

ZONING ORDINANCE

**BOROUGH OF DALLAS
LUZERNE COUNTY, PA**

ADOPTED: DECEMBER 16, 2009

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Adopted December 16, 2009

ORDAINING CLAUSE

Article 1

GENERAL PROVISIONS

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ORDINANCE NO. 03-2009

DALLAS BOROUGH ZONING ORDINANCE

ORDANING CLAUSE

BE IT HEREBY ORDAINED AND ENACTED by the Council of Dallas Borough, County of Luzerne, by authority of and pursuant to the provisions of Act 247 of the General Assembly of the Commonwealth of Pennsylvania, approval July 31, 1968, known and cited as the “Pennsylvania Municipalities Planning Code”, and any amendments and supplements thereto, as follows:

Article 1

GENERAL PROVISIONS

101 Title

An ordinance permitting, prohibiting, regulating, restricting, and determining the uses of land, watercourses, and other bodies of water, the size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures; the areas and dimensions of land and bodies of water to be occupied by uses and structures as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; the density of population and intensity of use, the protection and preservation of natural resources and agricultural land and activities; and providing for the administration of such ordinance.

102 Short Title

This ordinance shall be known and may be cited as the “Zoning Ordinance of Dallas Borough”.

103 Purpose

This ordinance is enacted for the following purposes:

1. To promote, protect and facilitate one or more of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as the preservation of the natural, scenic and historic values in the environment and preservation of forest, wetlands, aquifers and floodplains;
2. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers,

3. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use,
4. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two family dwellings, and a reasonable range of multiple-family dwelling in various arrangements, mobile homes and mobile home parks, provided, however, that the zoning ordinance shall not be deemed invalid for the failure to provide for any of other specific dwelling types and nonresidential uses, and,
5. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

104 Interpretation and Conflict

1. Interpretation: In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare of the residents of the borough.
2. Conflict with Public and Private Provisions
 - a. Public Provisions: These regulations are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the borough which are not in conflict with any provisions of this ordinance. Where this ordinance imposes a greater restriction upon the use of the buildings or premises or upon the height of the building, or requires a larger open space than is imposed or required by such ordinance, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this ordinance shall control.
 - b. Private Provisions: These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this ordinance impose a greater restriction, the requirements of this ordinance shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of this ordinance and such private provisions are not inconsistent with the requirements of this ordinance, then such private provisions shall be operative and supplemental to these requirements.

105 Validity

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in the Zoning Ordinance is, for any reason, declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, such decision shall not affect or impair the validity of the Zoning Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the Zoning Ordinance. The Council of Dallas Borough, Luzerne County, Pennsylvania, hereby declares that it would have adopted the Zoning Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more of the sections, subsections, provisions, regulations,

limitations, restrictions, sentences, clauses, phrases, or words may be declared illegal, unconstitutional or invalid.

106 Repealer

The Dallas Borough Zoning Ordinance of February 20, 1973, as amended, is repealed. Any resolution, ordinance, or part of any ordinance or resolution inconsistent herewith and any amendments thereof are hereby expressly repealed.

107 Effective Date

This Zoning Ordinance shall become effective five (5) days after the adoption by the Council of Dallas Borough, Luzerne County, Pennsylvania.

Article 2

COMMUNITY DEVELOPMENT GOALS & OBJECTIVES

- 201** Community Vision
- 202** Community Development Goals & Objectives

Article 2

COMMUNITY DEVELOPMENT GOALS & OBJECTIVES

201 Community Vision

Dallas Borough is a charming enclave of partners who actively collaborate to maintain, enhance, and promote the borough not only as the gateway and the identifiable heart of the greater Back Mountain region, but also as a distinctive and charming community to live, work, shop, and play.

202 Community Development Goals & Objectives

1. General Community and Land Use Development

a. Goal:

The borough should provide for a mix of compatible land use development and building designs for the reuse, infill, and redevelopment of buildings and land that are in harmony with the borough's established, charming small town character and surrounding natural environment, in order to accommodate existing and future residents and businesses.

