERNVILLE

ORDINANCE NO.

ARTICLE I

TITLE, PURPOSE, INTERPRETATION, AND APPLICATION

SECTION 1.00      TITLE AND SHORT TITLE

Section 1.01      Title

This is an Ordinance establishing regulations and restrictions for the location, erection, construction, alteration, removal, and size of buildings, structures, and signs and the use of land. Zoning districts, with their applicable regulations, and general regulations are created to accomplish these purposes. Provision is made for the amendment, enforcement and administration of this Zoning Ordinance.

Section 1.02      Short Title

This Ordinance shall be known as and may be cited as "The Bernville Borough Zoning Ordinance of 1997".

Section 1.03      PURPOSE

This Ordinance is enacted to implement the Bernville Borough Comprehensive Plan and to promote the public health and safety and the general welfare of the residents and occupants of the Borough by encouraging the most appropriate use of land and buildings; preventing the overcrowding of land; avoiding undue congestion of population; providing for adequate areas for vehicular parking and loading; providing for adequate light and air; conserving the value of land and buildings; securing safety from fire, panic, flood and other dangers; facilitating adequate pedestrian and vehicular circulation, water support, sewage disposal, educational and other public facilities; encouraging the harmonious and orderly development of land; and lessening congestion on the roads and highways.

This Ordinance is enacted in accordance with the Community Development Objectives as set forth in the Bernville Borough Comprehensive Plan. Those Objectives are incorporated herein by reference.

#### Section 1.04 INTERPRETATION

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

#### Section 1.05 APPLICATION

Except as hereinafter provided, no building, structure, land or parts thereof in Bernville Borough shall be used or occupied, erected, constructed, assembled, moved, enlarged, removed, reconstructed, or structurally altered unless in conformity with the provisions of this Ordinance.



## ARTICLE II

### DEFINITIONS

#### Section 2.00 GENERAL

For the purpose of this Ordinance, certain terms and words are defined below.

##### 2.01 Tense, Gender, and Number

Words used in the present tense shall include the future tense. Words in the singular shall include the plural and words in the plural shall include the singular. Words in the masculine include the feminine.

##### 2.02 General Terms

The word "shall" or "must" is mandatory. The word "may" is permissive.

1. The words "used" and "occupied" shall be construed to include the words "or intended, arranged or designed to be used or to be occupied, or offered for occupancy".
2. The term "such as" shall be considered as introducing a typical or illustrative designation of items, and shall not be interpreted as constituting a complete list.
3. The words "person" and "owner" shall be deemed to include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual.
4. The words "building" and "structure" shall be construed as if followed by the phrase "or part thereof".
5. The word "lot" includes the words "plot" and "parcel".
6. The word "watercourse" includes channel, creek, ditch, dry run, spring, stream and river.
7. The word "erect" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any structure or building and shall also include the painting of exterior wall signs.

## Section 2.03 Terms, Phrases, and Words Not Defined

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

## Section 2.04 Specific Terms

Access Drive - An open space of not less than the width required herein which provides vehicular access from a street or private road to the main building on a lot.

Accessory Apartment - A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the principal building, for use as a complete, independent living facility. Accessory apartments when part of a commercial use, shall only be occupied by the owner or a relative of the owner as defined in Section 11.03 of this ordinance of a commercial use.

Accessory Building - A building subordinate to the principal building on a lot and used for purposes customarily incidental to the use of the principal building.

Accessory Use - A subordinate use of a portion of a lot which is customarily incidental to the main or principal use of the land or of a building on a lot.

Addition - Any construction which increases the size of a building.

Adult Book Store - An establishment open to the general public in which twenty (20) percent or more of the sales or display area offers for sale, for rent lease, loan, or for view upon the premises, pictures, photographs, drawings, prints, images, sculpture, still form, motion picture film, video tape, or similar visual representations distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity, or books, pamphlets, magazines, printed matter or sound recordings containing explicit and detailed descriptions or narrative accounts distinguished or characterized by an emphasis on sexual conduct, or offer for sale sexual devices.

Adult Theater - A building or room within a building open to the general public, used for presenting live entertainment, motion picture film, video tape or similar visual representation of materials distinguished or characterized by an emphasis on sexual conduct or sexually explicit nudity.

Alley - A minor right-of-way, publicly or privately owned, primarily for use as a service access to the back or side of properties and not intended for general traffic circulation.

Alteration, Structural - Any enlargement of a building or structure; the moving of a building or structure from one location to another; any change in or addition to the

structural parts of a building or structure; any change in the means of egress from or access to a building or structure.

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

Antique Business - A retail business for purchase and sale of antiques. Specifically excluded are flea markets, multiple antique dealer ventures, and garage sales of a permanent or quasi permanent nature, except as are authorized by the Borough for charitable institutions or civic organizations or nonprofit fund raising purposes as otherwise may be provided by this Ordinance.

Apartment Unit - A dwelling unit within an apartment building. An apartment building is a building on a single lot designed for and occupied as a residence for three or more families, and in which the dwelling units may be separated horizontally and/or vertically.

Applicant - A landowner or developer, as hereinafter defined, who has filed an application for development, or improvements to property including his heirs, successors and assigns.

Application for Development - Every application, whether preliminary, or final, required to be filed and approved prior to the start of construction or development including but not limited to, an application for a building permit, approval of a subdivision plat or plan, or the approval of a land development plan.

Approved Private Street - A right-of-way which provides the primary vehicular access to a lot, not dedicated or deeded to the Borough, but approved by the Borough Council and shown on a recorded subdivision plan.

Automobile or Trailer Sales Area - An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Average Gross Residential Density: The number of dwelling units per acre in a Planned Residential Development, derived by dividing the number of dwelling units, which the applicant proposes to construct, by the number of acres in the development which are not planned to be utilized for non-residential use.

Basement - A story partly below the finished grade but having one-half or more of its height (measured from finished floor to finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building. A basement shall be considered as one story in determining the permissible number of stories.

Bed and Breakfast Inn - A dwelling in which a room or rooms are rented on a daily basis for periods of not more than thirty (30) days. Meals may or may not be provided. The owner/operator of a Bed and Breakfast Inn must reside in the dwelling being used as the Bed and Breakfast Inn.

Bed and Breakfast Unit - A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not cooking or eating purposes.

Boarding House - A building with not more than six guest rooms where lodging and meals are served for compensation, not including nursing homes or convalescent homes.

Borough - Borough of Bernville, Berks County, Pennsylvania.

Borough Council - Borough Council of the Borough of Bernville.

Borough Planning Commission - Planning Commission of the Borough of Bernville.

Buffer Strip - A continuous strip of landscaped land which is clear of all buildings and paved areas.

Building - A structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts, designed for the enclosure and support of individuals, animals or property of any kind.

Building Attached - A building which has two (2) or more walls or portions thereof in common with an adjacent building.

Building Coverage, Maximum - The percentage which when multiplied by the lot area will determine the maximum permitted ground floor area for all roofed buildings and structures, including all accessory buildings and structures.

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

Building Coverage - The percentage of a lot covered by principal and accessory buildings.

Building, Detached - A building which is surrounded by open spaces on all four (4) sides within the same lot.

Building Height - The vertical distance measured from the average elevation of the finished grade at the two front corners of the building to the highest point of the roof. Chimneys, spires, cupolas, antennas, and other similar projections shall not be included in calculating the height of a building.

Building Setback - The minimum distance a building or structure must be set back from a street right-of-way line (except the right-of-way of a service street).

Building Setback Line - The line within a property establishing the minimum required distance between any building or structure or portions thereof to be erected or altered and a street right-of-way (except the right-of-way of a service street). The distance shall be measured at right angles from the street right-of-way line which abuts the property and the building setback line shall be parallel to said right-of-way line.

Building, Semi-Detached - A building which has one (1) wall or portion thereof in common with an adjacent building.

Building, Principal - A building in which is conducted the principal use of the building site on which it is situated. In any residential district, the dwelling shall be deemed to be a principal building.

Carport - An accessory building open on three (3) sides which is attached to the main or accessory building (or a stand alone structure open on all (4) sides) used for parking automobiles.

Cartway - The portion of a street right-of-way, whether paved or unpaved, intended for vehicular use.

Cellar - A story partly below the finished grade, having more than one-half of its height (measured from finished floor to finished ceiling) below the average level of the adjoining finished grade where such grade abuts the exterior walls of the building. A cellar shall not be considered a story in determining the permissible number of stories.

Certificate of Use and Occupancy - A statement, based on an inspection signed by the Zoning Officer, setting forth that a building, structure, sign and/or land complies with the Zoning Ordinance, and that a building, structure, sign, and/or land may be lawfully occupied for a specific use, as provided in this Ordinance.

Child/Adult Day Care - The provision of supplemental care and supervision for a non-related child/children or adult/adults, on a regular basis, for less than 24 hours a day licensed by the agency of the State of Pennsylvania responsible for the issuance of such licenses. As used in this ordinance, the term is not intended to include babysitting services of a casual, nonrecurring nature or in the child/adults' own home. Child/Adult Day Care shall include nursery schools as defined in this section.

Child/Adult Day Care Center - Means a licensed agency that provides for the care of 13 or more children or adults at any given time, for at least six or more than sixteen hours of the 24-hour day. Child/Adult Day Care Center shall include nursery schools as defined in this section.

Child/Adult Mini Day Care Center - A licensed private establishment or portion of a dwelling enrolling four to twelve children or adults at any given time for at least six hours and no more than sixteen hours of the 24-hour day for a prearranged compensation, but not including facilities for which the purpose is primarily educational. Child/Adult Mini Day Care Center shall include nursery schools as defined in this section.

Clear Sight Triangle - An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street centerline.

Club or Lodge - An association of persons for a common non-profit activity, not including groups organized primarily to render a service which is customarily carried on as a business.

Commercial School - A school for the teaching of a trade or skill, carried on as a business.

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

Common Open Space - A parcel or parcels of land or an area of water or a combination of land and water, within the development site designed and intended for use or enjoyment of all residents of the development in which it is located. Land included within the right-of-way lines of streets shall not be classified as common open space. Common open spaces shall not include required open areas between buildings and between buildings and street rights-of-way, driveways, parking areas and property lines of the development. No dwelling unit, residential accessory buildings, or parking areas may be located within common open spaces.

Common Parking Area - A parking facility other than those provided within the lot lines of a lot on which one single family detached dwelling, one single family semi-detached dwelling, one townhouse, one two family detached dwelling, or one two family semi-detached dwelling is located.

Conditional Use - A use which may be permitted by the Borough Council pursuant to the provisions of this Ordinance.

Convenience Store - Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

Corner Lot - A lot abutting two or more intersecting public or private streets, or at the point of abrupt change of direction of a single street (an interior angle of less than 125 degrees). Upon presentation of an application for establishment of a use on a corner lot, the Borough Zoning Officer shall designate which yard abutting a street will be considered the front yard. The yard opposite that yard shall meet the rear yard requirements of the applicable zoning district. Any yard adjoining a street which was not designated the front yard must meet the front yard requirements of the applicable zoning district, and the yard opposite that yard shall meet the side yard requirements of the applicable zoning district. In the case of a building to be placed on a corner lot such that the front of the building will not be parallel to a street line, yards shall be provided no portion of the building will be placed closer to a street than the front yard requirement of the applicable zoning district, so that no portion of the rear of the building will be placed closer to a lot line than the rear yard requirement of the applicable zoning district, and no portion of a side of the building will be placed closer to a lot line than the side yard requirement of the applicable zoning district.

Density - A measure of the number of dwelling units which occupy, or may occupy, an area of land.

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

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

Dwelling - A building or structure or portion thereof arranged, intended, designed or used as the living quarters for one or more families living independently of each other. Such buildings as hospitals, hotels, boarding rooms, lodging houses, nursing homes, motels, and institutional residences are not included in the definition of dwelling.

Mobile Home/Manufactured Housing - A transportable, single family dwelling constructed in accordance with the specifications of the State of Pennsylvania intended for permanent occupancy contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations.

Single Family Detached Dwelling - A building arranged, intended or designed to be occupied exclusively as a residence for one family and having no party wall with an adjacent building.

Single Family Semi-Detached Dwelling - A building arranged, intended or designed to be occupied exclusively as a residence for two families, one family living on each side of a common or party wall.

Townhouse - See (Townhouse)

Two Family Detached Dwelling - A building arranged, intended, or designed to be occupied exclusively as a residence for two families, with one family living wholly or partly over the other and with no common or party wall with an adjacent building.

Two Family Semi-Detached Dwelling - A building arranged, intended or designed to be occupied exclusively as a residence for two families living on one side of a common or party wall and one of the families living wholly or partly over the other.

Dwelling Unit - A building or structure or portion thereof providing one (1) or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, and having no cooking or sanitary facilities in common with any other dwelling unit.

Family -

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



Family Day Care Home - A family home that provides care for three or fewer children/adults at any given time for at least six hours and no more than sixteen hours of the 24-hour day. This does not include informal arrangements that parents make independently with neighbors, friends, or others, or caretakers in the child or adult's own home, nor does it include facilities for which the purpose is primarily educational. Family Day Care Homes shall include nursery schools as defined in this section.

Fence - Any artificially constructed barrier of material or combination of materials erected to enclose, define or screen areas of land.

Flag Lot - A lot of irregular shape that has access not meeting the minimum lot width requirements of this Zoning Ordinance and thus too narrow for the construction of a principal building leading from a street or other right-of-way to a wider portion of the lot which is intended for construction of a principal building the wider portion of the lot must comply with the minimum lot width requirements of this Zoning Ordinance.

Floodplain - A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation in a 100 year flood.

Floor Area - (Gross Floor Area) The sum of the gross horizontal areas of every floor of a building measured to the exterior faces of exterior walls and to the centerline of party walls, including basement space and roofed porches, roofed breezeways, roofed terraces, roofed garages, carports, and accessory buildings. Cellar area is excluded.

Garage, Private - A detached accessory building or a portion of a principal building used only for the storage of automobiles by the families resident upon the premises.

Garage, Public - A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operators for the parking or storage of privately owned vehicles.

Garden Apartment - A multi-family dwelling, not exceeding three (3) stories in height, containing three (3) or more separate dwelling units, which have common hallways and entrances on a lot which is held in single and separate ownership having yards in common, but which may also have other joint facilities and services.

The term "garden apartment" shall not be construed to include row home or town - house.

Governing Body - Borough Council of the Borough of Bernville, Berks County, Pennsylvania

Grade - The level of the ground adjacent to the exterior walls of a building or structure, or adjacent to the base of a storage pile or sign.

Hazardous Waste - Any garbage, refuse, sludge, and other discarded material including solid, liquid, semisolid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or morbidity in either an individual or the total population or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged.

Highway Access Point - A place of egress from or access to a street or highway created by a driveway or another street or highway.

Highway Frontage - The lot dimension measured along the right-of-way line of any one street or highway abutting a lot.

Home Occupation - The accessory use of a residence involving the conducting of an act or profession, the offering of a service, the conduct of a business or the production of handcrafts on a residential site. This use is incidental and secondary to the use of the structure for residential purposes. This shall not include adult book stores or theaters.

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

Impervious - Not easily penetrated by water (i.e. roads, buildings, sidewalks, access drives, loading areas, parking areas, and paved recreation courts).

Improvement - Any type of structure or paved section, excluding driveway, curb, sidewalk, planting strip, or barrier to unchannelled motor vehicle entrance or exit.

Improvement Setback - The minimum distance an improvement must be set back from a street right-of-way line.

Improvement Setback Line - A line parallel to and measured at right angles from a street line. No improvements are permitted between the street line and the improvement setback line.

Indoor Amusement Arcade - An establishment which has as its principal business offering to patrons mechanical or electrical amusement devices or games of varying skill levels such as pinball machines, ping pong, darts, shooting galleries or similar devices and games. Indoor amusement arcade shall not include any establishment or game for which such devices for the purpose of illegal gambling.

Junk Yard - A lot, land, or structure, or parts thereof used for the collection, storage, dismantling, salvage or sale of used and discarded materials, including, but not limited to, waste paper, rags, scrap metal, or other scrap, salvage, or discarded materials, vehicles or machinery. The deposit or storage of two (2) or more unlicensed, wrecked or disabled vehicles shall be deemed to be a "junk yard."

Landscaping - The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, protection against the elements and promotion of human comfort and welfare.

Laundry, Self-Service - A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

Lodging House - A building with not more than six guest rooms where lodging and meals are served for compensation, not including nursing homes or convalescent homes.

Lot - A tract or parcel of land, regardless of size, held in single and/or joint ownership, not necessarily a tract or parcel of land shown on a duly recorded map, which is occupied or capable or being occupied by buildings, structures, and accessory buildings, including such open spaces as are arranged, designed, or required. The term "lot" shall also mean parcel, plot, site, or any similar term.

Lot Coverage - The percentage of a lot covered by principal and accessory buildings.

Lot Line - A line forming the front, rear or side boundary of a lot.

Front Lot Line - The line separating a lot from a street right-of way. The front lot line is also the street line.

Rear Lot Line - The lot line which is opposite the front lot line. The rear line of any triangularly or irregularly shaped lot shall be established such that it will be at least ten feet long.

Lot of Record - A lot or parcel recorded in the office of the Recorder of Deeds of Berks County, Pennsylvania.

Lot Size - The area of a lot, excluding land contained within street right-of-way lines.

Lot Width - The distance between side lot lines, determined by establishing the shortest straight line distance. It shall not be measured along an arc.

Major Home Occupation - A home occupation in which not more than one person, other than the members of the family residing on the premises, is employed on the premises, which has not more than one unilluminated sign not exceeding two square feet in area as visible exterior evidence of conduct of the home occupation, and which accommodates both dwelling and home occupation parking off-street.

Minor Home Occupation - A home occupation in which no persons other than members of the family residing on the premises are engaged in the occupation, which has no visible exterior evidence of the conduct of the occupation, which does not create a need for off-street parking beyond normal dwelling needs, which does not generate additional traffic, and which no equipment is used other than normally used in household, domestic, or general office use.

Medical Center/Clinic - The use of land and/or a building for examination, diagnosis, and treatment of ill or afflicted human outpatients, including office, laboratory and dispensaries for the use of physicians, dentists, technicians and pharmacists.

Microwave Antenna for Satellite Communication - A ground-based reflector, together with its pedestal and any other attachments and parts thereof, used or intended to receive or transmit radio or electromagnetic waves from an overhead satellite or other sources.

Mini-Storage/Self-Storage Warehouse - A structure containing separate storage spaces of equal or varying sizes, leased or rented on an individual basis.

Mobile Home Lot - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

Mobile Home Park - A parcel of land which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more mobile home lots.

Motel - A building or group of buildings containing individual rooms or apartment accommodations primarily for transients, each of which is provided with a separate exterior entrance and a parking space, and offered principally for rental and use by motor vehicle travelers. The term "motel" includes, but is not limited to, auto courts, motor courts, motor inns, motor lodges or roadside hotels.

Municipality - Borough of Bernville, Berks County, Pennsylvania.

Municipal Use - A land use owned and maintained by the Borough or Borough Authority and including such uses as a library, park, playground, sewage treatment plant and administrative or equipment storage building.

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.

Non-Conforming Structure or Building - A structure or building, or part thereof, which does not conform to the applicable provisions or requirements of the district in which it is located, either at the time this Ordinance is enacted or a result of subsequent amendments thereto, which such structure or building lawfully existed prior to the enactment of such Ordinance or amendment. Such non-conforming structures include but are not limited to, conforming signs.

Non-Conforming Use - A use, whether of building, structure, sign, or of land, which does not conform with the applicable provisions or regulations of the district in which it is located, either at the time this Ordinance is enactment or as a result of subsequent amendments thereto, but which did not violate any applicable use regulations prior to the enactment of such Ordinance or amendments. However, no existing use shall be deemed non-conforming solely because of the existence of less than the required off-street parking or off-street loading spaces.

Nursery School - Any place licensed by the Commonwealth of Pennsylvania and which is authorized to provide regular instruction and daytime care for two or more children under the age of elementary school. Nursery schools are subject to the requirements of Child/Adult Day Care.

Nursing Home - Establishment providing nursing, dietary, and other similar personal services to convalescents, invalids, or aged persons, but excluding mental cases, cases of contagious or communicable disease, surgery, or other treatments which are customarily provided in sanitariums and hospitals.

Open Space - Ground upon which no principal or accessory buildings or uses are permitted.

Off Street Parking Space - A space contained within a building or on a lot, used for the parking of a motor vehicle.

Parking Lot - An area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.

Party Wall - A wall used or designed for joint service between two buildings or parts thereof.

Paved Area - The percentage of a lot covered by paving.

Paving - Hard material such as concrete, asphalt, or stone treated to decrease its permeability applied to a lot in order to smooth or firm the surface of the lot.

Permanent Foundation - The term permanent foundation as it relates specifically to mobile homes shall include a "skirt" around the perimeter of the mobile home which shall be of masonry construction upon footers set below the frost line and oriented to the perimeter of the mobile home so as to provide a weather-tight enclosure on all four sides.

Planned Residential Development - A contiguous area of land, under single ownership, to be developed as a single entity for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, building or type of dwelling, density, or lot coverage and required open space to the regulations established in any one residential district, created from time to time, under the provisions of this ordinance.

Premises - A descriptive word to include all improvements, buildings, structures and land on or within a lot.

Principal Building - A building in which a principal use on a lot is carried on.

Principal Use - The main or primary purpose for which any land, structure, or building is designed, arranged, or intended, and for which they may be occupied or maintained under the terms of this Zoning Ordinance.

Professional - Doctor, surgeon, dentist, architect, artist, accountant, insurance agent, real estate broker, teacher, engineer, lawyer, musician, surveyor, landscape architect, land planner.

Public Road - A public thoroughfare, including a street, road, lane, alley, court, or similar terms, which has been dedicated or deeded to the Borough and accepted by it.

Public Hearing - A formal meeting held pursuant to public notice by the Governing Body intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

Public Meeting - A forum held pursuant to notice under the act of July 3, 1986 (P.L. 388, No. 84) known as the "Sunshine Act."

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

Recreational Facility/Non-Vehicular Recreational Facility - Areas and facilities such as parks except amusement parks, playgrounds, picnic grounds, summary clubs/pool, tennis clubs, ball courts/fields, utilizing motorized vehicles, bingo halls, miniature golf course.

Restaurant - A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at table or counters located within the building.

Restaurant, Drive-In - An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

Restaurant, Fast-Food - An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven. Orders are not served at the same table or counter where the items are consumed.

Retail Business - Includes such uses as variety stores, apparel stores, drug stores, grocery stores, eating establishments, antique shops, music shops, sporting good stores, and book, stationery, magazine, candy and tobacco shops.

Right-of-Way - The total width of any land reserved or dedicated as a street, road, lane, alley crosswalk, or for other public or semi-public uses.

Sanitary Sewage Disposal, On-Site - Any structure designed to treat sanitary sewage within the boundaries of any individual lot.

Sanitary Sewage System, Community - A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a temporary central treatment and disposal plant, generally serving a neighborhood area.

Sanitary Sewage System, Public - A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a central treatment and disposal plant.

Screen - Vegetative material, fence, etc. planted or constructed to screen the buildings, structures and uses on the lot on which the screen is located from the view of people on adjoining properties.

Service Street - A minor right-of-way providing secondary vehicular access to the side or rear of two or more properties, which is not the primary means of access to the properties.

Sexual Conduct - Sexual acts, normal or perverted, actual or simulated, involving a person or persons, or person and an animals, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, anilingus or physical contact with a person's nude or particularly denuded genitals, public area, perineum, anal region, or, if such person be female, a breast.