(1): Objectives:

- (a) The borough should develop and orient itself toward the "downtown" near the intersection of Main Street, Route 415, Lake Street, and Church Street, by enhancing the area with appropriate design and compatibility standards.
- (b) The borough should focus on accommodating adaptive reuse, infill, and redevelopment within existing and planned development areas over new construction and development on open space land in established rural areas.
- (c) The borough should protect and enhance the existing predominately single-family detached and low intensity residential areas with appropriate compatibility standards.
- (d) The borough should protect and enhance the mixed residential and moderate intensity neighborhoods in and around the "downtown" with appropriate compatibility standards.
- (e) The borough should ensure auto-oriented, auto-dominated, and other moderately intensive business uses are accommodated for in appropriate areas (not within the downtown) with convenient access to major transportation corridors and a full range of public utilities and services, and provided with appropriate design standards.
- (f) The borough should utilize appropriately scaled design and compatibility standards to protect and enhance the charming, small town character of the borough in general.

- (g) The borough should encourage sustainable development practices and patterns that protect and enhance important natural, cultural, historic, and scenic resources through appropriate design and siting compatibility standards.

2. Residential Neighborhoods and Housing

a. Goal:

The borough should provide for a variety of existing and new housing opportunities that are consistent with the existing neighborhoods and housing stock characteristics and are compatible with the natural and scenic landscapes of the borough in order to accommodate existing and future residents:

- Within established single-family residential and low intensity neighborhoods in a consistent and compatible manner;
- Within mixed residential and moderate intensity neighborhoods around the “downtown” in a consistent and compatible manner;
- Within the “downtown” area on upper floors or via live/work units in a consistent and compatible manner.

(1) Objectives:

- (a) The borough should encourage the maintenance, rehabilitation, and reasonable expansion of existing housing and adaptive reuse of existing buildings, via appropriate capability standards.
- (b) The borough should provide for a variety of housing types for various price ranges that are consistent and compatible with existing housing within the surrounding neighborhood and natural landscapes.
- (c) The borough should attempt to reduce housing blight.
- (d) The borough should prevent overcrowding of residences and neighborhoods.
- (e) The borough should encourage neighborhoods that are well-kept, safe, and green.
- (f) The borough should support and encourage development of interconnections within the neighborhoods: between the neighborhoods; and to a variety of neighborhood serving civic uses and businesses either within the neighborhood or close by, especially the “downtown”.
- (g) The borough should provide formal and informal opportunities for neighbors to interact and develop and promote neighborhood pride.
- (h) The borough should encourage opportunities for energy efficiency in new construction and reuse of existing structures to conserve energy and lower costs for inhabitants.
- (i) The borough should continue its “open door” policy barring discrimination against potential residents on the basis of race, age, marital status, creed, color, sex, handicap, national origin, and income.

3. Commercial Business

a. Goal:

The borough should continue supporting and promoting sustainable local and regional serving businesses that are consistent with the existing building and development characteristics to serve existing and future residents and customers and provide a stable economic core for the region.

(1) Objectives:

- (a) The borough should enhance and promote the “downtown” area as a pedestrian oriented, neighborhood serving, local and niche business accommodating destination.
- (b) The borough should orient, support, and promote itself as an “ecotourism” and related business support hub.
- (c) The borough should consider allowing small scale, neighborhood serving businesses designed to fit into the character of the surrounding neighborhood, in the mixed residential and moderate intensity neighborhoods around the “downtown”, in a fashion that does not overpower or detract from the existing residential character of the neighborhood.
- (d) The borough should provide a general business district to permit other larger/regional and general type business uses, including auto oriented businesses and smaller industrial businesses along other areas of Route 415 instead of in the “downtown”.

4. Community Facilities

a. Goal:

The borough should ensure complete and adequate community facilities and services (public and private) are provided to businesses and citizens (existing and new) in an efficient, cost-effective, and quality driven manner.

(1) Objectives:

- (a) The borough should ensure the existing levels of public water and public sewage services are maintained and enhanced in areas of existing and planned development so as to not place any additional burdens on the borough negatively impact the environment, or encourage the premature development of rural areas.
- (b) The borough should ensure adequate protection is provided for important sources of water including reservoirs and wells.
- (c) The borough should ensure utility service providers maintain and enhance current levels of service in areas of existing and planned development so as to not place

any additional burdens on the borough, negatively impact the environment, or encourage the premature development of rural areas.

- (d) The borough should continue to ensure the high levels of public safety service and quick responses for police, fire and other emergency service providers, while continuing to pursue opportunities to maximize time, energy, and resources.
- (e) The borough should maintain and enhance its presence as a civic anchor in and around the “downtown”.
- (f) The borough should maintain and enhance the existing parks and recreational opportunities as important community assets.
- (g) The borough should support and promote the public library within the borough and strengthen links and ties with educational facilities such as Dallas Area School District, Misericordia University, and Penn State University-Wilkes-Barre around the borough, and as important community assets.
- (h) The borough should support and promote the Back Mountain Trail and other greenway/trail opportunities as important community assets.
- (i) The borough should continue collaboration and intergovernmental cooperation in planning and coordination of longer term capital improvements with the involvement and support of government entities, utility providers, organizations, businesses, and residents.
- (j) The borough should continue exploring ways to ensure innovative but proven effective stormwater best management practices are provided to reduce runoff and improve groundwater recharge.
- (k) The borough should continue enforcing existing ordinances to ensure the fulfillment of their purposes.

5. Transportation

a. Goal:

The borough should protect and promote safe and efficient access and mobility for people and goods within the borough, through preserving and enhancing the well established, appropriately designed and interconnected network of streets, public transportation, and non-motorized transportation opportunities.

(1) Objectives:

- (a) The borough should better coordinate and link land use, community and economic development, and transportation decisions in the context of a core community.
- (b) The borough should continue to provide cost effective maintenance and rehabilitation of existing transportation facilities.

- (c) The borough should be friendly to and safe for pedestrians via an interconnected network of sidewalks and other non-motorized pathways.
- (d) The borough should preserve the functional integrity of Routes 309 and 415 in a context that supports and enhances, rather than detracts from the surrounding land uses and development.
- (e) The borough should enhance connections to the Back Mountain Trail and other greenways/trails linking important community assets with neighborhoods in and points beyond the borough.
- (f) The borough should maintain and enhance its street and roadway network, and provide for future interconnections when possible.
- (g) The borough should continue to provide for on-street and off-street parking opportunities in appropriate areas.
- (h) The borough should continue to support mass-transit opportunities within the borough.
- (i) The borough should maintain and enhance its streetscapes through a series of improvements and traffic calming (slowing) techniques including appropriately designed and installed street trees, sidewalks/crosswalks, curb extensions, period style street lights, on-street parking, etc. especially in and around the "downtown".
- (j) The borough should continue to foster relationships and partnerships with federal, state, county, and local entities, transportation providers, business owners and residents regarding existing and future motorized and non-motorized transportation facilities and services.

6. Community Pride and Identity

a. Goal:

The borough should promote community pride, cohesiveness, and social interaction through a variety of sustainable community organizations, activities, and events.

(1) Objectives:

- (a) The borough should continue to maintain, update, and expand the borough's website <http://www.dallasborough.org/>.
- (b) The borough should continue to support and promote community events and happenings including but not limited to the annual Dallas Harvest Festival.
- (c) The borough should continue educational and outreach efforts to residents, business owners, and community organizations via a variety of traditional and alternative formats, to provide for and enhance a consistent 2 way unimpeded flow of information and input on community issues and happenings.