Sexual Device - An artificial human penis, vagina or anus, or other device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, perineum or anal area, including dildos, penisators, vibrators, vibrillators, penis rings and erection enlargement or prolonging creams, jellies or other such chemicals or preparations.

Sexually Explicitly Nudity - the sexually oriented and explicit showing of including but not limited to, close-up views, poses or depictions in such position or manner which present or expose such areas to the following: postpubertal, full or partially developed human female breast with less than a fully opaque covering of any portion thereof below the top of the areola or nipple; the depiction of covered human male genitals in a discernible turgid state; or lewd exhibition of the human genitals, pubic area, perineum, buttocks or anal region, with less than a full opaque covering.

Sight Triangle - An area within which no vision obstructing object is permitted above a height of two and one-half feet and below a height of ten feet.

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

Area of Sign - The area of a sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which is incidental to the display itself. Where the sign consists of individual letters or symbols attached to or painted on a surface, the area shall be considered to be the smallest rectangle which can be drawn to encompass all of the letters and symbols.



Height of Sign - The vertical distance measured from the average grade at the lowest point of the sign to its highest point. A supporting structure shall be used in determining the lowest or highest point of a sign.

Sign, Advertising - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is displayed.

Sign, Business - A sign which directs attention to a business, profession or industry conducted or to products sold, manufactured or assembled upon the same premises on which the sign is located.

Sign Directional - A sign containing directional information locating public places owned or operated by Federal, State, or local governments or their agencies; public or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or which are naturally suited for outdoor recreation.

Sign, Free-Standing - An independently supported sign, not attached to any building.

Site Plan - A plan of a lot, subdivision or land development on which is shown topography, location of all buildings, structures, roads, right-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Borough Council, Planning Commission or Zoning Hearing Board.

Solid Waste - Waste including solid, liquid, semisolid, or contained gaseous materials.

Special Exception - The granting by the Zoning Hearing Board for permission to conduct a use permitted in a particular district, to undertake certain activities, to occupy or use land, buildings or structures for a specific purpose or in a certain manner in accordance with this Ordinance.

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

Street Frontage - The lot dimension measured along the street line or right-of-way line of any one street or highway abutting a lot.

Street Line - The dividing line between a lot and the outside boundary of a public street, road, or highway right-of-way legally open or officially mapped by a municipality or higher governmental authority, between a lot and the outside boundary of a street shown on a recorded subdivision or land development plan, or between a lot and a private street,

road, or way over which the owners or tenants of two or more lots held in single and separate ownership have access.

Story - That portion of a building between the surface of any floor and the surface of the floor next above it or if there be no floor above it, then the space between any floor and the ceiling next above it. A basement, but not a cellar, shall be deemed to be a story. Each level of a split level building, excluding cellars, shall be considered a half (½) story.

Structure - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Subdivision - The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, for lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development. Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new streets or easement of access or any residential dwelling, shall be exempted.

Swimming pool - A pool used for swimming or bathing which has a depth in any part of twenty-four (24) inches or more.

Townhouse - A dwelling arranged, designed and intended for, and occupied exclusive by, one family; said dwelling consisting of a group of not more than six (6) such attached dwellings (including the end unit); each such dwelling separated by unpierced party walls and each dwelling having at least one separate entrance from the outside.

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

Vehicle Body Shop - A building or structure on a lot that is used for the repair or painting of bodies, chassis, wheels, fenders, bumpers and/or accessories of automobiles, trucks and other vehicles for conveyance.

Vehicle Repair Garage - A building or structure on a lot designed and/or used primarily for mechanical and/or body repairs, storage, or servicing to automobiles, trucks and similar vehicles.

Vehicle Service Station - A building or lot or part thereof supplying and selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks and which may include accessory facilities for rendering vehicle services such as lubrication, washing and minor repairs.

Vehicle Wash - A building on a lot, designed and used primarily for the washing and polishing of motor vehicles and which may provide accessory services as set forth herein for Vehicle Service Stations.

Variance - A waiver, granted by the Zoning Hearing Board, from the terms and conditions of this Ordinance where literal enforcement would create unnecessary hardship and when granting of the waiver would not be contrary to the public interest.

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

Water Distribution System, Community - A system for supplying and distributing water from a common source to two (2) or more dwellings and/or other buildings within a single neighborhood or single development.

Water Distribution System, On-Site - A system for supplying and distributing water to a single dwelling or other building from a source located on the same lot.

Water Distribution System, Public - A system for supplying and distributing water from a common source to dwellings and other buildings, but generally not confined to one neighborhood.

Wetland - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

Wind Energy Conservation System - A device which converts wind energy to electrical or mechanical energy.

Wind Rotor - a structure which contains the blades and hub that are used to capture wind for purposes of energy conversion. The wind rotor is usually located on a tower and along with other generating and electrical storage equipment, forms the Wind Energy Conversion System.

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

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

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

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

Zoning District - A portion of the Borough or adjacent municipality(s) within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance (or the adjacent municipality's Zoning Ordinance).

Zoning Hearing Board - Bernville Borough Zoning Hearing Board.

Zoning Map - The Zoning Map of Bernville Borough adopted hereunder, together with all amendments thereto subsequently adopted.

Zoning Officer - Bernville Borough Zoning Officer. The duly constituted municipal official designated to administer and enforce this Ordinance. The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms. The Zoning Officer may be the Building Inspector and serve both offices of the Borough.

Zoning Ordinance - Bernville Borough Zoning Ordinance.

## ARTICLE III

### ZONING DISTRICTS

#### Section 3.00 TYPES OF ZONING DISTRICTS

In order to carry out the objectives of this Zoning Ordinance, the Borough of Bernville has been divided into the following Zoning Districts:

##### Base Districts

- R-1 Low Density Residential District
- T-C Town Center District
- R-2 Suburban Residential District
- C-1 Commercial District
- I-1 Industrial District
- P-R Parks and Recreation

#### Section 3.01 OFFICIAL ZONING MAP

1. The boundaries of the Zoning Districts shall be as shown on the Zoning Map of the Borough. The Zoning Map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance.
2. The Official copy of the Zoning Map shall be so labeled and identified by the signature of the President of the Borough Council, attested by the Secretary of said Council, and bear the seal of the Borough under following words:

"This is to certify that this is the Official Zoning Map of the Borough of Bernville adopted this \_\_\_\_\_ day of \_\_\_\_\_ 1997.

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

Secretary of the Borough, and bear the seal of the Borough under the following words:

"This is to certify that this is the Official Zoning Map of the Borough of Bernville adopted \_\_\_\_\_ 19 \_\_\_\_."

Section 3.02 DISTRICT BOUNDARIES - RULES FOR INTERPRETATION

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Where district boundaries are indicated as approximately coinciding with the center lines of streets, highways, lanes, alleys, or creeks, such center lines shall be construed to be such boundaries.
2. Where district boundaries are indicated as approximately coinciding with lot lines, such lot lines shall be construed to be such boundaries.
3. Where district boundaries are indicated as being approximately parallel to the center or right-of-way lines of streets or highways, lanes, alleys or creeks, such district boundaries shall be construed as being parallel to the center or right-of-way lines as is indicated on the Official Zoning Map. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
4. Where district boundaries are indicated as being approximately perpendicular to the right-of-way lines of streets or highways, such district boundaries shall be construed as being perpendicular to the right-of-way lines.
5. Boundaries indicated as approximately following Borough limits shall be construed as following such limits.
6. Boundaries indicated as extensions of features indicated in Sections 1 through 5 above shall be so construed.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Sections 1 through 6 above, the Zoning Officer shall interpret the district boundaries.

Section 3.03 - Use Adjustment On District Boundaries. In unsubdivided land where a district boundary line divides a lot held in single and separate ownership, the following rules shall apply:

1. The use in a less restricted district may extend over the portion of the lot in the more restricted district, a distance of not more than fifty (50) feet beyond the district boundary line providing such extension does not extend the frontage of the less restricted district along a street.
2. The frontage of the less restricted district may extend over the portion of the lot in the more restricted district, a distance of not more than fifty (50) feet beyond the district line providing a variance is granted by the Zoning Hearing Board.
3. Where a district boundary divides a lot, the permitted use of either district may extend not more than 50 feet into the other district.

Section 3.04 APPLICATION OF DISTRICT REGULATIONS

1. No building, structure, or land shall be used or occupied and no building, structure, or part thereof shall be erected, constructed, assembled, moved, enlarged, reconstructed, removed, or structurally altered without the issuance of a Zoning Permit and Certificate of Use and Occupancy by the Zoning Officer.
2. No part of a yard, common open space, other open space, or off-street parking or loading space required in connection with one structure, building, or use of the land shall be included as part of a yard, common open space, open space, or off-street parking or loading space similarly required for any other structure, building or use of the land, except as permitted or required by this Ordinance or other Borough Ordinance or regulations.
3. No yard or lot existing at the time of passage of this Ordinance which meets the requirements of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. A yard or lot existing at the time of passage of this Ordinance shall not be further reduced below the minimum requirements of this Ordinance.
4. Where district regulations specify a minimum lot width at the street line, the minimum lot width shall be provided contiguous along the street line of one street. It is prohibited, when calculating the width of a lot, to add widths along the street lines of two or more streets. In the case of a corner lot, the minimum lot width must be provided along the street line of one street, but does not have to be provided along the street line of each street on which the lot fronts.
5. Where district regulations specify a minimum lot width at the building setback line, the minimum lot width shall be provided contiguous along the building setback line established from one street. It is prohibited, when calculating the width of a lot, to add widths along the building setback lines established from two or more streets.

In the case of a corner lot, the minimum lot width must be provided along the building setback line established from one street, but does not have to be provided along the building setback line established from each street on which the lot fronts.

6. In the case of a lot of irregular shape in which a portion of the lot abuts a street and a portion not abutting a street abuts the rear yards of lots which have frontage on the same street as does the irregularly shaped lot, on the irregularly shaped lot a building setback line shall be established from the abutting rear yards. As a minimum, the building setback requirement of the applicable zoning district shall be used in establishing such building setback line.

#### Section 3.05 Uses Not Provided For

In any district established by this ordinance, when a specific use is neither permitted nor denied, the Zoning Hearing Board shall make a determination as to the similarity or compatibility of the use in question to the permitted uses in the district. No zoning permit shall be issued by the Zoning Officer for any unspecified use until this determination has been made.



## ARTICLE IV

### RESIDENTIAL DISTRICT REGULATIONS

#### Section 4.00 R-1 LOW DENSITY RESIDENTIAL DISTRICT

##### Section 4.01 SPECIFIC INTENT

It is the purpose of this District to maintain existing residential areas composed predominantly of single family detached dwellings and to allow for their expansion.

##### Section 4.02 USES PERMITTED BY RIGHT

Land and buildings in an R-1 District may be used for the following purposes and no others, unless a Special Exception, as provided for in Section 4.04, is granted:

1. Single family detached dwellings
2. Single family semi-detached dwellings
3. Municipal uses, structures or buildings owned and operated by the municipality or an Authority organized by the Municipality.

##### Section 4.03 PERMITTED ACCESSORY USES

Located on the same lot with the permitted principal use.

1. Private garages or private parking areas;
2. Signs pursuant to Section 6.08.
3. Minor Home Occupations pursuant to Section 6.19.
4. Decks, patio, porch, carports, storage sheds, private swimming pools.
5. Other customary accessory uses, structures or buildings, provided such are clearly incidental to the principal use.

Section 4.04 USES PERMITTED BY SPECIAL EXCEPTION

The following uses are permitted when Special Exceptions are granted by the Zoning Hearing Board:

1. Building used for religious worship, provided that no more than one non-church related activity can occur on the premises at any given time.
2. Park, playground, or similar non-commercial recreation area owned and operated by a public or private non-profit agency.
3. Cemetery
4. Elementary school, middle school, junior high school, or senior high school.
5. Library
6. Major Home Occupation pursuant to Section 6.19.
7. Accessory uses and structures to the above permitted uses when not on the same lot as the permitted use.

Section 4.05 AREA, YARD, AND HEIGHT REGULATIONS

	Public Sewage Disposal and Public Water Supply	Public Sewage Disposal and On- Site Water Supply	Public or On-Site Water Supply and On-Site Sewage Disposal
<hr/>			
<u>Maximum Permitted</u>			
Building Height	30 Feet	30 Feet	30 Feet
Lot Coverage	30 Percent	20 Percent	10 Percent
Paved Area	15 Percent	12 Percent	10 Percent
 <u>Minimum Requirements</u>			
Lot Size	15,000 Sq. Ft.	25,000 Sq. Ft.	43,560 Sq. Ft.
Building Setback	25 Feet	30 Feet	35 Feet
Lot Width			
At Street Line	50 Feet	50 Feet	75 Feet
At Building Setback Line	100 Feet	100 Feet	150 Feet
Rear Yard	40 Feet	40 Feet	50 Feet
Side Yard Total	20 Feet	20 Feet	40 Feet
One Side	10 Feet	10 Feet	20 Feet

Section 4.10 R-2 SUBURBAN RESIDENTIAL DISTRICT

Section 4.11 SPECIFIC INTENT

It is the purpose of this District to provide an area for medium density residential development of single family detached and semi-detached dwellings. In addition, planned residential developments, multiple family dwellings and mobile home parks will be permitted as uses permitted by Special Exception.

Section 4.12 USES PERMITTED BY RIGHT

Land and buildings in an R-2 District may be used for the following purposes and no others, unless a Special Exception, as provided for in Section 4.14, is granted:

1. Single family detached dwelling
2. Single family semi-detached dwelling
3. Public uses, structures or buildings owned by the municipality or an Authority organized by the Municipality.

Section 4.13 PERMITTED ACCESSORY STRUCTURES

Located on the same lot with the permitted principal use.

1. Private garages or private parking areas;
2. Signs pursuant to Section 6.08.
3. Minor Home Occupations pursuant to Section 6.19.
4. Decks, patio, porch, carports, storage sheds, private swimming pools.
5. Other customary accessory uses, structures or buildings, provided such are clearly incidental to the principal use.
6. Accessory uses and structures to the above permitted use when on the same lot as the permitted use.

Section 4.14 USES PERMITTED BY SPECIAL EXCEPTION

1. Planned Residential Development, subject to Section 6.50.

2. Multi-Family Dwelling Units subject to Section 6.80.
3. Mobile home parks subject to Section 6.90.
4. Park, playground, or similar non-commercial recreation area owned and operated by a public or private non-profit agency.
5. Major Home Occupations pursuant to Section 619.
6. Child/Adult Mini Day Care Center.
7. Library.

Section 4.14 AREA, YARD, AND HEIGHT REGULATIONS (Public Sewage Disposal and Public Water Supply Required)

	Single Family Detached Dwelling and Non-Residential Uses	Single Family Semi-Detached Dwellings
<u>Maximum Permitted</u>		
Building Height	30 Feet	30 Feet
Lot Coverage	40 Percent	45 Percent
Paved Area	15 Percent	15 Percent
Lot Size	10,000 Sq. Feet	7,500 Sq. Feet
<u>Minimum Requirements</u>		
Building Setback	25 Feet	25 Feet
Lot Width		
At Street Line	50 Feet	40 Feet
At Building Setback Line	70 Feet	50 Feet
Rear Yard	30 Feet	30 Feet
Side Yard		
Total	16 Feet	
One Side	8 Feet	10 Feet

Section 4.20 T-C TOWN CENTER DISTRICT

Section 4.21 SPECIFIC INTENT

It is the purpose of this district to permit limited units residential, excepting mobile home parks, planned residential developments and apartment houses, in combination with pedestrian, retail, service and office uses.

Section 4.22 USES PERMITTED BY RIGHT

Land and buildings in the T-C District may be used for the following purposes and no others, unless a Special Exception as provided for in Section 4.23 is granted.

1. Building used for religious worship, provided that no more than one non-church related activity can occur on the premises at any given time.
2. Library, art gallery, museum or similar use
3. Retail and wholesale sales of goods such as, but not limited to, antiques, appliances, auto parts, beverages, bicycles, books, clothing, confections, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, machinery, newspapers, notions, office equipment, personal and household supplies, music supplies, photographic supplies, sporting goods, stationery, and tobacco.
4. Business, professional, or governmental office or studio.
5. Banks, savings and loan associations, finance companies, and similar types of businesses.
6. Self Service Laundry Facilities
7. Club or lodge for fraternal or social purposes, provided that all activities shall be conducted within buildings.
8. Funeral home not including crematorium.
9. Restaurants, taverns, and similar types of establishments.
10. Personal and household service establishments such as, but not limited to, barber shops, beauty shops, laundry and dry cleaning shops, tailor and seamstress shops, shoe and appliance repair shops.
11. Bed and breakfast inns.

12. Antique Business
13. Accessory uses and structures to the above permitted uses when not on the same, lot as the permitted use.
14. Municipal uses, structures or buildings owned by the Municipality or an Authority organized by the Municipality.
15. Indoor place of amusement or non-vehicular recreational facility.
16. Single family detached dwelling
17. Single family semi detached dwelling
18. Two family semi detached dwellings

Section 4.23 USES PERMITTED BY SPECIAL EXCEPTION

1. Accessory Apartments
2. Major Home Occupations pursuant to Section 6.19
3. Child/Adult Mini Day Care Center
4. Child/Adult Day Care Center

Section 4.24 PERMITTED ACCESSORY USES

Located on the same lot with the permitted principal uses and approved special exception uses:

1. Private garage or private parking area.
2. Signs pursuant to section 6.08.
3. Minor home occupations pursuant to Section 6.19.
4. Decks, patios, porch, car ports, storage sheds, private swimming pools.
5. Other customary accessory uses and buildings, provided such are clearly incidental to the principal use.

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Section 4.25 AREA, YARD, AND HEIGHT REGULATIONS (Public Sewage Disposal  
and Public Water Supply Required)

	Single Family Detached Dwelling and Non-Residential Uses	Single Family Semi- Detached Dwelling (Per Dwelling Unit)	Two Family Semi- Detached Dwelling
<hr/>			
<u>Maximum Permitted</u>			
Building Height	30 Feet	30 Feet	30 Feet
Paved Area	30 Percent	30 Percent	30 Percent
Lot Coverage	35 Percent	35 Percent	35 Percent
 <u>Minimum Requirements</u>			
Lot Size	3,000 So. Ft.	3,000 Sq. Ft.	4,000 Sq. Ft.
Building Setback	10 Feet	10 Feet	10 Feet
Lot Width			
At Street Line	20 Feet	18 Feet	20 Feet
At Building Setback Line	20 Feet	18 Feet	20 Feet
Rear Yard	20 Feet	20 Feet	20 Feet
Side Yard			
Total	6 Feet		
One Side	3 Feet	3 Feet	4 Feet

Section 5.00 C-1 PLANNED BUSINESS DISTRICT

Section 5.01 SPECIFIC INTENT

It is the purpose of this District to provide an area for commercial development, subject to performance standards in order to avoid adverse impact on nearby residential areas.

Section 5.02 USES PERMITTED BY RIGHT

Land and buildings in a C-1 District may be used for the following purposes and no others, unless a Special Exception, as provided for in Section 5.03 is granted:

1. Retail and wholesale sales of goods such as, but not limited to, antiques, appliances, auto parts, beverages, bicycles, books, clothing, confections, drugs, dry goods, flowers, food, furniture, gifts, hardware, jewelry, liquor, machinery, newspapers, notions, office equipment, paint, personal and household supplies, phonograph records, photographic supplies, sporting goods, stationery, and tobacco.
2. Business, professional, or governmental office or studio.
3. Banks, savings and loan associations, finance companies, and similar types of businesses.
4. Club or lodge for fraternal or social purposes, provided that all activities shall be conducted within buildings.
5. Funeral home.
6. Restaurants, taverns, and similar types of establishments.
7. Personal and household service establishments such as, but not limited to, barber shops, beauty shops, Laundromats, laundry and dry cleaning shops, tailor and seamstress shops, and shoe and appliance repair shops.
8. Offices of plumbers, masons, carpenters, heating contractors, homebuilders, and similar personnel.
9. Commercial School
10. Municipal uses, structures or buildings owned and operated by the municipality or an Authority organized by the Municipality.
11. Fire company or post office

12. Motel
13. Bed and Breakfast Inns
14. Library
15. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.
16. Crematoriums

Section 5.03 USES PERMITTED BY SPECIAL EXCEPTION

The following uses are permitted when Special Exceptions are granted by the Zoning Hearing Board:

1. Vehicle body shop
2. Vehicle wash
3. Vehicle repair garage
4. Nursing homes
5. Vehicle service station
6. Animal hospital
7. Convenience Store
8. Restaurant
9. Restaurant-Drive In
10. Restaurant - Fast Food
11. Medical Center/Clinic
12. Automobile/Trailer Sales
13. Child/Adult Mini Day Care Center
14. Child/Adult Day Care Center

15. Non-Vehicular Recreation Facility, subject to:

- a. Organized recreational activities shall not be conducted on the site between the hours of 11:00 P.M. and 8:00 A.M.
- b. All lighting at the site shall be subject to Section 6.07 of this Ordinance.
- c. The center line of vehicular access points to the site shall be located a minimum of two hundred (200) feet from the intersection of street right-of way lines.
- d. Off-street parking shall be provided in accordance with Section 6.14 of this Ordinance.
- e. The minimum setback of all structures, including bleachers and other facilities, shall be located fifty (50) feet from the property lines.
- f. Adequate sanitary facilities site shall be provided. A minimum, of two (2) water closets and one (1) urinal shall be provided for men and three (3) water closet shall be provided for women.
- g. Along all boundaries of the property, a fifteen (15) feet wide landscaped buffer yard shall be provided. A planting screen shall be provided within the buffer yard and the primary component of the screen shall be two (2) rows, staggered, of evergreen trees at a height of not less than five (5) feet when planted, spaced not more than ten (10) feet apart on-center. Any trees not capable of sustained growth shall be replaced within one year of planting.

## Section 5.04 AREA, YARD, AND HEIGHT REGULATIONS

(Public sewage disposal and public water supply required.)

### Maximum Permitted

Building Height	30 Feet
Lot Coverage	35 Percent
Paved Area	50 Percent

### Minimum Requirements (Public Sewage Disposal and Public Water Supply Required)

Lot Size	10,000 Sq. Ft.
Building Setback	20 Feet
Lot Width	
At Street Line	80 Feet
At Building Setback Line	80 Feet
Rear Yard	20 Feet
Side Yard	
Total	30 Feet
One Side	15 Feet
Area Not Paved or Covered by Buildings	15 Percent
Distance Between Highway Access Points	75 Feet
Improvements Setback	5 Feet

Section 5.10 I-1 INDUSTRIAL DISTRICT

Section 5.11 SPECIFIC INTENT

It is the purpose of this District to permit industrial development provided it will not adversely affect the public health, safety, and general welfare.

Section 5.12 USES PERMITTED BY RIGHT

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

1. Office buildings
2. Printing and publishing activities
3. Research activities
4. Mini self storage facilities
5. Testing, production, packaging, fabrication, processing, assembly, manufacture, compounding, and bottling of foods, goods, and materials, provided that:
  - a. All such activities shall be carried on within a building.
  - b. The following activities shall be prohibited: Iron and steel production, lead production and smelting, zinc production and melting, magnesium smelting, aluminum production, brass and bronze production, petroleum refining, beryllium smelting and processing, asphaltic concrete production, asphalt roofing manufacture, Portland cement production, ammonium nitrate manufacturing, phosphorus acid manufacturing, charcoal manufacturing, paint manufacturing, copper smelting, the manufacture of chlorine, hydrofluoric acid, nitric acid, sulfuric acid, lime, vinyl chloride, polyvinyl chloride and carbon black, by-product coke production, glass fiber processing, and any activities which result in the generation of radioactive, hazardous, or toxic waste.
6. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.