- (d) The borough should continue to support the creation and empowerment of local “grass roots” and other volunteer type organizations.
- (e) The borough should continue to support and partner with various borough committees and related community groups including but not limited to:
 - Dallas Borough Planning Commission
 - Dallas Area School District
 - Downtown. Revitalization Committee
 - Misericordia University
 - Penn State University - Wilkes-Barre

7. Heritage Preservation

a. Goal:

The borough should preserve, enhance, and promote the borough’s historic, cultural, and architectural heritage.

(1) Objectives:

- (a) The borough should encourage historic, cultural, and architectural resource identification, documentation, and preservation.
- (b) The borough should encourage new development to be sensitive to the positive historical context of the region by taking into consideration details such as building placement, building height and setbacks, but may also include color scheme, and facade characteristics.
- (c) The borough should encourage increased awareness of and support for cultural diversity in the borough.
- (d) The borough should encourage increased awareness of and support for history, culture, and architecture in the borough through coordinated educational and promotional efforts.
- (e) The borough should consider developing a specific criteria and review process for increased scrutiny regarding demolition of certain historic, cultural, and architecturally important buildings and resources within the borough.

8. Environmental / Natural Resources

a. Goal

The borough should preserve, enhance, and promote the borough's important natural and scenic resources.

(1) Objectives:

- (a) The borough should encourage the protection and enhancement of the quality of natural and scenic resources within the borough including floodplains (including

streams and water courses), water supply areas, wetlands, steep slopes, woodlands, etc., so that people, development, and nature may exist in productive harmony.

- (b) The borough should support the Back Mountain Trail and other greenway / trails as important natural and scenic corridors for sustaining flora and fauna while providing additional recreational, educational, and transportation opportunities and serving as an important community asset.
- (c) The borough should encourage green building techniques for new development.
- (d) The borough should encourage neighborhood, downtown, and business area greening through enhanced landscaping treatments using native vegetation, plantings, and street trees.
- (e) The borough should support the creation and maintenance of sustainable community parks or creation of pocket parks that balance natural resources conservation with recreation.

9. Community Design

a. Goal:

The borough should preserve, enhance, and promote the community's charming, small town character through specific building and land development design standards.

(1) Objectives:

- (a) The borough should ensure that new residential and business development is designed to fit into the character of the surrounding neighborhood and natural/scenic environment with appropriate land use and development design standards.
- (b) The borough should incorporate appropriate land use, design and architectural standards to maintain and enhance the borough's unique appearance, character, and feel in the "downtown" and surrounding neighborhoods.
- (c) The borough should maintain and enhance its natural "green" community appearance through additional tree planting and landscaping in neighborhoods, business, and other developed areas, as well as through the preservation of existing vegetation, water features including floodplain and wetlands, and other natural features in rural areas.
- (d) The borough should regulate signs and billboards.
- (e) The borough should regulate wireless communications facilities.
- (f) The borough should regulate exterior lighting.
- (g) The borough should develop coordinated and attractive gateways into the community, downtown, and other important character areas.

10. Downtown

a. Goal

The borough should protect, enhance, and promote Dallas' "downtown" not only as an attractive and charming place for residents, business owners, customers, and visitors, to live, work, shop, and play; but also the identifiable heart of the borough and the greater Back Mountain community.

(1) Objectives:

- (a) The borough should support the efficient use and compatible reuse of buildings, land, and community facilities and services within the established downtown area.
- (b) The borough should accommodate for a mixture of compatible building and land uses that encourage complementary non-residential and residential uses within the same building, upon the same lot, and within proximity to one another in and around the downtown.
- (c) The borough should support and provide formal and informal community gathering places, opportunities, and links for socialization in and around the downtown.
- (d) The borough should support and accommodate for pedestrian-oriented and pedestrian-scaled development in and around the downtown.
- (e) The borough should support and provide opportunities to enhance a distinct storefront character at the ground-floor level for businesses with residential or office uses located on upper floors in the downtown.
- (f) The borough should support strengthening connections between the downtown with surrounding residential neighborhoods and other business areas, including those residential uses within the downtown area.
- (g) The borough should support enhancements to make the downtown an attractive, inviting, safe, and green environment for residents, business owners, customers, and visitors.
- (h) The borough should discourage automobile-oriented and automobile-dominated uses in the downtown.
- (i) The borough should support alternative modes of transportation (transit, pedestrian, and bicycle) and ensure coordinated access by reducing the reliance on the automobile and minimizing the need for off-street parking in the downtown area.
- (j) The borough should build upon, promote, enhance the region's important heritage, natural, and recreational assets to support an "ecotourism" and related business support services niche in and connecting to the downtown.

- (k) The borough should provide for a variety of appropriate on-street and off-street parking enhancements and opportunities in the downtown.
- (l) The borough should provide opportunities for energy efficiency in new construction and reuse of existing buildings to conserve energy and lower costs for businesses and property owners in the downtown.
- (m) The borough should enhance the downtown's or central business district's image, identity, and safety via public and private improvements supporting a coordinated and attractive streetscape/greening/traffic calming, gateway, and wayfinding program.
- (n) The borough should provide for and support sustainable local and niche businesses that serve the community and attract visitors and customers from outside the area, which may include focusing on "ecotourism" and related business support services niche in the downtown.
- (o) The borough should support a coordinated and targeted marketing effort of the downtown, its people and businesses, and a business friendly environment.
- (p) The borough should support a sustainable downtown business-focused organization.
- (q) The borough should provide for quality design via general design guidelines and standards that help maintain and promote the "downtown" area or central business district principles mentioned above.

Article 3

DEFINITIONS

- 301** Application and Interpretation
- 302** Definition of Terms

Article 3

DEFINITIONS

301 Application and Interpretation

It is not intended that these definitions include only words used or referred to in this ordinance. The words are included in order to facilitate the interpretation of the ordinance for administrative purposes and in the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

Unless otherwise expressly stated, the following shall, for the purposes of this ordinance, have the meaning herein indicated:

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

302 Definition of Terms

For the purposes of this ordinance the following words, terms, and phrases have the meaning herein indicated.

Abandon: To desert, surrender, forsake, or cede. To relinquish or give up with intent of never again resuming one's right or interest. To give up or cease to use. To give up absolutely; to forsake entirely; to renounce utterly; to relinquish all connection with or concern in; to desert. It includes the intention, and also the external act by which it is carried into effect.

Abut: To touch at the end; be contiguous; join at a border or boundary. The term 'abutting' implies a closer proximity than the term 'adjacent'. No intervening land.

Access: A means of vehicular approach or entry to or exit from property.

Access Drive: A private improved surface other than a street or driveway designed and constructed to provide for vehicular movement from a street to a parking area, garage, dwelling, building or other structure within a lot or property containing any use other than one single-family dwelling unit or farm. For purposes of this ordinance, access drives shall be required for all non-residential, multi-family, and all other uses not served by a driveway as defined in this ordinance.

Accessory Structure or Use: A structure or use customarily incidental and subordinate to the principal structure or use and located on the same lot with such principal structure or use.

Adjacent: Lying near or close to; sometimes, contiguous; neighboring. 'Adjacent' implies that the two objects are not widely separated, though they may not actually touch.

Adult Entertainment Establishments: These include adult bookstores, adult cabarets, adult drive-in theatres, adult massage businesses, adult mini-motion picture theatres, adult motion picture theatres, and adult video cassette rental and sales outlets, which exclude minors by virtue of age. Each is defined as follows:

1. Adult Bookstore: An establishment which has as a substantial (10% or more) or significant portion of its stock in trade, books, magazines, or other periodicals and which excludes minors by virtue of age.
2. Adult Cabaret: A cabaret which features go-go dancers, exotic dancers, strippers, male and female impersonators, or similar entertainers and which excludes minors by virtue of age.
3. Adult Drive-in Theatre: An establishment showing motion picture films to patrons, designed to permit patrons to remain in their automobiles or similar vehicles, and which excludes minors by virtue of age.
4. Adult Massage Business: An establishment where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths, and which excludes minors by virtue of age.
5. Adult Mini-Motion Picture Theatre: An enclosed building with a capacity for fewer than fifty (50) persons used for showing motion picture films to patrons and which excludes minors by virtue of age,
6. Adult Motion Picture Theatre: An enclosed building with a capacity of fifty (50) or more persons used for showing motion picture films to patrons and which excludes minors by virtue of age.
7. Adult Video Cassette Rental and Sales Outlet: An establishment which has as a substantial (10% or more) or significant portion of its stock in video cassettes for rental or sale and which excludes minors by virtue of age.

Agriculture: The use of the land for agricultural purposes, including farming, dairying, pasturage, apiculture, forestry, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for farm homes and packing, treating, or storing product; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that the above uses shall not include commercial hog farms, fur farms, or fertilizer plants.

Alley: A public or private way affording only secondary means of access to abutting property. Alleys may also be known as courts, places or lanes.

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

Alteration, Structural: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Amendment: A change in the regulations or district boundaries or classifications of property established by this Zoning Ordinance and according to procedures provided by law and exercised by the Council.

Animal Hospital: A building used for the treatment, housing, or boarding incidental to hospital use of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

Animal Kennel: Any lot or premises on which four (4) or more dogs or cats or both at least six (6) months of age are kept, boarded or trained, whether in special buildings or runways or not.

Antenna Standard: A device, partially or wholly exterior to a building, that is used for receiving electronic signals (other than a satellite dish antenna which is treated separately) or for transmitting short-wave or citizens band radio frequencies. This shall include antennae used by an amateur ham radio operator or by a contracting business or utility to communicate with its employees, but shall not include a "Commercial Communications Antenna". This term includes any accessory supporting structures.

Antenna Height: The measurement of the overall vertical length of antenna and its support structure above the average finished grade. If such system is located on a building or other structure, the overall vertical length shall be measured and shall include the height of the building upon which the antenna and its structure is situated.

Antenna Support Structures: Any structure, mast, pole, tripod or tower, including any guy wires and braces utilized for the purpose of supporting an antenna or antennas.

Apartment: A room or group of rooms in a home or apartment house occupied as a dwelling.

Appeal: A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this ordinance as expressly authorized by the provisions of Article 10 and Article 11.

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

Automated Banking Facility: An outdoor establishment whereby automated devices that perform banking or financial functions are operated by the consumer or patron primarily who walk up to the device, but may also be operated by those customers who remain in their automobile.

Automotive Service and Repair Garages: A garage, other than a private garage, used for gasoline refueling and for the storage, equipping for operation, repairing, maintaining, keeping for remuneration, hiring, or selling of motor vehicles.

Bed and Breakfast: An owner-occupied or manager-occupied business which occupies a single family detached dwelling and/or associated accessory structures where limited overnight lodging and breakfast is provided for compensation to guests and where said use may or may not also host accommodations for private events (e.g. such as weddings and conferences). The dwelling may or may not include a publicly accessible restaurant as a related use. Overnight lodging occurs within individual guest rooms which do not contain cooking facilities. Overnight guests shall not occupy the facility for more than fourteen (14) consecutive nights in a thirty (30) day period.

Board: Any body granted jurisdiction under a land use ordinance or under the Pennsylvania Municipalities Planning Code (Act 247 of 1968 as amended) to render final adjudications.

Borough: Dallas Borough, Luzerne County, Pennsylvania.

Borough Council: The Council of Dallas Borough, Luzerne County, Pennsylvania.

Buffer Area: An area of land, with planting as specified by this ordinance, and any structures which may be required between land uses to eliminate or minimize conflicts between them.

Building: Any structure having a roof supported by walls and intended for shelter, homing, or enclosure of persons, animals, or property.

Building Area: The total area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

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

Building Line: A line formed by the intersection of a horizontal plane at the average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered or projected section of a building, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

Building Principal: A building in which is conducted the principal use of the lot on which it is located.