Section 5.13 AREA, YARD, AND HEIGHT REGULATIONS

Maximum Permitted

Building Height	35 Feet
Lot Coverage	35 Percent
Paved Area	50 Percent

Minimum Requirements (Public Sewage Disposal and Public Water Supply Required)

Lot Size	2 Acres
Building Setback	100 Feet
Lot Width	
At Street Line	100 Feet
At Building Setback Line	100 Feet
Rear Yard	100 Feet
Side Yard	
Total	100 Feet
One Side	50 Feet
Area Not Paved or Covered by Buildings	15 Percent
Distance Between Highway Access Points	75 Feet
Improvements	15 Feet

All boundaries must be provided with a twenty (20) feet wide landscaped buffer planted with three (3) staggered rows of evergreen trees at a height of not less than five (5) feet when planted and spaced not more than ten (10) feet apart on center. Any plantings not capable of sustained growth shall be replaced within eight months of planting.

Section 5.30 P-R PARKS AND RECREATION DISTRICT

Section 5.31 Specific Intent

It is the purpose of this District to provide open spaces for park and recreational uses within the Borough.

Section 5.32 Uses Permitted by Right

1. Municipal uses, structures or buildings owned and operated by the Municipality or a Authority organized by the Municipality.
2. Park, playground, picnic grounds or similar non-commercial recreation facility owned and operated by a public or private non-profit agency.
3. Hiking/Biking Trails
4. Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.

Section 5.33 Area, Yard and Height Regulations

Maximum Permitted

Building Height	18 Feet
Lot Coverage	10 Percent
Paved Area	10 Percent

Minimum Requirements (Public Sewage Disposal and Public Water Supply Required)

Lot Size	80,000 Sq. Feet
Building Setback	50 Feet
Lot Width	
at Street Line	250 Feet
at Building Setback Line	250 Feet
Rear Yard	50 Feet
Side Yard	



Total  
One Side

100 Feet  
50 Feet

Area Not Paved or  
Covered by Buildings

80 Percent

Improvements Setback

25 Feet

## ARTICLE VI

### GENERAL REGULATIONS

#### Section 6.00 ACCESS TO STRUCTURES

Every building and structure hereafter erected or moved shall be on a lot adjacent to a public street or a private street approved by the Borough Council, or on a lot for which a legally recorded right of access to a public street or approved private street exists. All buildings shall be located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking. After the effective date of this Ordinance, no lot shall be created unless it abuts a public street or a private street approved by the Borough Council.

When the Borough permits a subdivision to contain a flag lot under the provisions of the Borough Subdivision and Land Development Ordinance, the access strip portion of such flag lot shall have a width sufficient to permit the construction of a street with a right-of-way meeting the requirements of the Subdivision and Land Development Ordinance, the area, yard and height regulations of the applicable zoning district notwithstanding. In the case of a flag lot, the building setback line shall be established in the wider portion of the lot intended for the construction of a building and shall be established from the lot line toward which a building will front.

#### Section 6.01 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that the area, yard, and other requirements of this Ordinance applicable to the District in which the lot is located shall be met for each structure as though it were on an individual lot, unless otherwise specifically provided in this Ordinance. A land development plan shall be required in accordance with the Borough's Subdivision and Land Development Ordinance.

#### Section 6.02 RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES, AND USES

##### 1. General

- a. No accessory building or structure shall be permitted within any required front or side yard and within five (5) feet of the rear lot line unless otherwise provided for by this ordinance. The minimum distance between an accessory building or structure within a rear yard and a side lot line shall be the side yard requirement of the applicable zoning district or eight (8) feet, whichever is less, unless otherwise provided by this ordinance.

In the case of a lot on which a principal building existed prior to the effective date of this Ordinance, an accessory building may be located closer to a side lot line than permitted above, provided that the accessory building is not located closer to the side lot line than the principal building.

- b. The maximum height of any accessory building or structure shall be twenty (20) feet, unless a greater height is permitted elsewhere in this Ordinance.
- c. The minimum distance between any accessory buildings or structures shall be five (5) feet. The minimum distance between any accessory building or structure and a principal building shall be five (5) feet.
- d. No permanent accessory building or structure shall be constructed on any lot prior to the commencement of construction of the principal building to which it is accessory.

2. Use Regulations

- a. Swimming Pool - Permanent swimming pools shall be entirely enclosed with a permanent barrier or fence not less than four(4) feet in height, such fence having no opening with a dimension greater than four (4) inches on a side (or in diameter in the case of round openings). Walls; of buildings or pool walls may serve as part of the fence or barrier. Where such pools are of the type having above ground construction, that portion of the pool wall extending above the ground may be included as part of the barrier or fence. Fences shall have a gate which can be securely locked. Above ground pools shall have a ladder or stairway which can be removed or rendered unusable and the entrance to the pool shall be capable of being securely closed to a height of four (4) feet.

- 1. No pool shall be placed within ten (10) feet of any lot line.
- 2. An approved temporary construction fence shall be erected around the excavation site during the construction on all in ground pools and shall remain in place until the permanent fence is installed.
- 3. Water shall not be placed into as swimming pool until a Certificate of Use and Occupancy has been issued.

- b. Detached Private Garages - The maximum length of any side of the garage serving a single family dwelling shall be thirty-six (36) feet.

- 1. Maximum capacity - three (3) cars.
- 2. Maximum stories (1)

3. No temporary structures shall be permitted.
  4. Detached private garages in rear yards shall be located a minimum of ten (10) feet from any property line.
- c. Other Detached Accessory Buildings (including storage sheds) - Other detached accessory buildings may be located in any required rear or side yard provided:
1. Such building shall not exceed one story or be more than fifteen (15) feet in height.
  2. All such buildings in the aggregate shall not occupy more than thirty (30) percent of the area of the required rear yard where so located.
  3. Such buildings shall not exceed 144 square feet in floor area.
  4. Detached accessory buildings in rear yards shall be located a minimum of five (5) feet from any property line.
  5. There shall be a maximum of two units permitted per lot in addition to garages permitted by section 6.02. ~~X~~ 6
  6. The maximum permitted lot coverage of accessory buildings including sheds, detached private garages, etc. in all zoning districts shall not exceed 25% of the maximum permitted lot coverage.
- d. Tennis Courts shall have permanent fences at least ten (10) feet in height behind each baseline, extending at least the full width of the playing area. Tennis courts are not permitted within any required yard or within 25' of any property line, whichever is greater. The facility shall not be illuminated beyond 11:00 P.M.
- e. Patios, Paved Terraces, and Open Porches shall not be located closer than five (5) feet to any property line, except a property line which is an extension of a party wall, or the applicable yard requirement, whichever is less, and shall not project further than five (5) feet into any required front yard.

Section 6.03 NON-RESIDENTIAL ACCESSORY BUILDINGS, STRUCTURES AND USES  
IN COMMERCIAL AND INDUSTRIAL DISTRICTS

1. General

- a. No building or structure shall be located within any required front or side yard or within ten (10) feet of the rear lot line, five (5) feet in the case of the C-1 District. The minimum distance between an accessory building or structure within a rear yard and a side lot line shall be the side yard requirement of the applicable zoning district or ten (10) feet, whichever is less unless abutting a residential use, then the full rear yard requirements shall be required.

In the case of a lot on which a principal building existed on the effective date of this Ordinance, an accessory building thereto may be located closer to a side lot line than permitted above, provided that the accessory building is not located closer to the side lot line than the principal building is.

- b. The minimum distance between any accessory buildings or structures shall be five (5) feet. The minimum distance between any accessory building or structure and a principal building shall be five (5) feet.
- c. All accessory structures shall conform with height regulations of the principal structures.
- d. Apartment and Townhouse Accessory - Uses shall be restricted to uses designed solely for residents of the apartment and townhouse units. One office per project for the purposes of administering and renting dwelling units may be established. One "sample" apartment or townhouse for display purposes shall be permitted for each type of dwelling unit to be constructed.

2. Use Regulations

- a. Storage Facilities - All such facilities shall be located in areas which have direct access to a street or driveway. The outdoor storage of materials shall be screened from view from adjoining properties and streets, and all storage areas shall be a minimum of fifty (50) feet from any street line.
- b. Living Quarters - Living quarters shall be permitted only for proprietors, watchmen, caretakers, or similar employees, unless otherwise provided in this Ordinance.

Section 6.04 - TEMPORARY STRUCTURES FOR DWELLING PURPOSES

No cabin, mobile home, garage, basement or other temporary structure, whether of a fixed or mobile nature, may hereafter be erected or established for any dwelling purpose for any length of time unless approval for temporary use is granted by the Zoning Hearing Board.

Section 6.05 - WATER SUPPLY AND SEWERAGE FACILITIES REQUIRED

In the interest of protecting the public health, safety and welfare, every building or structure hereafter erected, altered or moved upon any premise and used in whole or in part for residential, commercial or recreational businesses or industrial purposes shall be provided with both a safe and sanitary water supply and a safe and sanitary means of collection and disposal of domestic, commercial and industrial waste. Such facilities shall conform to the minimum requirements set forth by the Pennsylvania Department of Environmental Protection.

Section 6.06 LANDSCAPING

1. Where District Regulations require buffer yards, screening, planting strips and the like, these shall be subject to approval of the Zoning Officer prior to planting. The type and density of planting shall adequately provide the screening effect required year-round.
2. Plant materials used in screen planting shall be at least five (5) feet in height when planted.
3. The screen planting shall be maintained permanently and any planted materials which does not live shall be replaced within one (1) year.

Section 6.07 LIGHTING

When the property on which any activity is conducted is illuminated at night, such illumination shall be so designed and located that the light sources are shielded from adjoining properties and streets. No direct beams of light shall be directed toward adjacent properties or roads. No lighting shall be utilized in such a manner to produce a noxious glare or light intensity greater than five (5) foot candles beyond the lot boundaries.

Section 6.08 SIGNS

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

1. General

- a. Except in the case of school warning signs, traffic control signs, signs giving time and temperature, and similar signs, signs shall not contain moving parts nor use flashing or intermittent illumination and the source of light shall be steady and stationary.
- b. No sign shall be placed in such a position, or have such a source of illumination, that it will cause any danger to pedestrians or vehicular traffic or block the clear sight triangle.
- c. No signs other than school warning signs, official traffic signs, and similar signs shall be erected within the right-of way lines of any street or extend over any street right-of-way.
- d. Every sign shall be kept in good condition. Peeling paint shall be repaired and replaced, broken letters or other parts shall be repaired or replaced, broken lights shall be replaced, and similar maintenance tasks shall be performed when necessary.
- e. No sign shall be utilized in a manner which produces a noxious glare or a light intensity greater than five (5) foot candles beyond the lot boundaries. No direct beams of light shall be directed toward adjacent properties or public roads, and all light sources shall be shielded from adjoining properties and streets.
- f. The distance from the ground to the highest part of any free standing sign shall not exceed ten (10) feet in the R-1, and R-2 Zoning Districts. The distance from the ground to the highest part of any free standing sign in a C-1 or I-1 district shall not exceed the maximum building height permitted in that district. No portion of a sign which is attached to a building, supported by a building or which projects from a building shall extend above the height of the building.
- g. No sign shall be erected or located as to prevent free ingress to or egress from any window, door or fire escape.
- h. No sign which emits smoke, visible vapors or particles, sound or odor shall be permitted.
- i. No portion of any sign shall project over any lot line.

- j. Red, green or amber lights, except those contained within a school warning sign, traffic control sign, or similar sign, shall not be so located that they could create a danger by being construed as traffic lights.
- k. The area immediately surrounding each sign shall be kept in a clean, sanitary and healthful condition. No accumulations of loose paper, bottles, can, garbage or similar items shall be permitted.
- l. Any sign which becomes dilapidated or which creates a hazard to the public health, safety or welfare shall be removed at the expense of the owner or lessee. The Borough Zoning Officer shall make such determination as to state of repair.
- m. No sign shall project more than twelve (12) inches from the building facade to which it is attached, except that signs may project from the front of a building perpendicularly to the front of the building a distance of not more than four (4) feet provided that such signs are entirely located underneath a roof overhang or similar architectural feature, such signs are no more than twelve (12) square feet in area on any one (1) side, and the lowest portion of all sign facings are at least eight (8) feet above the ground.
- n. A sign shall be removed when the use to which it refers is terminated.

2. Signs Permitted in R-1 and R-2 Zoning Districts

- a. Official traffic signs.
- b. Identification signs or bulletin or announcement boards for schools, churches, municipal buildings, or similar uses, provided that:
  - (1) No more than two (2) such signs shall be erected on any frontage of any one (1) property.
  - (2) No side of any such sign, excluding signs consisting of open lettering attached to a building, shall exceed thirty (30) square feet in area. A sign consisting of open lettering attached to a building shall not have a height exceeding ten (10) feet nor an area exceeding ten (10) percent of the building facade to which it is attached.
  - (3) Signs shall only be erected on the property on which the use is conducted.



- (4) No sign shall be located within five (5) feet of a front lot line or a required side yard, except signs attached to buildings.
- c. Sign indicating the name, profession, or activity of the occupant of a dwelling, provided:
  - (1) No side of any such sign shall exceed two (2) square feet in area.
  - (2) No more than one such sign shall be permitted for each permitted use or dwelling on any one (1) street frontage.
- d. Signs advertising the rental or sale of premises, provided that:
  - (1) No side of any such sign shall exceed twelve (12) square feet in area.
  - (2) A sign shall be located on the property to which it refers.
  - (3) No more than one (1) such sign shall be permitted for each street frontage.
  - (4) Such signs shall be removed within seven (7) days after final settlement or renting of the property.
- e. Sign for directing members or visitors to churches, schools, service clubs, and municipal buildings, subject to:
  - (1) No side of any such sign shall exceed two (2) square feet in area.
  - (2) Only one (1) such sign shall be erected prior to each intersection turning movement necessary to reach such facility.
  - (3) A sign shall indicate only the name of the use and the direction to the use.
- f. Temporary signs of contractors, architects, and the like, provided that:
  - (1) Such signs shall be removed promptly upon completion of the work.
  - (2) No side of any such sign shall exceed twelve (12) square feet in area.

- (3) Such signs shall be located on the property on which the work is being done.
  - (4) Such signs shall be no closer than twelve (12) feet to a front or side lot line, except those attached to buildings.
  - (5) No more than one (1) such sign for each contractor or the like shall be placed on any one (1) lot.
- g. Signs advertising a lawful non-conforming use, provided that:
- (1) No side of any such sign shall exceed ten (10) square feet in area.
  - (2) The sign shall be erected only on the premises on which such non-conforming use is located.
  - (3) No more than one (1) such sign shall be erected on any one (1) street frontage.
  - (4) No sign shall be located within five (5) feet of a front lot line or within a required side yard, except signs attached to buildings.
- h. Signs necessary for the identification and protection of public utility facilities, provided that no side of any such sign shall exceed twelve (12) square feet in area.
- i. Signs within a residential subdivision to direct persons to a rental office or sample unit within that subdivision provided that no side of any such sign shall exceed four (4) square feet in area.
- j. Trespassing signs and signs indicating the private nature of premises or controlling hunting activities on the premises. No side of any such sign shall exceed two (2) square feet in area,
- k. Signs advertising the sale or development of a residential subdivision, provided that:
- (1) Such sign shall be located within the subdivision to which it refers.
  - (2) No side of any such sign shall exceed twenty-five (25) square feet in area.
  - (3) Such signs shall be no closer than ten (10) feet to a street right-of-way line.

(4) Such signs shall be removed within seven (7) days after all dwelling units have been initially rented or sold.

(5) No more than one (1) such sign shall be erected on any one (1) street frontage.

l. Identifying signs for the purpose of indicating the name of residential subdivisions, provided that not more than one (1) such sign shall be allowed for each entrance to the subdivision from a public street and no such sign shall exceed fifteen (15) square feet in area.

m. Temporary signs advertising elections and political candidates, fairs, campaigns, and social events of non-commercial organizations, and the like, subject to:

(1) Such signs shall be displayed no more than sixty (60) days prior to the event which they advertise and shall be removed within fourteen (14) days after the conclusion of the event advertised.

(2) The area on one (1) side of any such sign shall not exceed ten (10) square feet.

3. Signs in C-1 and I-1 Districts

Signs may be erected and maintained, provided that:

a. The total area on one (1) side of all signs, excluding signs consisting of open lettering attached to a building, placed on or facing any one (1) street frontage of any one (1) premise shall not exceed one hundred (100) square feet, except in the case of a building housing more than one (1) commercial or industrial use. A sign consisting of open lettering attached to a building shall not have a height exceeding ten (10) feet nor an area exceeding twenty (20) percent of the building facade to which it is attached.

b. The area on any one (1) side of any advertising sign or directional sign shall not exceed twenty-five (25) square feet.

c. Not more than one (1) free standing sign shall be allowed on any one (1) street frontage of any one (1) property.

d. No more than one (1) directional sign shall be allowed on any one (1) street frontage of any one (1) property.

- e. No more than one (1) advertising sign shall be allowed on any one (1) street frontage of any one (1) property.
- f. No more than three (3) separate signs shall face any one (1) street of any one (1) property, except in the case of a building housing more than one (1) commercial or industrial use.
- g. No sign attached to a building facade shall have an area exceeding twenty (20) percent of the area of the building wall to which it is attached.
- h. No portion of a free standing sign shall be located closer than five (5) feet to a front or side lot line, except that if the front or side yard requirements are less than five (5) feet, the signs need be set back only the yard requirement.
- i. In the case of a building housing more than one (1) commercial or industrial use, one (1) permanent identifying sign for the building, the area on one (1) side of which shall not exceed one hundred (100) square feet, may be erected on each street frontage. In addition, for each commercial or industrial use located within that building, one (1) sign, the area of which shall not exceed ten (10) percent of the total area of the wall to which it is attached, may be attached to that portion of the building housing the use. Signs may project perpendicularly from buildings as provided for in Section 606.l(m) of this Ordinance.

4. Signs permitted in the T-C Zoning District

- a. Signs in the T-C district shall conform to section 6.08.1, 6.08.2 and section 6.09.
- b. All advertising signs shall be attached to the facade of the building to which the use of the premises relates.
- c. Advertising signs shall not exceed 10% of the wall area to which they are attached or 10 square feet, whichever is less.
- d. Temporary signs advertising special events such as grand openings, sales, etc. shall not be placed greater than thirty days prior to the event nor be placed for a duration exceeding (60) days. Temporary signs are permitted once each twelve month period regardless of the duration for which the sign is displayed.
- e. Free standing signs are prohibited in the T-C zoning district.

ADDITIONAL SIGN REGULATIONS

- a. Location - Signs may be located in any required yard, except as required by Section 6.08. No sign shall be permitted which are posted, stapled, taped or otherwise attached to public utility poles or trees within a street right-of-way line.
- b. Projection - Signs shall not project into or over any public right-of-way, nor shall signs project more than twelve (12) inches beyond the line of the building facade to which it is attached. Signs are specifically prohibited on sidewalks in all zoning districts.
- c. Height - All signs shall conform to the height regulations of the district in which they are located. Signs shall not be erected upon the roof of a building nor shall any sign extend above the height of a building to which it is attached.
- d. Clearance - For signs erected directly on the ground, a minimum of three (3) feet of clear space shall be provided between the sign and the ground; however, necessary supporting structures may pass through the clear space.
- e. Lighting - Signs may be lighted with non-glaring lights or shielded flood lights provided, however, that no red, green, or amber lights shall be permitted. All lighting shall be further shielded from motorists vision. No lights of intermittent, flashing, or animated types shall be permitted.
- f. Construction - All signs must be kept clean, neatly painted and free from all hazards, constructed of durable material and maintained at all times in such safe condition so as not to be detrimental to the public health and safety.
- g. Non-conforming Signs - Non-conforming signs, if removed, shall be replaced only with conforming signs. Non-conforming signs may be repainted or repaired providing such work does not increase the area of the existing sign.

Section 6.10 CHILD/ADULT DAY CARE

A. Family Day Care Home

A Family Day Care Home shall be permitted by right in all zoning districts permitting residences as a principal use and the T-C zoning district, provided that:

1. Nonresidential employees are prohibited.
2. At least one off-street parking space shall be provided as a drop-off/pick-up area in addition to the required off-street parking areas for principal and/or accessory uses located in the structure.
3. A sign advertising the use of the premises as a family day care home shall not exceed two square feet in size.
4. No structural or decorative alterations shall be permitted that alters the residential character of the residential structure.
5. The family day care home shall be conducted/operated from only the principal structure on the residential parcel.
6. No area for active play or play structures may be located in any required front, side or rear yard setback. All outdoor play areas must be enclosed with a fence at least four (4) feet in height.

B. Child/Adult Mini Day Care Center

A Child/Adult Mini Day Care Center is permitted by Special Exception in the R-2, T-C, and C-1 zoning districts subject to the following conditions:

1. At least one off-street parking space shall be provided as a drop-off/pick-up area in addition to the required off-street parking areas for principal and/or accessory uses located in the structure.
2. A sign advertising the use of the premises as a family day care home shall not exceed two square feet in size.
3. No structural or decorative alterations shall be permitted that alters the residential character of the residential structure.
4. The family day care home shall be conducted/operated from only the principal structure on residential parcels.

5. State licensing requirements and the Pennsylvania Department of Labor and Industry requirements must be met.
6. No areas for active play or play structures may be located within ten (10) feet of any front, side or rear yard property line.
7. A minimum of one off-street parking space shall be provide for each paid or non-paid employee of the Child/Adult Mini Day Care Center.
8. No areas for active play or play structures may be located in any required front, side or rear yard setback. All outdoor play areas must be enclosed with a fence of at least four (4) feet in height.
9. Conditions of section 11.04 shall be met.

C. Child/Adult Day Care Center

Child/Adult Day Care Centers are permitted in the T-C and C-1 zoning districts by Special Exception. The following minimum conditions must be met in addition to conditions of Section 11.04.

1. An on-site vehicle turn around, or separate entrance and exit points, and passenger loading area must be provided.
2. Signs, if any, must conform to the requirements of the applicable zoning district.
3. State licensing requirements and the Pennsylvania Department of Labor and Industry requirements must be met.
4. No structured areas for active play or play structures may be located in any required front, side or rear yard setback. All outdoor play areas must be enclosed with a fences at least four (4) feet in height.
5. A minimum of one off-street parking space shall be provided for each paid or non-paid employee of the Child/Adult Day Care Center.
6. A child/adult mini day care center or a child/adult day care center shall not be located within five hundred (500) feet of another child/adult mini day care center or a child/adult day care center excluding any day care center that is an accessory use in a community facility.

#### Section 6.11 GARAGE/YARD SALES

Garage/yard Sales are permitted in any zoning district permitting a residence or a non-conforming residence provided they meet the following standards:

1. Sales last no longer than three consecutive days.
2. Sales are held no more than four times per year.
3. No consignment goods may be offered for sale.
4. Sales must be conducted on the owner's property. In cases of multiple family yard sales the property owner must be one of the participants.
5. Directional and advertising signs shall not exceed six square feet.
6. All directional and free standing signs shall be removed within 36 hours from the start time of the sale.

#### Section 6.12 HIGHWAY FRONTAGE DEVELOPMENT FOR NON-RESIDENTIAL USES

1. All areas for off-street parking, off-street unloading and loading, and the storage or movement of motor vehicles shall be physically separated from public streets or highways by a raised curb, planting strip, or other suitable barrier against unchannelled motor vehicle entrance or exit, except for necessary access ways or access roads which supply entrance to and egress from such parking, loading or storage areas.

Along Arterial Highways and Major Collectors, as classified in the Borough Comprehensive Plan, each use with less than one hundred (100) feet of frontage on a public street shall have not more than one (1) access way to each such street.

2. In no case shall a use with less than one hundred (100) feet of frontage on a public street have more than two (2) access ways to each such street. On public street other than arterial and major collector highways no use with one hundred (100) feet or more frontage shall have more than two (2) access ways to any one (1) street for each three hundred (300) feet of frontage.



3. The width, excluding radii, of entrances to and exits from parking areas, measured at the street line, shall conform to the following schedule:

	<u>Width in Feet</u>	
	<u>Minimum</u>	<u>Maximum</u>
One Way	12	12
Two Way	24	36

Each lane shall be a minimum of twelve (12) feet in width.

The radius of the edge of the driveway apron shall be at least fifteen (15) feet and no more than thirty-five (35) feet.

Provided that along State Legislative Routes, if these standards are in conflict with Pennsylvania Department of Transportation requirements, driveways shall be designed to conform as closely as possible to the requirements of this Ordinance, while conforming to the requirements of the Pennsylvania Department of Transportation.

4. The location and width of exit and entrance driveways shall be planned to interfere as little as possible with the flow of vehicular traffic on adjacent streets. Access driveways shall not be located in such a manner that will cause a hazard to the movement of normal highway traffic or cause areas of undue traffic congestion on the highway. The center line of an access driveway to any public street shall be located at least eighty (80) feet from the intersection of any street cartway lines when lot size permits, except in the case of a street intersecting the road which the driveway intersects directly opposite from the driveway.

#### Section 6.13 SERVICE, LOADING AND TRASH DISPOSAL AREAS

1. Loading Areas

- a. Paved off-street loading and unloading spaces, with proper access from a street, driveway, or alley, shall be provided on any lot on which a building for trade, business, industry, or warehousing, or other use similarly involving large volume receipt of or distribution of materials or merchandise by motor vehicle is hereafter erected or expanded. All such areas for the loading and unloading of vehicles and for the servicing of establishments by refuse collection, fuel and other service vehicles, shall be of such size, design and arrangement that they may be used without

blocking or otherwise interfering with the use of automobile access ways, parking facilities and pedestrian ways. Loading areas shall not be located within the, rear or side lot line.

- b. The number and size of loading spaces provided shall be appropriate for the use to be conducted on the premises and sufficient to accommodate all vehicles serving the use. At least one (1) loading space shall be provided for each use. When a zoning permit is applied for, the application for the permit shall show all provisions for off-street loading and include supporting data (data on number, frequency and size of vehicles which will use the loading facilities) which justify the number and size of spaces provided. Number and size of spaces required shall be determined by the Borough Zoning Officer.

2. Service and Trash Disposal Areas

- A. All service and trash disposal areas shall be screened from all residential districts, public streets, parking lots and pedestrian walkways.
- B. These areas shall be totally screened from the above listed places by the use of fences, walls, berms, evergreen plant material, or a combination of these, not less than six (6) feet in height.

Section 6.14 OFF-STREET PARKING

- 1. In all zoning districts, off-street parking facilities shall be provided whenever:
  - a. A building is constructed or a new use established.
  - b. The use of an existing building or a lot is changed to a use requiring more parking facilities.
  - c. An existing building or use is altered so as to increase the amount of parking spaces required.
- 2. Each parking space shall have a minimum area of two hundred (200) square feet and minimum dimensions of ten (10) feet by twenty (20) feet. In addition, appropriate driveways, aisles, and maneuvering space shall be provided as necessary to permit safe and convenient access to and use of the area provided for parking purposes. Proper access from a street, alley, or driveway shall be provided.

When parking spaces are provided parallel to a driveway or aisle, the minimum dimensions of the spaces shall be ten (10) feet by twenty-two (22) feet.

3. Parking spaces for residential uses shall be located on the same lot as the use served and shall be located behind the street right-of-way line. Parking spaces for other uses shall be provided for on the same lot as the use being served or in parking facilities within three hundred (300) feet of the use, except in the case of a shopping center or similar grouping of buildings on a lot, in which case all parking areas shall be provided within the lot boundaries.
4. Joint parking facilities for two (2) or more uses may be established, provided that the number of spaces provided is not less than the sum of 1.5 the spaces required for each individual use.
5. All parking spaces and means of access, other than those relating to a dwelling, shall be illuminated during night hours of use. The illumination shall be designed and located so that the light sources are shielded from adjoining properties and public and private streets. The illumination shall not produce a glare noxious at or beyond the boundaries of the parking area.
6. All common parking areas and access drives shall be paved, shall be graded to provide convenient vehicular access and proper drainage and shall be maintained in usable condition. The maximum grade of areas used for parking shall not exceed six (6) percent, and the maximum grade of access drives shall not exceed ten (10) percent. Surface water shall not be concentrated onto public sidewalks or other premises.
7. No areas necessary to fulfill the off-street parking requirements of this Ordinance shall be used for the sales, dead-storage, repair, dismantling, or servicing of vehicles.
8. Off-street parking facilities existing at the effective date of this Zoning Ordinance shall not be subsequently reduced to an amount less than that required under this Ordinance for a similar new building or use.

9. The width of aisles in parking areas shall be no less than listed in the following table:

<u>Angle of Parking</u>	<u>Aisle Width</u>	
	<u>One-Way</u>	<u>Two-Way</u>
90°	20'	24'
60°	18'	24'
45°	15'	24'
30°	12'	24'

10. When the required number of parking spaces is computed and a fraction of a parking space results, any fraction below one-fourth (1/4) may be disregarded and any fraction over one-fourth (1/4) shall necessitate the provision of a full parking space.
11. Parking areas for non-residential uses shall be designed such that vehicles will not back out onto public streets.
12. The design of parking areas shall be such to prevent to the greatest extent possible the back-up of vehicles on a public street at entrance to parking areas.
13. Where parking requirements are determined by the number of seats and no permanent seats are provided, only temporary seats, the number of parking spaces to be provided shall be based upon the capacity for temporary seats in normal usage.
14. Parking areas shall be arranged so that no portion of any vehicle parked within a designated parking space can extend over any property line of the lot on which it is parked.
15. Parking areas for non-residential uses which are designed to contain more than four (4) vehicles shall be screened from the view of persons on any land zoned R-1 and R-2 which is adjacent to the land on which the non-residential parking area is located, and shall be located a minimum of ten (10) feet from any land so zoned.
16. Parking areas for non-residential uses shall be located a minimum of four (4) feet from the street right-of-way line, and the area between the parking area and the street right-of-way line shall be landscaped. Such parking areas shall be located a

minimum of five (5) feet from any side or rear lot line and the area between the parking area and side or rear lot line shall be landscaped.

17. The number of off-street parking spaces to be provided for each use shall be sufficient to accommodate all employee, visitor, and customer parking. Minimum off-street parking requirements shall be as follows:

- |    |   |   |
|----|---|---|
| a. | Residential Uses  | Two (2) parking spaces per dwelling unit. In the case of apartment buildings which will contain only dwelling units for the elderly, one (1) parking space per dwelling unit is required. |
| b. | Industrial, Wholesaling, or Warehousing Establishment               | One (1) space per employee on the shift of greatest employment.   |
| c. | Restaurant, Tavern, or Similar Establishment                        | One (1) space for each four (4) seats plus one (1) space for each employee on shift of greatest employment.   |
| d. | Retail and Service Establishments                                   | One (1) space for each two hundred fifty (250) square feet of gross floor area.   |
| e. | Office Buildings  | One (1) space for each two hundred fifty (250) square feet of gross floor area.   |
| f. | Hotel, Tourist, Home Bed and Breakfast Inn or Similar Establishment | One (1) space for each rental or unit plus one (1) space for each employee on the shift of greatest employment.   |
| g. | Medical, Dental and Paramedical Offices and clinics                 | One (1) space per employee plus four (4) spaces for each person engaged in practice.  |
| h. | Nursing Home or Convalescent Home                                   | One (1) space per employee on the largest shift plus one (1) space for each four (4) beds.  |
| i. | Bowling Alley   | Five (5) spaces per alley.  |
| j. | Funeral Home  | One (1) space for each four (4) seats.  |

k.	Auditorium, Theater, Municipal Building, Place of Worship, Club or Lodge or Other Place of Public Assemblage	One (1) space for each four (4) seats
l.	Library or Museum	One (1) space per three hundred (300) square feet of gross floor area.
m.	Nursery Schools and Day Care Centers	One (1) space per employee plus one (1)space for loading and unloading of children for each five (5) children accommodated in the school.
n.	Elementary and Junior High Schools	One (1) space per employee plus one (1)space per two (2) classrooms or offices.
o.	High Schools	One (1) space per employee plus two (2) spaces per classroom.
p.	Commercial School	One (1) space per employee plus one (1) space per three (3) students to be accommodated at any one (1) time.
q.	Skating Rink, Swimming Pool, Dance Hall, Indoor Recreational Establishment	One (1) space per fifty (50) square feet devoted to patron use.
r.	Motor Vehicle Service Station or Repair Garage	Two (2) parking spaces per service bay, plus one (1) space per employee on the shift of greatest employment.
s.	Indoor/Outdoor Recreational Facility (5) people of total capacity.	One (1) space per employee on the largest shift plus one (1) space per five
t.	Shopping Center	Five (5) spaces per one thousand (1,000)square feet of gross leasable area.

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

Section 6.15 ADDITIONAL PARKING REGULATIONS FOR COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

1. No parking lot shall be located closer to a building than five (5) feet to allow adequate room for landscaping.
2. No more than twenty-five (25) parking spaces shall be placed in a continuous row without an intervening planting island of at least ten (10) feet in width and the length of a parking stall.
3. A minimum of ten (10) percent of any parking lot facility over 2,000 square feet in gross area (measured from the outside edge of paving to outside edge of paving) shall be devoted to landscaping. This landscaping shall include a minimum of one tree per twenty (20) parking spaces and all planting beds within a parking lot shall be surfaced in lawn or ground cover planting.
4. For any land use where the total number of parking spaces exceeds 100 stalls, the parking area shall be divided by continuous islands perpendicular to the spaces every 120' feet (130 feet assumes four (4) rows of parking at 20' length and two (2) aisles at 25' width). These divider islands shall be a minimum of ten (10) feet wide.
5. Whenever a parking area of over five (5) spaces abuts or is within fifteen (15) feet of the side or rear lot line of a lot in any Residential District, the said parking lot shall be screened from such adjoining lot by a substantial, wall, fence or thick hedge, approved by the Zoning Officer. Such screening shall be not less than three (3) nor more than eight (8) feet in height.
6. Whenever a parking area of over five (5) spaces is located across is separated from other land in an Residential District by an existing public right-of-way, it shall be screened from the view of such land by a thick hedge, wall, or fence approved by the Zoning Officer, located along a line drawn parallel to the street and a distance of twenty (20) feet therefrom. Such screening to be interrupted only at points of ingress and egress and adequate clear sight distances shall be maintained. Such screening shall be not less than three (3) feet nor more than eight (8) feet in height. The open area between such screening and the street shall be landscaped in harmony

with the landscaping prevailing on neighboring properties fronting on the same street.

Section 6.16 CONDITIONAL REDUCTION OF PARKING REQUIREMENTS

- a. Under the Conditional Use Procedures established in Section 8.11 of this Ordinance, the Borough Council may permit a conditional reduction of the number of parking spaces required by this Ordinance, in individual cases, if they believe that the meeting the conditions of this Ordinance could result in more spaces than are actually needed subject to the following:
  - (1) The design for the parcel of land in question shall show parking areas which provide the total number of parking spaces required by this Ordinance and meet all requirements of this Ordinance. Those portions of parking areas proposed for initial construction shall be designated, and their location is subject to the approval of the Borough Council.
  - (2) Those portions of the parking areas which will not be initially constructed shall be reserved for possible future construction of parking spaces.
  - (3) The landowner shall enter into a written agreement, satisfactory to the Borough Council, that within eighteen (18) months after the issuance of the last Certificate of Use and Occupancy on the tract the parking spaces not initially constructed shall be constructed at the landowner's expense should the Borough Council determine, that the total number of parking spaces required by this Ordinance are necessary to adequately serve the uses on the lot. The landowner shall further enter into a written agreement to pay any costs incurred by the Borough in the undertaking of any studies to determine the adequacy of parking facilities. If required by the Borough, the landowner shall post a guarantee, satisfactory to the Borough, to cover the cost of additional parking facilities which could be required by the Borough and the cost of any studies undertaken by the Borough.
  - (4) In the T-C Town Center district for properties along Main Street, Borough Council may reduce the number of parking spaces without requiring any parking area to be reserved for future construction of parking spaces as otherwise required by Subsection a.2 and without the execution of any written agreement as otherwise required by Subsection a.3.

Section 6.17 DRIVEWAYS

1. Driveway entrances or exits onto a street from a corner lot located in any Residential Zoning District or lot used for residential purposes shall be located at



least forty (40) feet from the intersection of any street right-of-way lines, and a distance of (75) feet for commercial and industrial uses. Driveways for mixed residential and commercial structures shall be located at least 75 feet from the intersection for any intersecting street right of way lines.

2. In order to provide a safe and convenient means of access, grades on driveways shall not exceed ten (10) percent. Entrances shall be rounded at a minimum radius of five (5) feet, or have a flare construction that is equivalent to this radius at the point of intersection with the cartway (curb line). Residential driveways shall be a minimum width of eight (8) feet and a maximum width of twenty-four (24) feet.
3. A driveway serving a single family dwelling shall not be located within five (5) feet of any side lot line. The five (5) foot area shall be maintained with turf, shrubs, etc. and shall not be used for vehicular access. Clear sight distances at intersections of driveways and streets must be maintained.
4. A driveway serving a non-residential use shall not be located within ten (10) feet of any rear or side lot line.
5. A driveway shall not be constructed in such a manner so as to create a drainage or sedimentation problem on the intersecting street or adjacent properties.
6. Two-way driveway entrances shall not intersect streets at angles of less than 60 degrees nor more than 120 degrees.
7. Driveways entering public rights-of-way shall meet the Standards for Driveways established in Title 67 PA Code Chapter 441. Where there is a conflict with the standards of this Ordinance, 67 PA Code Chapter 441, shall govern.
8. The following shall apply to non-residential driveways:
  - a. Along arterial highways and collector streets, each use with less than one hundred (100) feet of frontage on a public street shall have not more than one (1) accessway to each such street.
  - b. In no case shall a use with less than one hundred (100) feet of frontage on a public street have more than two (2) accessways to each such street. On public streets other than arterial and major collector highways no use with one hundred (100) feet or more frontage shall have more than two (2) accessways to any one (1) street for each five hundred (500) feet of frontage.

The minimum distance between centerlines of driveways on the same lot shall be one hundred (100) feet.

- c. The width, excluding radii, of driveways shall conform to the following schedule:

	<u>Width in Feet</u>	
	<u>Minimum</u>	<u>Maximum</u>
One-Way	12	24
Two-Way	24	36

Each lane provided shall be a minimum of twelve (12) feet in width.

The radius of the edge of the driveway apron shall be at least fifteen (15) feet and not more than thirty-five (35) feet.

9. In all cases, where there is an existing curb and gutter or sidewalk on the street, the applicant for a permit shall provide a safety island along the entire frontage of the property except for the permitted access drives. On the two ends and street side of each island, there shall be a concrete curb - the height, location and structural specifications of which shall be in accordance with the design requirements to the Bernville Borough Subdivision and Land Development Ordinance.
10. No driveway shall be constructed in such a manner so as to create a drainage or sedimentation problem on an adjacent property or street.
11. Driveways shall be so constructed and maintained that the materials of which the driveways are made will not wash or be deposited upon public roads.

#### Section 6.18 STORAGE OF VEHICLES

1. Automotive vehicles or vehicular dwellings of any type without current license plates shall not be parked or stored in an R-1, R-2, or T-C, district other than in completely enclosed buildings.
2. No tractor or trailer, other than a vehicle used in conjunction with a lawful conforming or non-conforming use, shall be stored within an R-1 or R-2 Zoning District unless it is stored within a completely enclosed building.
3. In the case of dwellings with lawful home occupations, no commercial vehicle may be visible from adjacent properties, a street or public right-of-way.

Section 6.19 HOME OCCUPATIONS REGULATIONS

1. Standards for Minor Home Occupations
  - a. The sale of products or goods on the premises is prohibited (Exceptions garage/yard sales).
  - b. Only residents residing on the premises may conduct the home occupation.
  - c. No more than two home occupations shall be permitted within any dwelling unit or residential structure.
  - d. There shall be no exterior or interior storage of bulk materials used in conjunction with the home occupation.
  - e. There shall be no home deliveries to or from a home occupation with a vehicle larger than a three-quarter ton pick-up truck other than deliveries by vehicles normally associated with UPS, Federal Express, etc.
  - f. No commercially licensed vehicle shall be utilized in the minor home occupation.
  - g. The area used for the home occupation shall not exceed twenty percent of the first floor gross floor area.
  - h. There shall be no outside advertising of the minor home occupation.
2. The following minor home occupations are permitted by right in all zoning districts permitting a residence or established non-conforming residential structures.
  - a. Painting, sculpting or writing
  - b. Typing, secretarial services
  - c. Off-premise appliance repair
  - d. Babysitting
  - e. Data processing, computer programming
  - f. Sewing, tailoring

- h. Home crafts such as model making, rug weaving, lapidary work (including ceramics with kiln up to six cubic feet)
  - i. Telecommunication Services
  - j. Tutoring
3. Standards for a Major Home Occupation:
- a. No more than one home occupation shall be permitted within any dwelling unit or residential structure.
  - b. There shall be no exterior storage of bulk materials used in conjunction with the home occupation.
  - c. There shall be no home deliveries to or from a home occupation with a vehicle body size greater than twelve feet.
  - d. The area used for the home occupation shall not exceed twenty five percent of the first floor gross floor area.
  - e. In no case shall the home occupation be open to the public at times earlier than 8:00 a.m. nor later than 10:00 p.m.
  - f. No materials which decompose by detonation such as plastic explosives, bulk storage of gun powder, dynamite etc. shall be permitted in conjunction with the home occupation.
  - g. No display of products related to the home occupation shall be visible from adjoining properties, streets or public right of ways.
  - h. There shall be no outside advertising other than one (1) one-sided or two-sided sign of no more than two (2) square feet in area on each side.
  - i. Not more than one (1) persons, whether paid or unpaid, may be employed by the practitioner of the occupation to provide secretarial, clerical or other similar assistance.
  - j. Noise, odor, dust, vibration, electromagnetic interference, smoke, heat or glare resulting from the home occupation shall not be perceptible at or beyond the lot boundaries.
  - k. Any need for parking generated by the home occupation shall be met by off-street parking on the lot on which the home occupation is carried out.

In the case of dental, medical or paramedical offices, four (4) off street parking spaces shall be provided for each person engaged in practice.

Section 6.20 FRONT YARD EXCEPTIONS

When an unimproved lot is situated between two (2) improved lots with front yard dimensions less than those required for the zoning district in which the unimproved lot is located, the front yard required for the unimproved lot may be reduced to a depth equal to the greater of the two (2) adjoining lots; provided, however, that this provision shall only apply in such cases where the improved lots in question are improved as of the time of the adoption of this Ordinance and the improvements are located within one hundred (100) feet of the unimproved lot. For the purpose of this section, an unimproved lot shall be the same as a vacant lot and an improved lot shall be one on which a principal building is erected.

Section 6.21 FENCES, WALLS AND HEDGES

1. Except as otherwise provided in this Ordinance, fences, walls, and hedges may be placed within front, rear, and side yards, provided that no fence, wall or hedge shall be erected or planted within the right-of-way lines of any street, nor shall they encroach upon any street right-of-way at any time.
2. Fences, walls and hedges shall comply with the requirements of Section 622 of this Ordinance.
3. Fences, walls and hedges in Residential Zoning Districts and on lots used for Residential purposes shall not be over forty-eight (48) inches in height in a required front yard.
4. The maximum fence height in residential zoning districts shall not exceed six (6) feet with the exception of the front yard fence height restriction. The maximum fence height in commercial and industrial zoning districts shall not exceed nine (9) feet including the height of any barbed security wire.
5. Solid fences of wood or other material exceeding four feet in height are not permitted. Portions of fences exceeding four feet in height shall be constructed of either wooden horizontal rail type, cyclone metal link type or picket type; provided that said fence types contain an open area of not less than fifty (50) percent.
6. Fences for animal enclosures or animal shelters must be setback a minimum of four (4) feet from all side and rear yard property lines. No animal enclosures shall be permitted in front yards.

Section 6.22 CORNER LOT RESTRICTIONS

1. On every corner lot, a yard equal in depth to the front yard requirement of the zoning district in which the corner lot is located, shall be provided on each side of the lot which is adjacent to a street.
2. Clear sight triangles shall be provided at all street intersections and intersections of driveways with streets. Within such triangles, nothing, except street signs, traffic lights or signs, utility poles, and mail boxes, which impede vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, planted or allowed to grow. Such clear sight triangles shall be established from a distance of seventy-five (75) feet from the point of intersection of the center lines of the intersecting streets. At driveway intersections with streets, a clear sight triangle shall be established for a distance of ten (10) feet at each side of the point of intersection of cartway lines.

Section 6.23 PROJECTIONS INTO YARDS

1. The following projections shall be permitted into required yards and shall not be considered in the determination of yard size or lot coverage:
  - a. Terraces, patios, or open porches, provided that such terraces, patios, or open porches are not roofed or otherwise enclosed and are not closer than six (6) feet or the yard requirement, whichever is less, to any lot line (except a lot line which is the projection of a party wall).
  - b. Open balconies or fire escapes and projecting architectural features, such as bay windows, cornices, eaves, roof overhangs, chimneys, and window sills, provided that all such features shall project no more than three (3) feet into any required yard, and shall not be located closer than six (6) feet or the yard requirement, whichever is less, to any lot line (except lot lines which are the projection of party walls).
  - c. Covered porches may project into required front or rear yards not more than a total of ten (10) feet.
  - d. Lamp posts, walkways, driveways, and retaining walls may project into any required front yard.
  - e. Uncovered stairs and landings, provided such stairs or landings do not exceed three (3) feet six (6) inches in height, do not project more than four (4) feet into any required yard, and are not located closer than six (6) feet

or the yard requirement, whichever is less, to any lot line (except lot lines which are the projection of party walls).

Section 6.24 ACCESSORY BUILDING SETBACK EXCEPTIONS

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

Section 6.25 HEIGHT EXCEPTIONS

The building height limitations contained within this Ordinance shall not apply to chimneys, spires, cupolas, antennas and other similar appurtenances usually required to be placed above the roof level, provided they are not intended for human occupancy.

Section 6.26 SOLAR ENERGY SYSTEMS

1. The use of solar energy systems, including solar collectors, storage facilities, and distribution components, for space heating and cooling and water heating is a permitted use in all zoning districts.
2. Solar energy collectors and equipment used for the mounting or operation of such collectors are exempt from the height limitations stated in the Zoning Ordinance.
3. Apparatus necessary for the operation of solar energy systems, such as overhangs, moveable insulating walls and roofs, and reflectors may project up to six (6) feet into required yards provided that they are not located closer than six (6) feet or the yard requirement, whichever is less, to any lot line.
4. Detached solar collectors used solely for such purpose shall be considered permissible accessory structures in all zoning districts, but shall not be included in computing lot coverage.

Section 6.27 SOLAR ACCESS

1. To obtain solar access protection, the owner of a solar collector shall file a statement with the Zoning Officer that a solar energy system has been installed. At the time of filing of this statement he shall also document that he has located his solar collector on his property to obtain maximum protection from future lawful buildings or structures on adjoining properties and indicate the land and airspace which must remain open to assure solar access to his collector during the time periods specified in Section 627.2.

2. After the effective date of this Ordinance, no one shall erect a building or other structure or plant a tree, shrub, or other flora so as to block a solar collector's access to solar energy between the hours of 8:30 A.M. to 3:20 P.M., provided that this provision shall not be used to prevent a property owner from erecting a principal building permitted by this Ordinance at locations otherwise permitted by this Ordinance. The solar collector shall be one which is actually used as part of a functioning solar energy system. This provision shall not be used to prevent a property owner from erecting an accessory building permitted by this Ordinance at locations otherwise permitted by this Ordinance, except that along a north lot line which abuts a lot on which a solar collector is located, if an accessory building greater than ten (10) feet in height would block solar access to a collector during the hours specified above, the accessory building shall be located one (1) foot further from the lot line than the minimum accessory use setback established in the applicable zoning district for each one (1) foot in height in excess of ten (10) feet, to a maximum setback equal to the minimum principal use setback.

#### Section 6.28 SOLAR ENERGY USE DISTRICTS

Within R-1, R-2 and T-C Zoning Districts, the Borough Council may permit as a Conditional Use, Solar Energy Use Districts. The following requirements are applicable to such Solar Energy Use Districts:

1. The Solar Energy Use District (S.E.U.D.) shall apply only to the land holdings of the applicant requesting such district to be applicable to his property. The Borough Council may limit the portion of a landowner's property which can comprise a S.E.U.D.
2. Uses permitted within the S.E.U.D. are limited to those dwellings and accessory buildings and uses permitted by the underlying zoning district. The minimum number of dwelling units to be located within the SEUD shall be four.
3. All dwelling units within the S.E.U.D. shall utilize solar energy systems.
4. All dwelling units and detached collectors and accessory buildings to be constructed within the S.E.U.D. shall be located in accordance with an overall plan approved by the Borough Council.
5. No structure within a S.E.U.D. shall be located closer to a lot line of an adjoining property outside the S.E.U.D. than is permitted by the other provisions of this Ordinance.
6. Minimum lot sizes, maximum densities, and maximum lot coverages are subject to those provisions required by each zoning district in which the improvements are to



be constructed, and maximum building heights within the S.E.U.D. shall be those applicable to the underlying zoning districts.

7. When necessary to facilitate the utilization of solar energy systems and ensure solar access, the Borough Council may permit variation from the lot width, lot depth, and front, side, and rear yard requirements of the applicable zoning district. The following guidelines shall be used by the Council when reviewing requests for such variation:
  - a. Generally, reductions in lot width are most effective for lots fronting on streets with an east-west orientation.
  - b. A minimum setback of twenty (20) feet from streets shall be maintained.
  - c. Zero north yard setbacks may be permitted in order to allow the siting of structures on the northern portions of lots to provide adequate solar access for solar energy collectors. Generally, the lot adjacent to the south yard shall also be planned with a zero north yard setback when a zero north yard setback is permitted.
  - d. Generally, uniform building setbacks are optimal for solar access protection, particularly south building wall setbacks.
8. The applicant shall demonstrate that the overall building plan for the S.E.U.D. will ensure adequate solar access to all dwelling units. In addition, he shall indicate what restrictions will apply to the land within the S.E.U.D., in the future, to ensure continued adequate solar access to all dwelling units. If solar access easements from adjoining property owners are to be secured, copies of those easements shall be submitted to the Borough.

#### Section 6.29 SLOPE CONTROLS

The following controls shall apply in all areas where the slope of the land at the site of earth moving exceeds twenty-five percent (25%):

1. Prior to the establishment of any building, structure, or use, and before the issuance of a zoning permit, an erosion and sediment control plan shall be approved by the Borough Council and the Berks County Conservation District.
2. Prior to any alteration of the existing grade, and before the Issuance of a zoning permit, a grading plan shall be approved to the Borough Council. The grading plan shall indicate existing and proposed contours at intervals of no more than five feet in elevation.

3. The applicant shall indicate the methods whereby any structural and foundation problems caused by slope conditions will be overcome. Such methods shall be approved by the Borough Council prior to the issuance of a zoning permit.
4. No more than fifteen percent (15%) of wooded areas on the lot, existing at the time a zoning permit is applied for, shall be subsequently cleared.

Section 6.30 ENVIRONMENTAL PERFORMANCE STANDARDS FOR RESIDENTIAL INDUSTRIAL AND COMMERCIAL DISTRICTS

The Borough Council may require safeguards to assure compliance with the following performance standards. Upon request of the Borough, a landowner shall furnish proof, at his own expense, that he is in compliance with the following standards:

1. Air Management

- a. Open burning is not permitted.
- b. No gases, vapors or particles which are harmful to persons, property, animals, or vegetation beyond the lot lines of the lot on which such gases, vapors, or particles originate shall be emitted.
- c. No odors causing annoyance or discomfort to the public shall be detectable beyond the lot lines of the lot on which such odors originate.
- d. The emission of any smoke at a density greater than No. 1 on the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines shall not be permitted. This standard shall not be applied to emissions where the presence of uncombined water is the only reason for the failure of the emission to meet the opacity limits. (Uncombined water produces a white "smoke" which vanishes a short distance from the stack.)

2. Waste Water Management

- a. Effluent must meet any standards established by the Borough.
- b. In no case shall potentially dangerous or contaminating effluent or waste from plant operations be discharged into the ground or into a watercourse.

3. Solids Waste Management

- a. No permanent storage of waste material on the lot shall be permitted. All waste materials awaiting transport shall be concealed from view from all adjacent properties and streets.

4. Noise and Vibration

- a. Noise limits at lot lines shall be as follows:

Permissible Noise Limits in d<sup>b</sup>A

		Between 10 P.M. and 7 A.M.	Between 7 A.M. and 10 P.M.
At lot line adjacent to land zoned residential	90% of time must be less than:	50	60
	Maximum:	55	65
At lot line adjacent to land zoned industrial or commercial	90% of time must be less than:	65	70
	Maximum:	70	80

- b. No physical vibration shall be perceptible beyond the lot lines.

5. Visual and Heat

- a. No lighting shall be utilized in a manner which produces glare perceptible at or beyond the lot lines.
- b. Any operation producing heat shall be conducted in such a manner as to prevent any effect from the heat beyond the lot lines of the lot on which the operation is located.

6. Ground Water Supplies

No use shall endanger ground water levels and quality in the area of the use, nor adversely affect ground water supplies of nearby properties. When required by the Borough, a hydrogeologic study, which shall indicate the impact of the use on ground water supplies and quality in the area of the use, shall be submitted to the Borough.

7. Electromagnetic

- a. All electromagnetic radiation shall comply with the regulations of the Federal Communication Commission. No electromagnetic radiation which interferes with radio or television reception or the operation of other equipment beyond the lot lines shall be radiated.

8. Outdoor Storage

- a. All outdoor storage of materials or products shall be screened from view from all adjacent properties and streets.
- b. Waste materials awaiting transport shall be kept in enclosed containers.

9. Carcinogenic Substances

- a. No carcinogenic substances shall be released into the air, ground, or water.

10. PA DEP Requirements

- a. All regulations of the Pennsylvania Department of Environmental Protection shall be complied with. In the event of conflicting regulations, the more restrictive shall apply.

11. Additional Requirements for T-C District

- a. No goods shall be displayed outside buildings.
- b. No free standing signs shall be permitted.

Section 6.31 PROHIBITED USES

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

Section 6.32 STRIPPING OF TOPSOIL

Except where listed as a permitted use, the stripping and removal of topsoil from lots, shall not be permitted. Topsoil may be removed from areas of construction, grading, excavation, and other earthmoving activities, but shall be stored elsewhere on the lot and stabilized to minimize erosion. Upon completion of the earthmoving activities, the topsoil shall be redistributed on the lot.

Section 6.33 OUTDOOR STORAGE FOR RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USES

- a. Outdoor storage shall be completely screened from view from all adjacent properties and streets. Screening shall consist of evergreen plantings, architectural screen, or approved safety fence.
- b. No storage shall be permitted within the front yard of any lot.
- c. Outside storage of raw materials and/or finished products shall be permitted only within the buildable area of the lot to the rear of the front building wall of the principal building, and shall not exceed twenty (20) feet in height.
- d. All organic refuse or garbage shall be stored in tight, vermin proof containers. In multiple family, commercial, industrial and other nonresidential developments, garbage storage shall be centralized to expedite collection and enclosed on three sides by architectural screen or plantings.
- e. In all residential and commercial districts, no commercial vehicle, truck trailer, or any similar vehicle, or equipment which cannot move under its own power, shall be regularly parked or stored for more than 24 hours.
- f. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground, except for tanks of fuel (1) directly connected to energy or heating devices or (2) used in conjunction with active agricultural or construction activities. A list of such liquids, solids or gases stored on site shall be supplied to the appropriate fire companies serving the Borough.
- g. No structure or land shall be used or developed, and no structure shall be located, extended, converted or structurally altered unless the applicant takes all reasonable measures to minimize the impacts of the above ground and underground storage of heating oil, gasoline, diesel fuel or chemical pollutants to surface water or groundwater. The applicant shall also demonstrate compliance with all applicable regulations of the U.S. Environmental Protection Agency; Pennsylvania State Police, Fire Marshall Division, including notification and registration requirements.

Section 6.34 Flood Plain Controls

Development within a floodplain is subject to the requirements of the Bernville Borough Floodplain Management Ordinance, as amended.

Section 6.50 PLANNED RESIDENTIAL DEVELOPMENT

Section 6.51 General

All Planned Residential Developments shall meet all of the applicable standards, provisions and requirements of this Ordinance and of the Bernville Borough's Subdivision and Land Development Ordinance, except those standards, provisions, and requirements which are specifically modified by this section.

Section 6.52 Submission of Plans, Applications, and Required Supporting Information

Copies of a Tentative Plans for a proposed Planned Residential Developments shall be prepared in accordance with the Preliminary Plan requirements of the Borough's Subdivision and Land Development Ordinance and shall be submitted to the Borough.

Section 6.53 Public Hearing

Within sixty (60) days after the filing of an application for tentative approval of a Planned Residential Development, pursuant to the requirements of this section, a public hearing pursuant to public notice shall be held by the Governing Body in a manner prescribed by law.

The Governing body may continue the hearing from time to time, provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.

The Municipality may offer a mediation option as an aid in completing the proceedings authorized by this section prior to final approval by the Governing Body. In exercising such an option, the Municipality and mediating parties shall meet the stipulations and follow the procedures set forth in article IX of the Pennsylvania Municipalities Planning Code, as amended.

Section 6.54 Municipal Planning Commission and County Planning Commission Reviews

When a Tentative Plan has been officially submitted to the Municipality, such plan shall be forwarded to the Municipal Planning Commission and the County Planning Commission for review and recommendation. After all appropriate fees are paid by the applicant.

Section 6.55 The Findings

The Governing Body shall, within sixty (60) days following the conclusion of the public hearing, by official written communication, to the landowner, either:

1. Grant tentative approval of the development plan as submitted;
2. Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
3. Deny tentative approval to the development plan.

Failure to so act within the period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Governing Body notify such Governing Body of his refusal to accept all said conditions, in which case, the Governing Body shall be deemed to have denied tentative approval of the development plan. In the event that the landowner does not, within said period, notify the Governing Body of his refusal to accept said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

The granting or denial of tentative approval by the governing body shall include conclusions and findings of fact related to the specific proposal and shall set forth the reasons for the approval with or without conditions, or for the denial, and said communications shall set forth the reasons the development plan would or would not be in the public interest, including, but not limited to:

- a) Those respects in which the development plan is or is not consistent with the Comprehensive Plan of the development of the Municipality;
- b) The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
- c) The purpose, location and amount of Common Open Space in the Planned Residential development, and the reliability of the proposal for maintenance and conservation of the Common Open Space. The adequacy or inadequacy of the amount and purposes of the Common Open Space as related to the proposed density and type of residential development;
- d) The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

- e) The relationship, beneficial or adverse, of the proposed Planned Residential Development to the neighborhood in which it is proposed to be established; and
- f) In the case of a development plan which proposes development over a period of years, the adequacy of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development and the integrity of the development plan.

In the event a development plan is granted tentative approval, with or without conditions, the Governing Body may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which application or final approval of each part thereof shall be filed. Except upon consent of the landowner, the time so established between granting tentative approval and an application for final approval, shall not be less than three (3) months and, in the case of development over a period of years, the time between applications for final approval of each part of a plan shall be not less than twelve (12) months.

#### Section 6.56 Status of Plan After Tentative Approval

1. The official written communication provided for in this subsection shall be certified by the Municipal Secretary of the Governing Body and shall be filed in the municipal office. A certified copy shall be mailed to the landowner. Where tentative approval has been granted, it shall be deemed an amendment to the zoning map, effective upon final approval, and shall be noted on the Zoning Map.
2. Tentative approval of a development plan shall not qualify a plat for the Planned Residential Development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Municipality pending an application or application for final approval, without the consent of the landowner, provided an application or application for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.



3. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon a said development plan and shall so notify the Governing Body in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or items, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the Secretary of the Municipality.

**Section 6.57   Application for Final Approval**

1. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, a section thereof. Said applications shall be made to the Municipal Secretary and within the time or items specified by the official written communication granting tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the development plan, or the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.
2. Copies of the Final Plans for proposed Planned Residential Developments shall be submitted to the Municipality. The number of copies and required information shall be in accordance with the Final Plan requirements of the Municipality's Subdivision and Land Development Ordinance.
3. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by this Ordinance and the official communication of tentative approval, the Municipality shall, within forty five (45) days of such filing, grant such development plan final approval.
4. In the event the development plan as submitted contains variations from the development plan given tentative approval, the Governing Body may refuse to grant final approval and shall, within forty-five (45) days from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:

- a) Refile his application for final approval without the variations objected to;  
or
- b) File a written request with the Governing Body that it hold a public hearing on his application for final approval.
- c) If the landowner wishes to take either such alternative action he may do so at any time within which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval has already passed at the time when the landowner was advised that the development plan was not in compliance. In the event the landowner fails to undertake these alternative actions, within the required time, he shall be deemed to have abandoned the development plan. A public hearing shall be held pursuant to public notice within (30) days after a request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this ordinance for public hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the hearing, the Governing Body shall by official written communication, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, contain the findings required for an application for tentative approval set forth in this section.
- d. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Governing Body and shall be filed of record forthwith in the office of the Recorder of Deeds of Berks County before any development shall take place in accordance therewith. Upon the filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion, in accordance with the time provisions stated in Section 508 of the Pennsylvania Municipalities Planning Code, as amended, of said Planned Residential Development or to that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development, plan, or parts thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plan, the developer shall record the plat in accordance with Section 513(a) of the Pennsylvania Municipalities Planning Code, as amended, and post financial security in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, as amended.
- e. In the event that a development plan, or section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved and shall so notify the

Governing Body in writing; or, in the event the landowner shall fail to commence and carry out the Planned Residential Development in accordance with the time provisions stated in section 508 of the Pennsylvania Municipalities Planning Code, as amended, of said Planned Residential Development or of that part thereof, as the case may be, that has been finally approved, no mediation of the provisions of said development plan, or parts thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall record the plat in accordance with Section 513(a) of the Pennsylvania Municipalities Planning Code, as amended and post financial security in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, as amended.

Section 6.58 Development in Stages

A Planned Residential Development may be constructed in stages if the following criteria are met:

1. The application for tentative approval shall be for the entire Planned Residential Development and shall show the location and approximate timing of construction of each proposed stage, in addition to all other information required by this ordinance.
2. That the first stage and all subsequent stages contain at least twenty-five (25) percent of the dwelling units given tentative approval. Each stage, to the extent possible, shall have the same ratio/mix of dwelling unit as approved in the Tentative Plan.
3. At least fifty (50) percent of all the dwelling units proposed are rented or sold prior to the construction of any commercial development.
4. Gross residential density may be abbreviated from stage to stage by a maximum of ten (10) percent of the gross residential density of the entire Planned Residential Development as approved. Where it is necessary to allocate Common Open Space to early stages (on land not included in such stage) to avoid exceeding maximum gross residential densities, the developer shall be required to grant to the Municipality, specifying the amount and location of such Common Open Space required to satisfy the density requirements of the plan.
5. A schedule of residential, commercial and public facility construction shall be submitted for approval by the Governing Body.

6. The landscaping for each approved stage must be eighty (80) percent complete before preceding to the next stage. No more than two (2) stages may be incomplete at any time.

Section 6.59 Completion of Improvements, Guarantees and Maintenance Thereof

All improvements guarantees, release of improvement guarantees, maintenance guarantees and remedies for completion of improvements for any Planned Residential Development shall be in accordance with the procedures and requirements of Sections 509, 510 and 511 of the Pennsylvania Municipalities Planning Code, as amended.

Section 6.60 Tentative Plan Requirements

Tentative development plans shall include the following information:

1. All plans shall be prepared, and shall contain all information as required by the Municipality's Subdivision and Land Development Ordinance;
2. The location, size and topography of the site and the nature of the landowner's interest in the land proposed to be developed;
3. The density of land uses;
4. The location and size of the Common Open Space and the form of organization proposed to own and maintain the Common Open Space;
5. The use and the approximate height, bulk and location of buildings and other structures;
6. The feasibility of providing for water supply and the disposition of sanitary waste and storm water;
7. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities;
8. The provisions for parking of vehicles and the location and width of proposed streets and public ways;
9. The proposed modification in the existing land use regulations otherwise applicable to the subject property;

10. The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources;
11. In the case of development plans which call for development over a period of years, a schedule showing the proposed times within which application For final approval of all sections of the Planned Residential Development are intended to be filed. This schedule must be updated annually, on the anniversary of its approval, until the development is completed and accepted;
12. A written statement by the landowner setting forth the reasons why, in his opinion, a Planned Residential Development would be in the public interest be consistent with the comprehensive plan for the development of the Municipality;
13. The approximate location and type of proposed recreational facilities; and
14. A detailed impact evaluation of the affect of the Planned Residential Development on municipal services (i.e. police, fire, recreation); public facilities, utilities and services; storm drainage; school district; and transportation systems. The report shall compare the development of the site under the Planned Residential Development provisions and under conventional zoning.

Section 6.61 Final Plan Requirements

1. All plans shall be prepared, and shall contain all information as required by the Municipality's Subdivision and Land Development Ordinance; and
2. The final draft of all documents required for tentative approval, including deed restrictions and covenants and maintenance of Common Open Space.

Section 6.62 Eligibility

Planned Residential Developments are permitted as a Special Exception in the R-2 Low-Medium Density Residential Zoning District.

Section 6.63 Site Requirements

1. Areas to be developed under this section shall contain a minimum of fifty (50) contiguous acres excluding any portions of the tract located within any existing rights-of-way, wetlands, flood plains or slopes in excess of 25%. The tract shall be considered contiguous even though it may be

divided by a street right-of-way provided, however, that the street right-of-way does not exceed sixty (60) feet in width.

2. The development shall be served by public water supply and public sewage disposal systems, or by a community water supply and sewage disposal system approved by appropriate local and state agencies.
3. A minimum of forty (40) percent of the gross area of the development shall be in Common Open Space, with the following restrictions:
  - (a.) No individual Common Open Space area shall be less than one (1) acre in size, or less than fifty (50) feet in width.
  - (b.) No less than one-quarter (1/4) of the Common Open Space shall be improved for active recreation facilities, including, but not limited to such improvements as: lakes, playgrounds, swimming pools, tennis courts, baseball or other play fields, recreation or community centers, or basketball courts.
  - (c.) No street, emergency access roads, driveways or utility rights-of-way or easements shall be within the acreage designated for the minimum Common Open Space as required above, except as required by the common open space itself and any improvements thereon pursuant to (2) above.
  - (d.) No more than twenty-five (25) percent of the required Common Open Space shall be comprised of stormwater management retention or detention basins.

#### Section 6.64 Permitted Uses

1. Single-family detached dwellings;
2. Single-family semi-detached dwellings;
3. Townhouses;
4. Garden apartments
5. Apartment houses;
6. Retail stores, shops or service establishments for conducting retail businesses or services provided such retail stores or service establishments

primarily serve the residents of the Planned Residential Development subject, however, to the following conditions:

- (a.) No individual retail store or service establishment shall exceed three thousand (3,000) square feet in gross floor area;

7. Nursery schools, day care centers, and community activity centers.

Section 6.65 Permitted Accessory Uses - Located on the Same Lot With the Permitted Principal Use

- 1. Private garages or private parking areas;
- 2. Off-street parking facilities;
- 3. Temporary sales office, sample homes or apartments;
- 4. Recreational facilities, including but not limited to lakes, ponds, picnic areas, golf courses, swimming pools, tot-lots, playgrounds, ball fields, nature trails and other active or passive recreational facilities;
- 5. Customary accessory uses, buildings or structures, provided such are clearly incidental to the principal use.

Section 6.66 Maximum Density

The maximum density (computed by dividing the gross tract acres, excluding exiting rights-of-way, flood plains, wetlands and slopes in excess of twenty-five (25) percent, by the number of dwellings units proposed) shall not exceed six (6) dwelling units per acre.

In no event shall the net residential density exceed the following:

	<u>Building Type</u>	<u>Maximum Permitted Design Density</u>
a.	Single-family detached or semi-detached	5 dwelling units per acre
b.	Townhouses	10 dwelling units per acre
c.	Garden Apartments/Apartments	14 dwelling units per acre

Of the total number of units planned, the proportion for each building type shall be limited to the following:

- 1) Single-family attached or semi-detached: 25% minimum\*
- 2) Townhouses: 50% maximum
- 3) Garden Apartments/Apartments: 50% maximum

\* Of the total number of single-family detached and semi-detached units proposed, a maximum of twenty-five (25%) may be semi-detached dwellings.

Section 6.67 Minimum Lot Size per Dwelling Unit

	<u>Single-Family Detached</u>	<u>Single-Family Semi-Detached</u>	<u>Garden Apartments/ Apartment</u>	<u>Town Houses</u>
Area (sq. ft.)	8,000	6,000	2,000	3,750
Lot Width:				
At Street Line	70'	40'	N/A	20'
At Bldg. Setback Line	70'	40'	N/A	20'



Section 6.68 Minimum Yard Dimensions

	<u>Single-Family Detached</u>	<u>Single-Family Semi-Detached</u>	<u>Garden Apartments/ Apartment</u>	<u>Town House</u>
Front Yard:	25'	25'	25'	25'
Each Side Yard:	10'	10'	15'	10'
Rear Yard:	30'	30'	30'	30'

Section 6.69 Maximum Building Coverage and Height

	<u>Single-Family Detached</u>	<u>Single Family Semi-Detached</u>	<u>Garden Apartments/ Apartment</u>	<u>Town Houses</u>
Building Coverage:	35%	35%	40%	40%
Building Height:				
feet	35	35	40	35%
stories	2 ½	2 ½	3	2 ½

Section 6.70 Design Standards

a. General

- 1) All design standards and requirements contained in the Municipality's Subdivision and Land Development Ordinance shall apply, except as may be modified by this section.
- 2) The minimum distance between any principal building and any accessory building or structure shall be ten (10) feet.

Section 6.71 Ownership and Management of Common Open Space

- a. The landowner of every Planned Residential Development shall submit with the Final Plan documents creating and governing the organization for the ownership and maintenance of the Common Open Space and recreation facilities within the Planned Residential Development.

The landowner shall either dedicate the Common Open Space and recreational facilities to the public use of the municipality, establish one or

more organizations for the ownership and maintenance of all Common Open Space and recreational facilities.

- b. If a homeowners association is used to own and maintain Common Open Space and recreational facilities, the following minimum requirements shall be incorporated into the associations regulations:
  - 1) Membership in the organization shall be mandatory for all purchasers of dwelling units and their successors.
  - 2) The organization shall be responsible for the maintenance, insurance, taxes and other assessments on Common Open Space and recreational facilities.
  - 3) The members of the organization shall share equitably all the cost incurred, in accordance with the procedures established by them.
- c. The Municipality may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the Municipality need not require, as a condition of the approval of a Planned Residential Development, that land proposed to be set aside for Common Open Space be dedicated or made available to the public use. The provision may require that the landowner provide for and establish an organization for the ownership and maintenance of Common Open Space, and that such organization shall not be dissolved nor shall it dispose of the Common Open Space, by sale or otherwise (except to an organization conceived and established to own and maintain the Common Open Space), without first offering to dedicated the same to the public.
- d. In the event that the organization established to own and maintain Common Open Space, or any successor organization, shall at any time after establishment of the Planned Residential Development file to maintain the Common Open Space in reasonable order and condition in accordance with the development plan, the Municipality may serve written notice upon such organization or upon the residents and owners of the Planned Residential Development setting forth the manner in which the organization has failed to maintain the Common Open Space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice.

At such hearing the Municipality may modify the terms of the original notice as to the deficiencies and may give in extension of time within which they shall be corrected.

If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said thirty (30) days for any extension thereof, the Municipality, in order to preserve the taxable values of the properties within the Planned Residential Development and to prevent the Common Open Space from becoming a public nuisance, may enter upon said Common Open Space and maintain the same for a period of one (1) year. Said maintenance by the Municipality shall not constitute a taking of said Common Open Space, nor vest in the public any rights to use the same.

Before the expiration of said year, the Municipality shall upon its initiative call a public hearing upon notice to such organization, or to the residents of the Planned Residential Development, to be held by the Governing Body or its designated agency, at which hearing such organization of the residents of the Planned Residential Developments shall show cause why such maintenance continue for a succeeding year. If the Governing Body, or its designated agency, shall determine that such organization is able to maintain said Common Open Space in reasonable condition, the Municipality shall cease to maintain said Common Open Space at the end of said year. If the Governing Body or its designated agency shall determine that such organization is not able to maintain said Common Open Space in reasonable condition, the Municipality may, in its discretion, continue to maintain said Common open Space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

The cost of such maintenance by the municipality shall be assessed ratably against the properties within the Planned Residential Development that have a right of enjoyment of the Common Open Space, and shall become a lien on said properties. The Municipality at the time of entering upon said Common Open Space for the purpose of maintenance shall file a notice of lien in the office of the prothonotary, upon the properties affected by the lien within the Planned Residential Development.

Section 6.80 MULTI-FAMILY RESIDENTIAL OR TOWNHOUSE DEVELOPMENTS

Section 6.81 Permitted Uses

Multi-family or town house buildings shall consist solely of residential dwelling units, rental office, recreational and parking facilities; however coin-operated washing and drying machines, and vending machines for food, beverages, newspapers or cigarettes located inside a building shall be permitted provided these are for the tenants' use only. Sample apartments or townhouse units for display purposes shall be permitted at the rate of one unit for each type of construction.

Section 6.82 Water and Sewer

The proposed development shall be served by public water supply and sewage disposal systems approved by the Commonwealth of Pennsylvania, Department of Environmental Protection.

Section 6.83 Area and Bulk Regulations

All multi-family residential or townhouse developments shall conform to all of the requirements as herein established:

	<u>Townhouses</u>	<u>Garden Apartments</u>
1. Minimum gross lot area: (square feet)	7,500	12,000
2. Average lot area per dwelling unit (sq. ft.):	3,750	2,000
3. Minimum lot width at building line:	75 feet (2)	100 feet (1)
4. Maximum building coverage of gross lot area:	60%	50%
5. Minimum front yard:	25 feet	25 feet
6. Minimum side yard:	10 feet (2)	15 feet (2)
7. Minimum rear yard:	30 feet	30 feet

8.	Minimum parking area setback distance from lot line or right-of-way line:	15 feet(3)	15 feet
9.	Minimum distance between buildings:	(See Section 504.4)	
10.	Minimum open space excluding parking areas and driveway areas:	10% (4)	15% (4)
11.	Maximum building height:	2.5 stories or 35 feet	3 stories or 40 feet

Notes:

- (1) Minimum width for a townhouse dwelling units shall be twenty (20) feet.
- (2) The minimum side yard distance shall apply to the end building only.
- (3) The minimum parking area setback distance shall apply to parking areas or joint parking areas and not to individual parking areas for townhouses.
- (4) The minimum open space shall not include the front, side and/or rear yards of an individual buildings.

Section 6.84 The following requirements, in addition to the provisions of the above requirements, shall also apply:

1. Townhouse groups shall consist of not more than six (6) dwelling units.
2. The developer shall vary architectural treatments within the apartment complex, individual apartments, and between dwelling units in a townhouse development. Variations may include those of exterior elevation, building setbacks, provision for balconies, architectural details, pitch of roof, exterior materials, or use of color.

Flexibility in design, layout and arrangement, of buildings, parking areas, recreation areas, common open space, and planting is encouraged in order to make maximum use of exiting physical features of a particular site.

3. The horizontal distance between groups of either townhouses or garden apartments shall be as follows:

- a. For groups of townhouses or garden apartments, in instances where front or rear walls face front or rear walls, the minimum horizontal distance shall be two (2) times the average height of the two groups;
  - b. In instance where front or rear walls face side walls, the minimum horizontal distance shall be one and one-half (1 - ½) times the average height; and
  - c. In instances where side walls face side walls the minimum horizontal distances shall be equal to the height of the tallest building.
- 4. The minimum width of any side yard adjoining a street, driveway, or parking area shall not be less than fifteen (15) feet.
  - 5. Parking may be provided on the lot, incorporated as an integral part of the townhouses, as a carport, or a multiple parking facility utilized by a group of townhouses with such deed restrictions as are necessary to determine ownership and maintenance of common parking facilities including methods of assigning charges for maintenance, repairs and snow removal.
  - 6. Open space, as required herein, shall be devoted to recreational uses by tenants of the development and shall be improved and equipped by the developer in accordance with plans submitted to and approved under the Municipality's Subdivision and Land Development Ordinance.
  - 7. The length of garden apartment buildings shall not exceed one hundred fifty (150) feet.
  - 8. Development plans, indicating proposed uses, shall be submitted to and approved by both the Planning Commission and the Borough Council in accordance with the Municipality's Subdivision and Land Development Ordinance.

Section 6.85 Parking Facilities

- 1. Space requirements - Two (2) off-street parking spaces, either garage or on-lot, shall be provided for each dwelling unit.
- 2. Parking area requirements -
  - a. All access drives and parking areas shall be a minimum of fifteen (15) feet from any building on the lot and a minimum of twenty-five (25) feet from any lot line or right-of-way line.

- b. Parking areas shall be designed to discourage vehicles from backing into a public or private street in order to leave the lot.
- c. Dead-end parking areas shall be designed to provide sufficient back-up area for vehicles parking in the end stalls.
- d. All access ways and parking areas shall be paved with a permanent hard-surface covering.
- e. A maximum of fifteen (15) contiguous parking spaces shall be permitted in any contiguous row without interruption by landscaping.
- f. A maximum of two (2) interconnected parking areas shall be permitted without having direct access to a public or private street.

3. Site requirements

- 1. Ingress and egress streets shall be designed to provide free movement of traffic.
- 2. Ingress and egress streets shall be a minimum width of twelve (12) feet for each lane of traffic.

Section 6.86 Storage Drainage

- a. Storm water run-off and drainage collection systems shall be provided by the developer in order to adequately drain the project site. The system shall be designed in accordance with sound engineering practice; the rate of discharge shall not be greater than existed prior to development based on a one-hundred year storm frequency.
- b. The provisions of the existing Municipality's Subdivision and Land Development Ordinance relating to storm drainage shall be followed.

Section 6.87 Site Lighting

Site lighting for buildings, walkways, streets and parking areas shall be so oriented as not to reflect directly into public streets, cause any annoyance to building occupants or surrounding properties or residents thereof.

Section 6.88 Trash Storage

Exterior trash storage areas shall be provided and shall be screened on at least three (3) sides. Trash shall be contained in covered, vermin-proof containers.

Section 6.89 Site Plan Review and Approval

Townhouse and garden apartment developments are considered to be a subdivision and/or land development and are governed by the provisions detailed in the municipality's Subdivision and Land Development Regulations.

Section 6.90 Mobile Home Parks

All mobile home parks shall conform to the requirements of the Commonwealth of Pennsylvania, Department of Environmental Protection for mobile home parks and applicable municipal subdivision regulations in addition to the following requirements:

Section 6.91 Site Requirements

All mobile home parks shall be located on tracts of land at least ten (10) acres in size. Such park sites shall be well drained, free of flood hazards and shall be suitable for the intended use.

Section 6.92 Lot Requirements

All individual lots in a mobile home park must be graded and landscaped.

As much natural vegetation as is reasonably possible shall be preserved.

1. Individual mobile home lots located in a mobile home park shall contain a minimum eight thousand (8,000) square feet of lot per unit. The minimum lot width, measured at the building setback line, shall be fifty (50) feet.
2. A minimum of (15) percent of the total gross area of the mobile home park shall be devoted to open space and/or recreation areas. Land which is located within a flood hazard area, subject to periodic flooding, a high water table or containing slopes in excess of twenty-five (25) percent shall be excluded when calculating the total gross area.
3. Street names and individual lot numbers shall be required for all mobile home parks.



#### Section 6.93 Yard Requirements

1. The minimum distance between an individual mobile home and an adjoining right-of-way line of any street shall be twenty-five (25) feet.
2. The minimum side clearance between any two (2) mobile homes or other buildings shall be thirty (30) feet. In no instance shall the distance between the mobile home and the individual lot line be less than fifteen (15) feet.
3. No mobile home shall be located closer than seventy five (75) feet from any street right-of-way line that abuts a mobile home park boundary or from any other park boundary line.

#### Section 6.94 Street Requirements

1. All streets within any mobile home park shall have minimum right-of-way width of fifty (50) feet and a minimum paved cartway constructed in accordance with the street construction standards of the Municipality's Subdivision and Land Development Ordinance. Gradient, alignment and street intersection requirements shall be in accordance with the minimum standards contained in the Municipality's Subdivision and Land Development Ordinance.
2. Access streets serving mobile home parks shall be designed to allow the free movements of traffic on adjoining streets. If more than one point of ingress and egress is provided, a minimum off-set distance of one hundred fifty (150) feet shall be maintained between street center lines of access streets.

#### Section 6.95 Parking Requirements

1. A minimum of two (2) vehicular off-street parking spaces shall be provided for each individual mobile home lot. Each off-street parking space shall contain a minimum of two hundred (200) square feet. Group parking areas shall be located no further than three hundred (300) feet from the individual mobile home lots intended to be served.

#### Section 6.96 Utility Requirements

1. Water Distribution

All mobile home parks shall provide a continuing supply of potable water to each individual mobile home. Such water system shall be approved by the Commonwealth of Pennsylvania, Department of Environmental Protection.

2. Sewage Disposal

All mobile home parks shall provide connection to public sewers or to a centralized sanitary sewage disposal system for each individual mobile home. Such system shall be approved by the Commonwealth of Pennsylvania, Department of Environmental Protection.

3. Electrical Distribution

All mobile home parks shall have an underground electrical distribution system which shall be installed and maintained in accordance with the local utility company's specification regulating such systems. All connections from the meter box to the mobile home shall be installed by a qualified electrical contractor, and each mobile home shall have its own meter box. Roadway and area lighting shall be reflected away from adjoining properties.

4. Natural Gas Distribution System

- a. Natural gas distribution systems, when installed in mobile home parks, shall be maintained in conformity with accepted engineering practices.
- b. Each mobile home lot provided with piped gas shall have an approved shut-off valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

5. Liquefied Petroleum Gas (LPG) Distribution System

- a. Liquefied petroleum gas distribution systems, when installed in mobile home parks, shall include the following:
  - (1) Systems shall be provided with safety devices to relieve excessive pressure and shall be arranged that the discharge terminates at a safe location.
  - (2) Systems shall have at least one (1) accessible means, located outside the mobile home park, for shutting off the gas and which shall be maintained in effective operating condition.
  - (3) All liquefied petroleum gas piping located outside of the mobile homes shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed thorough piping equipment and systems in mobile homes.

- (4) Vessels of more than twelve (12) and less than sixty (60) U.S. Gallons gross capacity shall be secured and permanently fastened to prevent accidental overturning.
- (5) No liquefied petroleum gas vessel shall be stored or located inside or beneath any storage cabinet, carport, mobile home or any other structure.

6. Fuel Oil Supply System

- a. All fuel oil supply systems, when provided in mobile home parks, shall be installed and maintained in conformity with the following regulations:
  - (1) All piping from outside storage tanks or cylinders to mobile homes shall be securely fastened in place.
  - (2) All fuel oil supply systems shall have shutoff valves located within five (5) inches of storage tanks.
  - (3) All fuel oil storage tanks or cylinders shall be securely placed and shall not be located closer than five (5) feet from any mobile home exit.
  - (4) Storage tanks located in areas subject to traffic shall be protected against physical damage.

Section 6.97 Walkways Requirements.

- 1. All mobile home parks shall be provided with paved walkways consisting of a permanent hard-surfaced covering, four (4) feet in width, between individual mobile home lots, streets and all community facilities provided for park residents.
- 2. All mobile home lots shall be connected to common walks or to paved streets or to paved driveways or parking spaces connecting to a paved street. Such individual walkways shall be a minimum of two (2) feet in width.

Section 6.98 Other Site/Park Improvements

- 1. Storage, collection and disposal of refuse in mobile home parks shall be constructed to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. Provision for the removal of refuse on a weekly basis shall be made.

2. All individual mobile home lots within a mobile home park shall be provided with a four (4) inch thick by ten (10) feet by eighteen (18) feet concrete slab for use as a terrace.
3. An enclosure of compatible design and material shall be erected around the entire base of each mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure and shall be erected within three (3) months from the time the mobile home locates within the mobile home park.
4. Individual tenants at the mobile home park may erect attached enclosures to individual mobile homes provided that such enclosures do not exceed twenty-five (25) percent of the floor area of the mobile home.
5. The sale of mobile homes from a mobile home park shall be prohibited except when the mobile home is located on an individual lot and the connections have been made to all utilities and provided that all other requirements of this Ordinance have been met.

## ARTICLE VII

### NON-CONFORMING LOTS, USES, STRUCTURES, AND BUILDINGS

#### Section 7.00 STATEMENT OF INTENT

1. Within the zoning districts established by this Ordinance, or subsequent amendments thereto, there exist or will exist certain non-conformities which, if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations although such non-conformities would be prohibited, regulated, or restricted under the terms of this Ordinance or subsequent amendments thereto.
2. Nothing in this Ordinance shall require a change in the plans for any building, structure, or land use for which a zoning permit was issued prior to the effective date of this Ordinance or subsequent amendment thereto, provided the activity authorized by the zoning permit has commenced, in the opinion of the permit officer, within six months of the issuance of the permit and completed within two (2) years.

#### Section 7.01 NON-CONFORMING LOTS OF RECORD

1. Any lot shown on a recorded subdivision plan on the effective date of this Ordinance or after the enactment of subsequent amendments thereto which does not meet the minimum size or width requirements of the Zoning District in which it is located may be used for a use permitted by regulations of that District provided that all yard, height, coverage, and open space requirements of the Zoning District shall be met, subject to Section 701.2; provided, however, that when a landowner or developer has had an application for approval of a Preliminary or Final Subdivision Plan approved prior to the effective date of this Ordinance, no provision in this Ordinance shall be applied to adversely affect the right of the subdivider to commence and complete any aspect of the approved Preliminary or Final Plan in accordance with the terms of such approval within three years from the date of such approval. When approval of a Final Plan has been preceded by approval of a Preliminary Plan, the three year period shall be counted from the date of Preliminary Plan approval.
2. Any lot held in single and separate ownership on the effective date of this Ordinance or after the enactment of subsequent amendments thereto, which does not meet the minimum size or width requirements of the Zoning District in which it is located may be used for any use permitted in that district provided that all yard, height, coverage, and open space requirements of the District are met. Provided, however, that if two or more lots, combination of lots, or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the

requirements established for lot width and/or area, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and/or area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.

#### Section 7.02 ABANDONMENT

A non-conforming use may not be re-established if the use is discontinued for a continuous, twelve month period, unless prior to or during that ~~twelve~~ month period the owner informs the Borough of his intention not to abandon the use. Notification shall be by filing a Statement of Intent to Continue with the Borough Zoning Officer. Vacation of land or buildings or the termination of the use normally carried on upon the property shall be evidence of discontinuance.

If after filing a statement of Intent to Continue the non-conforming use is not commenced within eighteen months from the end of the original eighteen month period, the non-conforming use shall be considered abandoned and shall not be re-established.

#### Section 7.03 CHANGE

A non-conforming use may be changed to a conforming use by right. A non-conforming use, if changed to a conforming use, shall not be changed back to a non-conforming use. A non-conforming use shall not be changed to any other non-conforming use unless the Zoning Hearing Board shall grant a Special Exception. The proposed use shall be demonstrated by the applicant to not be more detrimental to the district with respect to traffic generation and congestion, noise, illumination, radiation, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, appearance and waste generation than the existing use of the property. The Zoning Hearing Board may specify such appropriate conditions and safeguards as may be required in connection with the granting of a Special Exception.

#### Section 7.04 EXPANSION

1. A non-conforming use, building, or structure shall not be enlarged or increased upon land not owned, leased or under option to purchase at the time of the enactment of this Ordinance.
2. No additional structures, uses, or buildings not conforming to the requirements of this Ordinance shall be erected or established in connection with an existing non-conforming use.

3. A non-conforming use shall not be expanded within an existing structure more than fifty percent (50%) of the gross floor area dedicated to the non-conforming use unless such expansion has been approved as a Special Exception by the Zoning Hearing Board.
4. Any proposed expansion shall not cause a detrimental effect on surrounding properties.
5. A non-conforming building or structure shall not be enlarged, increased, repaired, maintained, or modified in any manner which will further violate any regulation imposed by this Zoning Ordinance, except that a principal building, which existed at the effective date of this Ordinance, which is non-conforming as to a yard requirement, may have repairs, improvements, maintenance, modifications, and additions made to those portions of the building located within the required yard, provided that no repair, improvement, maintenance, modification or addition shall be made which will cause any part of the building to project into the yard further than the building did at the effective date of the Ordinance.
6. A non-conforming use may be expanded within a building containing that non-conforming use at the effective date of this Ordinance, provided that the non-conforming use shall not occupy a portion of the building containing a conforming use at the effective date of this Ordinance.
7. Non-conforming signs shall not be expanded or enlarged.

#### Section 7.05 MOVEMENT AND REPLACEMENT

1. A building or structure containing a non-conforming use or a non-conforming building or structure may be replaced by a new building or moved to another location on the same lot, provided that a new building or structure shall comply with all coverage, yard and height requirements and general regulations applicable to the zoning district in which it is located and a relocated building shall not be more non-conforming at the new site than it was at the original site.

#### Section 7.06 DAMAGE OR DESTRUCTION

1. Any non-conforming building or structure or a building or structure containing a non-conforming use of which the basic structural elements seventy-five (75) percent or more of which are destroyed by any means, may be rebuilt and used for a conforming use, the same non-conforming use. Any subsequent building or structure shall not be more non-conforming in any aspect than the building or structure which was destroyed. New construction shall begin within eighteen

months of the date of destruction and be carried to completion without interruption.

2. A non-conforming building or structure or a building or structure containing a non-conforming use, of which the basic structural elements are partially destroyed, or which is partially destroyed but which has all basic structural elements remaining, may be reconstructed. The reconstructed portions of a building or structure shall not be more non-conforming in any respect than the portions of the building or structure which were destroyed. Reconstruction shall begin within eighteen months of the date of destruction and be carried to completion without interruption.
3. Any non-conforming building or structure or building or structure containing a non-conforming use which is destroyed to any extent shall be inspected by the Borough Zoning Officer. Any building or structure considered unsafe by the Zoning Officer shall be razed or made safe and secure as the Zoning Officer may deem necessary in the public interest.

#### Section 7.07 Unsafe or Unlawful Structures or Buildings

If a non-conforming structure or building or portion thereof containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by any duly authorized municipal official to be unsafe or unlawful by reason of physical condition, such structure or building shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the zoning district in which it is located.

#### Section 7.08 Uses Under Special Exception Provisions that are Not Non-Conforming Uses

Any use which is permitted as a Special Exception in a zoning district under the provisions of this Ordinance and which existed at the time of adoption of this Ordinance (other than a change through zoning Hearing Board action from one non-conforming use to another non-conforming use) shall not be deemed a non-conforming use in such zoning district, but shall without further action by the Zoning Hearing Board, be considered a conforming use. Any extension or enlargement to such use shall be subject to the conditions of the zoning district in which it is located.



Section 7.09 Certificate of Intention

A Certificate of Intention shall be required in all instances where a non-conforming use of land, or a non-conforming use of a structure or building, is discontinued if the owner of such uses desires to maintain such a non-conforming use.

The Zoning Officer shall maintain proper forms for the registration of any Certificate of Intention. It shall be the responsibility of the owner to file such a form with the Zoning Officer. The filing of such form shall be considered an administrative duty of the Zoning Officer, who shall maintain a separate file for all Certificates of Intention. Each Certificate of Intention shall be valid for a period not to exceed three (3) years from the date of issuance.

## ARTICLE VIII

### ADMINISTRATION AND ENFORCEMENT

#### Section 8.00 ZONING OFFICER

##### 1. APPOINTMENT

A Zoning Officer shall be appointed by the Borough Council to administer and enforce this Zoning Ordinance. The Zoning Officer shall not hold any elective office in the Borough. The Zoning Officer shall meet qualifications established by the municipality and shall be able to demonstrate to the satisfaction of the municipality a working knowledge of municipal zoning.

##### 2. Duties and Powers

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance and the amendments thereto in accordance with its literal terms. He shall have such duties and powers as are conferred on him by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer's duties shall include, but are not limited to, the following:

- a. Receive applications for zoning permits and issue zoning permits as set forth in this Ordinance.
- b. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, and reports and inspections made in connection with any structure, building, sign and/or land shall be retained as long as the structures, etc. remain in existence.
- c. Make inspections as required to fulfill his duties. In doing so, however, he shall first seek the permission of the land owner or tenant, and, in the event such permission cannot be voluntarily obtained, he shall have the right to take such other legal means as are authorized under the law.
- d. Issue permits for buildings, structures, and land uses for which Subdivision and Land Development approval is required only after all necessary approvals have been secured and plans recorded.

- e. Issue permits for uses requiring new or altered on-site sewage disposal facilities and public facilities only after any necessary permit has been issued by the Borough Sewage Enforcement Officer or Borough Authority.
- f. Issue permits for Special Exception uses or for Variances only after a Special Exception or Variance has been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance. Issue permits for Conditional Uses only after a Conditional Use has been approved by the Borough Council.
- g. Issue permits for buildings requiring approval by the Pennsylvania Department of Labor and Industry only after such approval has been secured. Issue permits for a use involving an access point requiring Pennsylvania Department of Transportation approval only after such approval has been secured.
- h. Be responsible for keeping this Ordinance and the Official Zoning Map up-to-date so as to include all amendments thereto.
- i. Issue Certificates of Use and Occupancy in accordance with the terms of this Ordinance.
- k. Submit a monthly report of his activities to the Borough Council and Borough Planning Commission.

#### 8.01 ENFORCEMENT NOTICES

The Zoning Officer shall serve enforcement notices on any person, firm, corporation, or partnership responsible for violating any of the provisions of this ordinance, or in violation of a detailed statement or a plan approved thereunder. Enforcement notices shall also be sent by the Zoning Officer to the owner of record of the parcel on which the violation has occurred, and to any person who has filed a written request to receive enforcement notices regarding the matter.

The Enforcement Notice shall state at least the following:

- a. The name of the owner of record and any other person against whom the Municipality intends to take action.
- b. The location of the property in violation.
- c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provision of this Ordinance.

- d. The date before which the procedures for compliance must be commenced and the date before which the procedures must be completed.
- e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with the procedures set forth in this Ordinance.
- f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

Section 8.02 STOP ORDER

1. Scope

A Stop Order may be issued in the following instances:

- a. If activities regulated by this Ordinance are undertaken without the required Zoning Permit or Certificate of Use and Occupancy being granted by the Borough.
- b. If an activity undertaken under a Zoning Permit deviates from the approved application either during or after completion of the work.
- c. If a use is conducted or a building or structure is established in a way which is in violation of the use requirements, area, yard, coverage, and height regulations, performance standards, general regulations, or any other requirements of this Ordinance.
- d. If an activity permitted by Special Exception, Variance, or Condition is not conducted in accordance with the terms of the granting of the Special Exception, Variance, or Conditional Use.

2. Notice to Owner

A Stop Order shall be issued by the Zoning Officer and delivered to the owner of any property or his agent. Delivery shall be construed to include certified mail or posting on the property.

3. Contents

The Stop Order shall be in writing and state the nature of the violation and under which conditions the work or use may continue. A reasonable period of time may be permitted to allow for the required corrections.

4. Unlawful Continuance

Any person who shall continue in violation of any Stop Order shall be in violation of this Ordinance and subject to the penalties provided within this ordinance.

8.03 ZONING PERMIT

1. Requirements

No building, structure, or sign, except temporary fences such as snow fences and fences around construction sites, shall be erected, constructed, assembled, extended, reconstructed, replaced, demolished, converted, moved, added to or structurally altered nor shall land, buildings and structures be put to any use or have the use for which they are used changed, without a permit issued by the Zoning Officer. No such permit shall be issued unless there is conformity with the provisions of this Ordinance, except upon written order from the Zoning Hearing Board in the form of a variance, or upon order from any court of competent jurisdiction.

2. Application Procedures

The application for a Zoning Permit shall be submitted to the Zoning Officer in writing on a form prescribed by the Zoning Officer. The application shall be submitted by the owner or lessee of any building, structure or land or the agent of either provided, however, that if the application is made by a person other than the owner lessee, it shall be accompanied by a written authorization from the owner or lessee authorizing the work and designating the agent. The application shall be accompanied by two sets of at least the following information:

- a. A map of the lot in question, drawn to scale, indicating the lot size and showing all dimensions of lot lines and the exact location(s) on the lot of all existing and proposed buildings, fences, signs, structures and alterations to buildings or structures.
- b. The use, height, length, width and proportion of the total lot area covered by all proposed and existing buildings, structures and additions or alterations to buildings or structures, and the height, length, width and design of all signs.

- c. A statement indicating the number of dwelling units and/or commercial or industrial establishments to be accommodated within existing and proposed buildings on the lot. In the case of apartment buildings and townhouses, a breakdown of units by number of bedrooms shall be given. In the case of commercial and industrial uses and home occupations, the floor area to be devoted to each use shall be indicated.
- d. The location, dimensions and design of parking and loading areas including the size and arrangement of all spaces and means of ingress, egress and interior circulation, recreation areas, screens, buffer yards and landscaping, means of egress from and ingress to the lot, routes for pedestrian and vehicular traffic, and outdoor lighting.
- e. The location of all utility lines, the method of proposed water supply and sewage disposal, and the location of any on-lot facilities.
- f. Evidence that a subdivision plan or land development plan has been approved by the Municipality.
- g. All other information necessary for the Zoning Officer to determine conformance with and provide for enforcement of this ordinance, such as a grading plan and Stormwater Management Plan in accordance with those provisions detailed by the Borough's Subdivision and Land Development Ordinance.

3. Approval or Disapproval

Upon receipt of the application and all accompanying information, the Zoning Officer shall examine them to determine compliance with this Zoning Ordinance and all other Borough Ordinances. Within thirty (30) days from the day he receives the application, the Zoning Officer shall either approve or disapprove the application and return one copy of the application and accompanying information containing the Zoning Officer's decision and signature to the applicant. The other copy shall be retained by the Zoning Officer. If disapproved, the Zoning Officer shall attach a statement to the application explaining the reasons therefore, indicating the manner in which the application could be corrected and/or modified to obtain approval, and informing the applicant of his rights to appeal.

4. Issuance and Posting of Permit

Upon approval of the application by the Zoning Officer and the payment of the fees established from time to time by resolution of the Borough Council, the Zoning Officer shall issue a Permit which shall be visibly posted on the site of operations during the entire time of construction. The permit shall expire two (2)

years from the date of approval of the application by the Zoning Officer, provided that it may be extended at the discretion of the Zoning Officer for six (6) months periods not exceeding a total of one year. A Zoning Permit shall expire if the activity which is authorized by the permit is not begun, in the opinion of the Zoning Officer, within six (6) months of issuance of the permit.

5. Revocation of a Zoning Permit

The Zoning officer may revoke a Zoning Permit at any time if it appears that the application is in any respect false or misleading, or if the proceeding standards are violated. The revocation of a Zoning Permit shall entitle the applicant to a hearing before the Zoning Hearing Board, which Board may then affirm or revise the action of the Zoning Officer.

Section 8.04 TEMPORARY ZONING PERMITS

A Temporary Zoning Permit, issued by the Zoning Officer, shall be required for trailers and buildings on construction sites.

- a. No temporary violations of this Ordinance shall be continued for a period of more than six (6) months. Temporary permits cannot be reissued unless granted by the Zoning Hearing Board.
- b. Approved permit for sewage disposal;
- c. Evidence that a subdivision plan or land development plan has been approved by the Municipality.

Section 8.05 CERTIFICATE OF USE AND OCCUPANCY

1. Requirements

It shall be unlawful to use and/or occupy any building, structure or land or portion thereof for which a zoning permit is required until a Certificate of Use and Occupancy has been issued by the Zoning Officer. The Zoning Officer shall not issue a Certificate of Use and Occupancy unless he has inspected such building, structure or land and has determined that all provisions of the Zoning Ordinance and other rules, regulations and ordinances of the Borough have been complied with.

2. Issuance

Upon the receipt of written notification that the work for which a Zoning Permit has been issued has been completed, the Zoning Officer shall inspect the premises

within ten (10) days to determine that the work has been performed in accordance with the approved application and all Ordinances of the Borough. If he is satisfied that the work has been completed in accordance with the approved application, he shall issue a Certificate of Use and Occupancy to the permit holder for the use indicated on the approved application. A copy of the Certificate of Use and Occupancy shall be retained by the Zoning Officer as part of the Borough records. If he finds that the work has not been performed in accordance with the approved application, the Zoning Officer shall refuse to issue the Certificate of Use and Occupancy and in writing give the reasons therefor and inform the permit holder of his right of appeal.

For uses for which performance standards are imposed by this Ordinance, no Certificate of Use and Occupancy shall become permanent until ninety (90) days after the use is in operation and only after, upon reinspection by the Zoning Officer, it is determined that the use is in compliance with all performance standards. After such reinspection, the Zoning Officer shall notify the applicant that the use is in compliance with the performance standards and that the Certificate of Use and Occupancy is permanent, or that the use is not in compliance and that the Certificate of Use and Occupancy will be revoked within thirty (30) days of the notification if compliance with all performance standards is not secured.

#### Section 8.06 SCHEDULE OF FEES , CHARGES AND EXPENSES

The Borough Council shall establish, by resolution, a schedule of fees and charges for requests for zoning permits, certificates of use and occupancy, special exceptions, variances, and/or amendments to this Ordinance and other matters pertaining to this Ordinance. A collection procedure shall also be established. Until all application fees and charges have been paid in full, no action shall be taken on any application or other matter.

#### Section 8.07 AMENDMENTS

The procedures set forth in Section 609 of the Municipalities Planning Code, Act 247, as amended, shall be followed in the preparation of zoning ordinance amendments.

##### 1. 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 Borough at point deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The



affected tract or area shall be posted at least one week prior to the date of the hearing.

2. Referral to County Planning Commission

In the case of an amendment other than that prepared by the County Planning Commission, the governing body shall submit such amendments to the Commission at least thirty (30) days prior to the hearing on all proposed amendments to provide the Commission an opportunity to submit recommendations.

3. Rehearings

If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

Section 8.08 PROCEDURE FOR CURATIVE AMENDMENTS

The procedure for landowner curative amendments shall be as set forth in Section 609.1 of the PA Municipalities Planning Code Act 247 as amended.

Section 8.09 PROCEDURE FOR MUNICIPAL CURATIVE AMENDMENTS

The procedure for municipal curative amendments shall be as set forth in section 609.2 of the PA Municipalities Planning Code Act 247 as amended.

Section 8.10 PUBLICATION, ADVERTISEMENT AND AVAILABILITY OF ORDINANCES

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 Borough 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 Borough and in the subject municipality not more than 60 days nor less than seven 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 Borough Solicitor and setting forth all the provisions in reasonable detail.

## Section 8.11 CONDITIONAL USES

Where the Governing body, in this Zoning Ordinance, has stated conditional uses to be granted or denied by the Governing body pursuant to express standards and criteria, the Governing Body shall hold hearings on and decide on requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Governing Body may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purpose of the Pennsylvania Municipalities Planning Code, as amended, and this Ordinance.

## Section 8.12 PROCEDURE TO OBTAIN PRELIMINARY OPINION

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of a 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 805.2 by the following procedures:

1. The landowner may submit plans and other materials describing the proposed use or development to the Zoning Officer for preliminary opinion as to its 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 plan approval or for the issuance of a building permit so long as they provide reasonable information pertaining to the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
2. 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 (2) successive weeks in a newspaper of general circulation in the Municipality. Such notice shall include a general description of the proposed use for development and its location, by some readily identifiable directive, and the place and time where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 805.2 of the Pennsylvania Municipalities Planning Code, as amended, and the time therein specified for commencing a proceeding with the Municipality shall run from the time when the second notice thereof has been published.

## ARTICLE IX

### ZONING HEARING BOARD

#### Section 9.00 CREATION - MEMBERSHIP - ORGANIZATION

##### Section 9.01 CREATION OF BOARD

Pursuant to the Pennsylvania Municipalities Planning code, as amended, the Borough Council hereby creates a Zoning Hearing Board, herein referred to as the "Board," consisting of either three (3) or five (5) residents of the Municipality appointed by resolution by the Borough Council, who shall perform all the duties and have all the powers prescribed by said Code and as herein provided.

##### Section 9.02 MEMBERSHIP OF THE BOARD

Membership of the Board shall, upon the determination of the Borough Council, consist of three (3) residents of the Municipality appointed by resolution by the Borough Council. The terms of office of a three-member Board shall be three years and shall be so fixed that the term of office of one (1) member shall expire each year. The terms of office of a five-member Board shall be five years and shall be so fixed that the term of office of one member of the five-member Board shall expire each year. If a three-member Board is changed to a five-member Board, the members of the existing three-member Board shall continue in office until their term of office would expire under prior law. The Borough Council shall appoint two additional members of the Board with terms scheduled to expire in accordance with the provisions of this Section. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointment to fill vacancies shall be only for the unexpired portion of the term. Members of the board shall hold no other office in the Municipality. The Board, at its discretion may also appoint an "alternate" member to stand ready as needed.

##### Section 9.03 REMOVAL OF MEMBERS

Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a major vote of the Borough Council, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote, if the Board member request such a hearing in writing.

Section 9.04

ORGANIZATION

The Board shall elect from its own membership lists officers, who shall serve annual terms as such and may succeed themselves. The Board may make, alter, and rescind rules and forms for this procedure, consistent with ordinances of the Municipality and laws of the Commonwealth of Pennsylvania. Such rules and forms shall continue in force and effect, until amended or repealed by the Board or by law.

Vacancies shall be filled by appointment by the Borough Council for the unexpired portion of the vacated term.

Section 9.05

MEETINGS

Meetings and hearings of the Board shall be held at the call of the Chairman and at such other times as the Board, by majority vote, may determine.

Section 9.06

COMPENSATION AND EXPENDITURES FOR SERVICES

Members of the Board may receive such compensation for the performance of their duties, as shall be fixed by the Borough Council, by resolution, but in no case shall it exceed the rate of compensation authorized to be paid to members of the Borough Council. The Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services within the limits of funds appropriated by the Borough Council.

Section 9.07

MINUTES AND RECORDS

The Board shall keep full stenographic records of its proceedings showing the vote of each member upon each question or if absent for failing to vote indicating such fact. The Board shall also keep full public records of its business and other official action, copies of which shall be immediately filed with the Secretary of the Borough Council and shall be the property of the Municipality. The Board shall submit a report of its activities as requested by the Borough Council.

Section 9.08

HEARINGS

For the conduct of any hearing and the taking of any action, a quorum shall not be 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 decisions or findings by the Board and accept the decision or finding of the hearing officer as final as provided in section 908 of the Pennsylvania Municipalities Planning Code, as amended.

The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, persons who own property which adjoins the property in question and any other person who owns property situate within a distance of 150 feet from the center point of the property in question on the same side of the street and to any other person who has made timely request for the same. Notices shall be sent, as a minimum, to all adjoining property owners regardless of streets, right-of-ways. Written notice shall be given at such time and in such a manner as shall be prescribed by ordinance or, in the absence of ordinance provisions, by rules of the board. In addition to the written notice provided for herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
2. The hearing shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the finding 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 the decision or finding by the Board and accept the decision or finding of the hearing officer as final.
3. The parties to the hearing shall be the Municipality, any person affected by the application who has made timely appearance of record before the Board, and 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 the purpose.
4. The Chairman or Acting Chairman of the Board or the Hearing Officer presiding shall have the 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.
5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and arguments and cross-examine adverse witnesses on all relevant issues.

6. Formal rules of evidence shall not apply, but irrelevant material, or unduly repetitious evidence may be excluded.
7. The Board or the Hearing Officer, as the case may be, shall keep stenographic records of the proceedings.
8. 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, and shall not take notice of any communication, reports, staff memorandum, or other materials, except advise from their solicitor, unless the parties are afforded an opportunity to contest the materials and shall not inspect the site or its surrounding after the commencement of hearing with any party or his representative unless all parties are given an opportunity to be present.
9. 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 (45) days after the hearing or, if said hearing is continued, within forty-five (45) days after said continued hearing before the Board or hearing officer. Each decision shall be accompanied by findings of act and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, as amended, or of this ordinance, shall contain a reference to the provision relied on and the reason 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 its report and recommendations available to the parties and the parties shall be entitled to make written representation thereon to the Board prior to 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. Where the Board fails to render the decision within the period required by this subsection, or fails to hold 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 record of an extension of time. When a decision has been rendered in favor to 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 (10) days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the Boards shall fail to provide such notice, the applicant may do so. Nothing in this subsection

shall prejudice the rights of any party opposing the application to appeal the decision to a court of competent jurisdiction.

10. A copy of the final decision or, where no decision is called for, the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other person who have filed their names and addresses with the Board, not later than the last day of the hearing, the Board shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or finding may be examined.

#### Section 9.09 FUNCTIONS OF THE ZONING HEARING BOARD

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters;

1. Appeals and challenges
  - a. Substantive challenges to the validity of any land use ordinance, except those before the Borough Council pursuant to Section 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planing Code, as amended.
  - b. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption. Challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said Ordinance.
  - c. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application thereof, or 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 Municipal Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
  - e. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance provisions of the Zoning Ordinance.
  - f. Appeals form the Zoning Officer's Preliminary Opinion under Section 7.07.

- 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 insofar as the same relate to development not involving subdivision and land development or planned residential developments.
- h. Application for a variance from the terms of this Ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 803.2.
- i. Application for Special Exceptions under this Ordinance or flood plain or flood hazard ordinances or such provisions within a land use ordinance, pursuant to Section 803.3.

2. Variance

The Board shall hear request for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may prescribe the form of application and may require a preliminary application to the Zoning Officer. All variances applications shall be accompanied by supplemental information required for submission with special exception applications and shall be forwarded to the Bernville Borough Planning Commission for comment. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

- a. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness or lot size or shape or exceptional topographic or other physical conditions peculiar to the particular property, and that the hardship is due to such conditions, and not circumstance or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
- b. 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 for a variance is therefore necessary to enable the reasonable use of the property;
- c. That such unnecessary hardship has not been created by the applicant;
- d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;



- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Pennsylvania Municipalities Planning Code, as amended, and this Ordinance.

3. Special Exceptions

To hear and decide, only such special exceptions to the terms of this Ordinance upon which the Board by the provisions of this Ordinance, is specifically authorized. This granting of a special excepting when specifically authorized by the terms of the Ordinance shall be subject to the following conditions and applicable performance standards contained in Article XI of this ordinance.

- a. Such use shall be one which is specifically authorized as a Special Exception Use in the zoning district.
- b. Such special exception shall only be granted subject to any applicable condition and safeguards as required by this Ordinance.
- c. Such special exception may be granted subject to additional reasonable conditions and safeguards as may be deemed by the Board to be advisable and appropriate.
- d. Such use shall be found by the Board to be in harmony with the general purposes and intent of this Ordinance.
- e. Such use shall not adversely affect the character of the neighborhood in general, nor the conservation of property values, nor the health and safety of residents or adversely affect adjacent properties and the in general neighborhood.
- f. Such use shall be of a size and located and laid out in relation to its access to street vehicular and pedestrian traffic to and from such use so as not to create undue congestion or hazards prejudicial to the general neighborhood.
- g. Such use shall not conflict with the direction of building development in accordance with any Comprehensive Plan or portion thereof which has been adopted by the Borough Council.

## ARTICLE X

### SPECIAL EXCEPTION AND CONDITIONAL USES

Section 10.00        It is the intent of Article X and XI to provide special controls and regulations for particular uses which may, under certain conditions, be conducted within the various Zoning Districts established in this Ordinance.

Each subsection of this Section has particular controls and/or requirements which must be considered for the use by Special Exception or Conditional Use permitted; and it is the intent of this Article that these particular controls and requirements are in addition to those imposed by the District Use Regulations and by the Supplementary Regulations of this Ordinance.

#### Section 10.01 APPLICABILITY, LIMITATIONS, COMPLIANCE.

1.     Applicability - The controls imposed by Article X and XI are applicable where cited specifically for a use by Special Exception or Conditional Use listed in this Ordinance.
2.     Limitations - Special Exception and Conditional Uses shall be permitted only where specifically cited in the district use regulations.
3.     The applicant shall bear the burden of proof that the proposed use meets all requirements and objectives of this Ordinance.
4.     Compliance - Nothing in this Section shall relieve the owner or his agent, the developer, or the applicant for a Special Exception or Conditional Use Permit from obtaining Subdivision and/or Land Development Plan approval in accordance with the Bernville Borough Subdivision and Land Development Ordinance.
5.     Conditions and Safeguards of Special Exception and Conditional Use Permits - The Zoning Hearing Board or Borough Council, may require that special exception or conditional use permits be periodically renewed. Such renewal shall be granted upon a determination by the Zoning Hearing Board or Borough Council, to the effect that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. In such cases, a period of 60 days shall be granted to the applicant for full compliance prior to the revocation of said permit.

6. Effect of Approval - Any use for which a special exception or conditional use permit may be granted shall be deemed to be a conforming use in the District in which such use is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

Section 10.02 GENERAL PROCEDURES FOR SPECIAL EXCEPTIONS AND  
CONDITIONAL USES.

1. Application - Requests for Special Exceptions and Conditional Uses shall be submitted, together with all required fees, in a written application setting forth the grounds for the request in detail.

A development plan of the total area to be included in the application, shall be drawn to scale, shall accompany and be part of the Special Exception or Conditional Use Application when including new commercial or industrial construction and contain the following:

- a. The location, boundaries, dimensions and ownership of the land.
- b. In the case of commercial or industrial development, a general description of the activities to take place as may be appropriate such as maximum employment, working hours, customer traffic, delivery services, and development schedule staging plan.
- c. The location, use, and ground area of such proposed building and other structure.
- d. The locations, dimensions, arrangements and proposed use of all open spaces, yards, streets, accessways, entrances, exits, off-street parking facilities, loading and unloading facilities, pedestrian ways and buffer yards.
- e. The capacity arrangement and controls for all areas to be used for automobile access, parking, loading and unloading in sufficient detail to demonstrate that satisfactory arrangements will be made to facilitate traffic movement from the street or highway.
- f. The character of the buffer area and screening devices to be maintained including the dimensions and arrangements of all areas devoted to planting, lawns, trees or similar purposes.

- g. A description of the proposed methods of control of in noise, glare, air pollution, water pollution, fire hazards, traffic congestion, and other safety hazards.
- h. A description of the methods to be used for water supply, treatment and disposal of sewage, wastes, refuse, and storm drainage.
- i. The names and addresses of all adjoining property owners.

Section 10.03

REFERRAL TO BERNVILLE BOROUGH PLANNING COMMISSION.

Applications for Special Exceptions and Conditional Uses shall be referred to the Bernville Borough Planning Commission for comment. In their review the Planning Commission shall take into consideration the public health, safety, and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may recommend appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of this Ordinance and the accomplishment of the following objectives in particular.

- a. That all proposed structures, equipment, or material shall be readily accessible for fire and police protection.
- b. That the proposed use shall be of such location, size and character that, in general, will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- c. That, in addition to the above, in the case of any use located in, or directly adjacent to, a Residential District:
  - (1) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said Residential District or conflict with the normal traffic of the neighborhood; and

- (2) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

#### Section 10.04 SPECIAL EXCEPTIONS - SPECIFIC PROCEDURES

Upon receipt of a Special Exception application and Development Plan the following procedure shall prevail.

1. Planning Commission Review - Within thirty (30) days of the Borough's receipt of a Special Exception Use Application, the Borough Planning Commission shall review said application together with all supporting information and forward its written recommendations to the Zoning Hearing Board. The Commission may recommend approval, disapproval or modification. In the case of disapproval or modification the Commission shall set forth the reasons for the recommendation in writing.
2. Zoning Hearing Board Action - The Zoning Hearing Board shall conduct a public hearing on each application for a special exception use. Such hearing shall be conducted in accordance with the provisions for same in the PA Municipalities Planning Code, as amended and this ordinance.
  - a. The Zoning Hearing Board shall make its final decision based upon finding of fact as to the general factors and specific factors for which a special exception application is filed.

#### Section 10.05 CONDITIONAL USES - SPECIFIC PROCEDURES -

Upon receipt of a Conditional Use Application and Development Plan. The following procedure shall prevail.

1. Planning Commission Review - Within forty-five (45) days of the Borough's receipt of a Conditional Use Application, the Borough Planning Commission shall review said application together with all supporting information and forward its written recommendation to Borough Council. The Commission may recommend approval, disapproval or modification. In the case of disapproval or

modification the Commission shall set forth the reasons for the recommendation in writing.

2. Borough Council Action - Within forty-five (45) days form receipt of the Planning Commission's recommendation, Borough Council after giving notice to the public shall hold a public hearing. Written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

Borough Council shall make its final decision based upon finding of fact as to the general factors and upon the specific factors for which a conditional use application is filed.

Each decision shall be accompanied by finding of fact and conclusions based thereon together with the reasons therefor. Conclusions shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.

In allowing a Conditional Use, Borough Council 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 Ordinance and the Pennsylvania Municipalities Planning Code.

## ARTICLE XI

### SPECIAL EXCEPTION AND CONDITIONAL USE CONDITIONS AND PERFORMANCE STANDARDS

Section 11.00      Special Exceptions and Conditional Uses shall be subject to the appropriate safeguards and conditions contained herein an applicable state and local rules, regulations or ordinance.

#### Section 11.01      PERFORMANCE STANDARDS

No land or building in any District in the Borough shall be used or occupied in such a manner so as to create any dangerous or objectionable elements as to adversely affect the surrounding area or premises. All uses of land or buildings shall initially and continuously comply with all applicable performance standards established by Federal and State agencies. Performance standard determinations shall be administered in accordance with the following:

1.      Any informal replacement or addition of equipment and machinery not affecting the operations or the degree of the nature of dangerous and objectionable elements previously permitted shall not be considered a change in use.
2.      After occupancy, if there occurs continuous or frequent, even through intermittent, violations of the Performance Standards and other provisions for a period of five (5) days, without bona fide and immediate corrective action, the Borough shall suspend or revoke the occupancy permit of the use and the operation shall immediately cease until it is able to operate in accordance with these regulations, at which time the occupancy permit shall be reinstated.
3.      The Borough shall investigate any alleged violation of Performance Standards, and if there are reasonable grounds to believe that a violation exists, the Borough shall investigate the alleged violation, and for such investigation may employ qualified experts.
4.      A copy of said findings shall be forwarded to Borough Council. The services of any qualified experts employed by the Borough to advise in establishing a violation shall be paid for by the violator, if it shall be determined that a violation is proved, by the Borough. No new certificate of occupancy shall be issued unless such charges have been paid to the Borough.

#### Section 11.02 BED AND BREAKFAST INN

1. The structure utilized as a bed and breakfast shall contain a minimum of 2,000 square feet of gross floor area.
2. All bed and breakfast units shall be contained within the principal structure.
3. There shall be no more than one bed and breakfast unit per 700 square feet of gross floor area in the principal structure.
4. All area and bulk regulations of the prevailing zoning district for single family dwellings shall apply.
5. In addition to the two (2) spaces required for the principal use, there shall be one (1) off-street parking space per bed and breakfast unit.
7. Dining and other facilities shall not be open to the public but shall be exclusively for the residents and registered bed and breakfast guests.

#### Section 11.03 ACCESSORY COMMERCIAL USE

1. Permitted Uses. - In apartment developments, multi-family dwelling developments and office centers, all of which contain not less than one hundred (100) units or combination of units, the following commercial accessory uses are permitted by Special Exception:
  - A. Eating facilities
  - B. Delicatessens
  - C. Pharmacies
  - D. Newsstand, stationery or book store
  - E. Gift Shop
  - F. Automatic laundry or dry cleaning shop, or pick--up point
  - G. Barber or beauty shops
  - H. Convenience food store
2. Area and Bulk Regulations - Such uses shall not include the outside storage of materials, equipment or merchandise, and the total area devoted to such commercial use shall not exceed four (4) percent of the total gross floor area of the development.



#### Section 11.04 DAY CARE CENTERS

Day care centers may be approved according to the procedures and requirements specified below and Section 6.10:

1. Day Care Centers providing care for more than three (3) children, not related to the care giver, must secure a license from the Commonwealth of Pennsylvania, Department of Public Welfare. Evidence of such state licensing must be provided prior to the issuance of a use and occupancy permit by the Zoning Officer.
2. A Mini Day Care Center or Day Care Center shall have at least 65 square feet of outdoor play area for each child. This play area must be located in the rear building area of the lot and be sufficiently screened and sound-insulated so as to protect the neighborhood from excessive noise and other disturbances.
3. A Day Care Center shall not be located within 1,000 feet of any other Day Care Center. This measurement shall be taken from property line to property line.

#### Section 11.05 LIFE CARE AND RETIREMENT COMMUNITIES

Where permitted life care and retirement communities shall comply with the applicable District regulations and the following additional provisions:

1. The life care/retirement community and accessory facilities shall be designed and used to serve its residents and their guests only.
2. The life care/retirement community shall be planned, developed, and operated according to a unified plan under the direction of a single owner or agent for the owner.
3. The maximum gross density within a life care/retirement community shall not exceed eight (8) dwelling units per acre. For the purposes of this section, four (4) beds per patient, resident and/or staff person provided within a medical facility within the life care community shall be deemed the equivalent of one (1) dwelling unit.
4. The life care/retirement community may provide individual dwelling units in any combination of single or multiple-family dwellings and shall include a community center in which an auditorium, activity rooms, craft rooms, library, lounges, or similar recreational facilities for members of the life

care community shall be included. Additional facilities provided as part of the life care/retirement community may include:

- A. Dining Facilities;
  - B. Medical facilities, including treatment, nursing and convalescent facilities;
  - C. Office and retail service facilities designed and adequate to serve only the members of the life care/retirement community, including but not limited to doctor's offices, pharmacy, gift shop, coffee shop, bank barber or beauty shop.
- 5. A minimum of thirty percent (30%) of the total tract area shall be designated as and used exclusively for common open space. Ownership, location, design and layout, and maintenance of common open space shall be in accordance with the requirements for open space for planned residential developments in Section 6.50.
  - 6. There shall be a minimum setback of one hundred (100) feet from all tract boundaries in which no structures shall be located. The buffer yard and screening provisions of this Ordinance shall be incorporated within setback areas.

#### Section 11.06 MICROWAVE ANTENNA FOR SATELLITE COMMUNICATION

Microwave antennas are a permitted accessory use in all Zoning Districts, subject to the following:

- 1. The diameter of the microwave antenna shall not exceed 12 feet in the R-1, R-2 and T-C districts. When separately supported, the total height of the antenna shall not exceed fourteen (14) feet.
- 2. Microwave antennas installed in the C and I Districts shall not exceed sixteen (16) feet in diameter. Where separately supported, the total height of the microwave antenna shall not exceed twenty (20) feet.
- 3. No microwave antenna shall project nearer to the street on which the principal building fronts than the front wall of such principal building. The antenna may not be located within the side yard setback. The antenna may be located within the rear yard, but no portion of the antenna shall extend closer than ten (10) feet from the rear property line.

4. Roof-mounted microwave antennas or building-attached antennas extending above the roof peak of the building shall be permitted provided that the total height of the microwave antenna does not exceed five (5) feet above the roof peak.
5. No more than one microwave antenna shall be permitted on any lot or building without a Special Exception granted by the Zoning Hearing Board.
6. A building permit in accordance with this Ordinance must be obtained prior to the erection of any microwave antenna.
7. No microwave antenna may be erected which is prohibited by regulations of the Federal Communications Commission or other regulatory agency having jurisdiction.
8. This Ordinance shall in no event be construed to permit as a permissible accessory use, a microwave antenna for satellite communication used, or intended to be used, for the propagation or transmission of radio or electromagnetic waves, such microwave antennas are prohibited.

#### Section 11.07 WIND ENERGY CONVERSION SYSTEMS

The Zoning Hearing Board may approve Wind Energy Conversion Systems in the I - Industrial Districts according to the procedures and requirements specified below:

1. One windmill or wind wheel shall be permitted per property.
2. The structure supporting the wind rotor unit, including any required supporting cables, etc., shall not be connected to any occupied structure and shall be located a minimum distance of the wind rotor unit tower height, plus ten (10) feet, from any occupied dwelling.

3. The maximum height of the wind rotor and tower shall be determined as follows:

<u>Minimum Distance From All Property Lines</u>	<u>Maximum Tower Height</u>
75 ft. - 85 ft.	35 ft.
86 ft. - 95 ft.	40 ft.
96 ft. 100 ft.	45 ft.
More than 100 ft.	50 ft. to 75 ft.

The tower height may be increased from 50 feet to a maximum of 75 feet, with the allowance of each one foot of setback from a property line.

4. All mechanical equipment and buildings associated with the operation shall be enclosed within a six (6) foot fence. The tower shall also be enclosed with a six (6) foot fence, unless the base of the tower is not accessible for a height of twelve (12) feet.
5. When a building is required for storage cells or related mechanical equipment, the building may not exceed 150 square feet in area nor 8 feet in height, and must be located at least 75 feet from any property line.
6. All electric and other utility wires associated with the Wind Energy Conversion System shall be buried underground.
7. The applicant shall demonstrate that any noise emanating from the wind energy conversion system shall not exceed fifty (50) decibels measured at the nearest property line.
8. If the wind energy conversion unit is abandoned from use; the tower and related structures shall be dismantled and removed from the property within ninety (90) days.
9. The energy generated from the wind energy conversion system shall be used on the property on which it is located and shall not be operated as a commercial enterprise.

#### Section 11.08 ESSENTIAL SERVICES

Essential Service buildings and structures shall be permitted in any district without regard to use and area regulations; provided, however, that buildings erected for these utilities shall be subject to the following regulations:

1. Where feasible, front, side and rear yards shall be provided in accordance with the regulations of the district in which the building is located.
2. Height of buildings or structures shall be as required by the district regulations.
3. Unhoused equipment shall be enclosed within a chain link fence six (6) feet in height.
4. When the equipment is totally enclosed within a building, no fence or screen planting shall be required and the yard shall be maintained in conformity with the district in which the facility is located.
5. The required fence for unhoused equipment shall be screened as defined by this ordinance.
6. The external design of the building shall be in conformity with the buildings in the district.
7. In residential districts, the permitted public facilities shall not include the storage of vehicle or equipment used in the maintenance of any utility and no equipment causing noise, vibration, smoke odor, or hazardous effect shall be installed.

#### Section 11.09 ACCESSORY APARTMENTS

The Zoning Hearing Board may approve Accessory Apartments according to the procedures and requirements specified below:

1. The habitable floor area of the accessory apartment shall not be less than seven-hundred twenty (720) square feet.
2. Only one accessory apartment may be permitted within any structure having a permitted principal commercial use.

3. An accessory apartment may only be permitted and may only continue in use as long as the accessory apartment is occupied by a relative of the owner of said commercial use.
4. The lot area for the principal dwelling shall meet the minimum lot area requirement for the applicable district where located.
5. The exterior architectural character of the structure shall not be altered in a manner which departs from the primary feature of the building as a commercial unit.
6. Two additional off-street parking space shall be provided in addition to those required by the permitted principal commercial use.
7. The applicant shall submit a plan and supporting documentation to establish compliance with the dimensional requirements of the District in which the lot is located and architectural compatibility.

Section 11.10 AUTOMOTIVE DISMANTLING AND RECYCLING FACILITY AND  
SIMILAR STORAGE AREAS

The Zoning Hearing Board may permit automotive dismantling and recycling facilities and similar storage areas as a Conditional Use where enumerated in Article III, provided that the following criteria are met:

1. No automotive dismantling and recycling facility and similar storage areas shall be located within the boundaries of the watershed of any Municipality or any private water company whose business is to supply potable water to its customers, or within the boundaries of any publicly owned recreation facility.
2. No automotive dismantling and recycling facility and similar storage areas shall be stored within three hundred (300') feet of an existing dwelling unless it is stored in a completely enclosed building, in which case, such buildings may be located not closer than one hundred (100') feet from an existing dwelling.
3. No automotive dismantling and recycling facility and similar storage areas shall be stored closer than one hundred (100') feet from the legal right-of-way.
4. No open burning or melting of materials shall be permitted.

5. All automotive dismantling and recycling facilities and similar storage areas shall be completely enclosed by a solid, protective type fence, which shall be a minimum of ten (10') feet in height.
6. No stored material shall be stacked to a height greater than eight (8') from the ground.
7. The manner of storage and arrangement of materials shall be such as to provide for adequate access for fire fighting equipment and to avoid the accumulation of stagnant water on the premises.
8. All fluids, such as gasoline, oil, transmission fluid, etc., shall be drained into containers and removed from the premises within twenty-four (24) hours after arrival of such vehicles on the premises.

#### Section 11.11 SOLID WASTE MANAGEMENT FACILITY (SWMF)

A facility that treats, processes, stores or disposes of solid waste as defined by the rules and regulations promulgated under Act 97, the Solid Waste Management Act, as amended. The term includes but is not limited to municipal, residual and hazardous waste landfills, processing facilities, treatment facilities, transfer stations and composting facilities.

##### 1. General Requirements

- A. Solid Waste management facilities (SWMF's) may be permitted as a conditional use in those zoning districts where they are enumerated provided that they comply with the rules and regulations promulgated under Act 97, the Pennsylvania Solid Waste Management Act, as amended.
- B. Plans for SWMF's shall be in harmony with existing surrounding natural features or those proposed in the County's Comprehensive Plan.
- C. A permit shall be obtained from the PA Department of Environmental Protection.
- D. Any SWMF shall also be subject to the applicable provisions of this Ordinance governing earth-moving activities.

2. Setback Requirements - The SWMF shall comply with the following setback requirements:
  - a. Five-hundred feet (500') from any property line.
  - b. One thousand feet (1,000') from any occupied building or structure, or any private water supply.
  - c. 0.25 miles (1320') from any public water supply.
3. Screening - Screening as defined herein, shall be provided by the developer along all property and street boundary lines separating the SWMF from adjacent uses in instances where existing vegetation, features or topography cannot provide year-round screening from the adjacent use. If the proposed screening is to be in the form of vegetation, the following standards shall apply:
  - a. A minimum of four (4) rows of two (2) different species of evergreen trees, shrubs or other vegetation shall be utilized. Selected species shall exhibit tolerances to insect and disease.
  - b. Selected species must be capable of producing the desired visual barricade within three (3) years of planting.
  - c. Prompt replacement of dead plantings shall be required.
4. Traffic Control Requirements

No trucks or other vehicles shall be allowed to be parked along any public right-of-ways prior to entering the facility. It shall be the responsibility of the facility operator to schedule vehicles in a manner which will preclude this occurrence and/or provide on-site vehicle storage facilities in order to comply with this requirement.
5. Traffic Study and Plan - A traffic study and plan shall be submitted with the application and shall include the following:
  - a. A traffic study and plan that establishes the most direct proposed route or routes for vehicles traveling to the facility. This route shall minimize impacts on any medical, residential area, commercial or retail establishment, school or religious institution.
  - b. The traffic study and plan shall include proposed remedial actions to be taken in the event of a solid waste spill or accident involving a vehicle traveling to the facility.



## Section 11.12 VEHICLE WASHES

Vehicle washes are permitted subject to the following conditions:

1. Automatic, semi-automatic or self-service car washes shall be limited to the service of cleaning or waxing of vehicles and shall be carried out only within an enclosed building.
2. The lot shall be so graded that process water shall not run off to adjacent properties or onto a public street.
3. Car washes shall be required to provide a grease and grit trap within their sewer hookup designed to specifications provided by the Municipal Engineer.
4. The lot area shall be sufficient to provide space for the building, required yards, drives and storage areas.
5. Automobile storage or waiting spaces shall be provided at the rate of not less than five (5) vehicles for each bay in a self-service car wash and not less than ten (10) vehicles for each space within an automatic or semi-automatic car wash.
6. All vehicle storage shall be designed and located so as not to intrude into any required yards. Main or accessory buildings shall not be located closer than fifty (50) feet from any residential district.
7. All lot lines adjoining residential areas shall be adequately screened in accordance with the provisions of this Ordinance.
8. Lighting shall not produce glare to adjoining properties.
9. Hours of operation shall be limited to the hours of 7:00 a.m. to 10:00 p.m.

## Section 11.13 INSTITUTIONAL USES

Institutional uses such as churches, schools, cemeteries or fire stations are subject to the following safeguards and conditions:

1. Heavy traffic generators such as large institutions, churches, and schools should be located so as to be readily accessible from roads that are capable of handling the anticipated traffic flows.

2. Lighting shall be designed as to prevent glare to adjoining properties.
3. Adequate parking shall be provided on the lot for each activity as required by this Ordinance.

#### Section 11.14 DRIVE-IN ESTABLISHMENTS

Drive-in establishments are subject to the following conditions:

1. Drive-in banks, fast food, or similar establishments shall be so located so as not to interfere with normal traffic circulation.
2. Drive-in establishments shall be located not less than fifty (50) feet from the street line.

#### Section 11.15 WHOLESALE ACTIVITIES, AND FUNERAL HOMES

Wholesale activities and funeral homes are subject to the following conditions:

1. Such uses shall meet all of the minimum lot size, yard and building coverage requirements of the zoning district in which it is located.
2. Adequate off-street parking shall be provided on the same lot in accordance with the provisions of this Ordinance.
3. Access driveways shall be a minimum width of twelve (12) feet for each lane of traffic and not greater than thirty (30) feet in width at the street line.
4. Means of ingress and egress to any public street shall be adequate to comply with highway safety standards in accordance with PADOT standards.
5. No goods materials or equipment shall be display or stored, or sold in any yard.

#### Section 11.16 VEHICLE BODY SHOP

Vehicle body repair establishments are subject to the following conditions:

1. All repair and painting shall be performed within an enclosed building.
2. Provisions shall be made to prevent or minimize noise, odor, vibration, light or electrical interference to adjacent lots.

3. Outdoor storage of vehicles shall only within the building setback lines and shall be not closer than twenty (20) feet from side or rear lot setback lines.
4. Plans are required to be presented detailing traffic flow within the repair establishment, point of ingress and egress, and probable effects on local traffic flow. Ingress and egress points shall not be located closer than one hundred (100) feet of any intersections.
5. Main or accessory buildings shall not be located closer than fifty (50) feet to any residential district.
6. Lighting shall not produce glare visible to adjoining properties.
7. Operation characteristics and hours of operation shall be limited 7:00 a.m. to 10:00 p.m.

#### Section 11.17 VEHICLE SERVICE STATION

Vehicle service stations are subject to the following conditions:

1. Plans are required to be presented detailing traffic flow within the station, points of ingress and egress, and probable effects on local traffic flow. Ingress and egress points shall not be located closer than one hundred (100) feet of any intersection.
2. Service station operation shall be limited to sales and minor repairs.
3. All vehicles and parts storage shall be so designed and located as not to intrude into any required yard, yard areas adjacent to residential districts shall be suitably screened.
4. Main or accessory buildings shall not be located closer than fifty (50) feet from any residential district.
5. Lighting shall not produce glare visible to adjoining residences.
6. Pump canopies shall not project into any required setbacks.

Section 11.18 VEHICLE REPAIR GARAGES

Repair garages are subject to the following conditions:

- a. All vehicles and parts storage shall not intrude into any required yard. Yard area adjacent to residential districts shall be screened in accordance with the provisions of this Ordinance.
- b. Main or accessory buildings shall not be located closer than fifty (50) feet from any residential district.
- c. Lighting shall not produce glare to adjoining properties.
- d. Hours of operation shall be limited from 7:00 a.m. to 10:00 p.m.

Section 11.19 CONDITIONAL USES - ADULT BOOK STORES AND ADULT THEATERS

Borough Council may approve Adult Book stores and Adult Theaters as a Conditional Use according to the procedures and requirements specified below:

1. Purpose - The purpose of this section is to provide for the establishment of adult bookstores and adult theaters within the Borough and in such manner, as is appropriate and reasonable; and to establish reasonable regulations which take into consideration the potential for adverse impact from such businesses upon adjoining property owners, occupants and uses.
2. Interpretation and Application - This Section shall be interpreted and applied in a manner consistent with the constitution and shall not be applied to unduly restrict or the rights guaranteed thereby.
3. Severability - The provisions of this Section shall be severable and if determined to be invalid or unenforceable shall not operate to repeal or invalidate the remaining provisions.
4. The use and occupancy of any land, building or structure as an adult bookstore or theater shall be subject to the following:
  - a. An adult book store or an adult theater shall be permitted only in a I - Industrial District.
  - b. An adult book store or an adult theater shall not be permitted to be located within two hundred (200) feet of any of the following:

- (1) Any building or other structure used for residential purposes.
  - (2) The geographical boundary line of the I - Industrial District.
  - (3) The geographical boundary line of the Borough.
  - (4) Any other adult book store or adult theater.
  - (5) Any public or private school, public park or playground, or any church or other house of worship.
- d. No materials, merchandise, or film offered for sale, rent, lease, loan or for view upon the premises shall be exhibited or displayed outside of a building or structure.
  - e. Any building or structure used and occupied as an adult book store or adult theater shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, live entertainment or film shall be visible from outside of the building or structure.
  - f. The serving of food or beverage by persons while nude, or partially nude, shall be prohibited.
  - g. Operating hours shall only be between the hours of 8:00 A.M. and 8:00 P.M. Monday thru Saturday.
  - h. No signs containing sexually explicit nudity or sexually explicit language shall be permitted on the property housing and Adult Book Store or Adult Theater.
  - i. All area utilized in conjunction with an Adult Book Store or Adult Theater (including parking areas) shall be screened from view of adjacent properties with a nine (9) foot high fence and appropriately mature landscaping to conceal the fencing.

## ARTICLE XII

### MISCELLANEOUS

#### Section 12.01 APPEALS

The proceedings set forth in the Pennsylvania Municipalities Planning Code, as amended, shall constitute the exclusive method for securing review of any ordinance, decision, determination or order of the Borough Council, its agencies or officer, adopted or issued permits pursuant to this Ordinance.

#### Section 12.02 CAUSES OF ACTION

In case where a building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed altered, repaired, converted, maintained or used in violation of this Ordinance, the Borough Council, or, with the approval of the Borough Council the Zoning Officer, or any aggrieved owner or tenant of real property who shows that his property will be substantially affected by the alleged violation, in addition to other remedies, may institute in the name of the Municipality 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. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council of the Municipality. No such action may be maintained until such notice has been given.

#### Section 12.03 ENFORCEMENT REMEDIES

1. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance enacted under the Pennsylvania Municipalities Planning Code, as amended, or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Municipality, pay a judgment of not more than five hundred (\$500) dollars plus all court cost, including reasonable attorney fees incurred by the Municipality as a result thereof. No judgement shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays not timely appeals the judgement, the Municipality may enforce the judgement 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 is a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was not such violation, in which event there shall be deemed to have been only one (1) such

violation until the thirtieth day following the date of the determination of a violation by the District Justice. Each day thereafter that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid to the Municipality.

2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, extolling the per diem fine pending a final adjudication of the violation and judgement.
3. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Municipality the right to commence any action for enforcement pursuant to this section.

#### Section 12.04 PUBLIC UTILITIES CORPORATION EXEMPTED

This Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

It shall be the responsibility of the Pennsylvania Utility Commission to ensure that both the corporation and the Municipality have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of the party to the proceedings.

#### Section 12.05 SEVERABILITY

Should any article, section, subsection, paragraph, clause, phrase or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such judgement shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

#### Section 12.06 REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of ordinances together with the amendments and supplements thereto are hereby repealed to the extent necessary to give this Ordinance full force and effect, except as may be noted elsewhere in this Ordinance.

Section 12.07 EFFECTIVE DATE

This Ordinance shall become effective.

Duly enacted by the Borough Council of the Borough of Bernville, Berks County, Pennsylvania,  
this 5 day of AUG, 1997, in lawful session duly assembled.

BOROUGH OF BERNVILLE

By: Roger L. Inogel  
President of Borough Council

Attest: G. Thomas Sherr  
Borough Secretary

Approved an Ordinance this 5<sup>TH</sup> day of AUG, 1997

Roger L. Inogel  
Mayor