Business Services: Those activities limited primarily to the service and repair of furniture, office equipment, medical supplies and equipment and commercial appliances; the supply and servicing of vending machines; frozen food lockers; the painting and assembly of signs; printing, copy and photocopying services; arts, crafts, drafting and stationary supplies; interior decorating; upholstering; and personal dry cleaning services. Uses which shall not be interpreted to be business service establishments are retail shops and stores; gasoline and motor vehicle stations; vehicular sales, service and repair.

Carport: An open space for the storage of one or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one or more

walls may be the walls of the main building to which the carport is an accessory building or extension.

Cellar: A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

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

Change of Use: Any use that substantially differs from the previous use of a building or land.

Clear Sight Triangle: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the 'corner' so as not to interfere with traffic visibility across the corner.

Club, Clubhouse, or Lodge, Private: A building, structure, or part thereof, used to house an organization catering exclusively to members and their guests, or premises or buildings for social, recreational and administrative purposes which are not conducted for profit, provided there are not conducted any vending stands, merchandising or commercial activities except as required for the membership or fundraising of such club. This use shall not include bar, boarding house, nightclub, restaurant or tavern open to the general public, or an auditorium, unless that particular use is permitted in that district and the applicable requirements of that use are met, provided they are operated primarily to serve members and their guests.

Club, Private: An organization catering exclusively to members and their guests and not the general public. Private clubs shall include but not be limited to, educational, fraternal, service and political organizations, labor unions and social and athletic clubs.

Cluster Housing Developments: A group of single, double, or multiple unit dwellings, in any combination, occupying smaller lot areas in order to increase the amount of open space held in common.

Commercial: Something owned, operated, and supported by private individuals or a corporation, on a profit basis, for the use or benefit of the general public or for some part of the general public.

Common Open Space: A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

Commission, Planning: The Planning Commission of Dallas Borough, Luzerne County, Pennsylvania.

Communications Antenna: Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omni-directional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence

mounted satellite dishes or television antennas or amateur radio equipment, including without limitation ham or citizen band radio antennas.

Communications Equipment Building: An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than two hundred fifty (250) square feet.

Communications Tower: A structure other than a building, such as a monopole, self-supporting or guyed tower, designed and used to support communications antenna.

Communications Transmitting and Receiving Facility: A communications tower or other facility which transmits or receives a radio, television or other communications signal.

Community Living Facility: See Group Home.

Comprehensive Plan: A Comprehensive Plan (overall program) consisting of maps, charts, and textual matter, and indicating the recommendations of the Planning Commission for the continuing development of the borough. The Comprehensive Plan includes, but is not limited to, the following basic elements: a statement of objectives; a plan for land use; a plan for the movement of people and goods; a plan for community facilities and utilities; and a map or statement indicating the relationship of the municipality and its proposed development to adjacent municipalities and areas.

Conditional Use: Any uses in certain zones or districts where the conditions described for permitting each type of use have been enumerated in the Zoning Ordinance and where approval for permitting such use can only be given by the Council after review and recommendation by the Borough Planning Commission and a public hearing after proper legal notice.

County Planning Commission: The Planning Commission of Luzerne County.

Coverage: That portion or percentage of the plot or lot area covered by the building area of all buildings. (See also Impervious Cover.)

Craftsman/Artisan Studio: An establishment primarily engaged in the on-site production, display and sale of goods created on-site by hand manufacturing involving only the use of hand tools or domestic mechanical equipment not exceeding eight (8) kilowatts. Typical uses include painting and other media-art, ceramics, fabric crafts, candle-making, and jewelry manufacturing. All such production associated with this use shall occur within a completely enclosed building.

Day Care Center for Adults: A premise in which out-of-home care is provided to four (4) or more elderly or disabled adults for part of a twenty-four (24) hour day, excluding care provided by relatives. Care includes personal assistance in activities of daily living; the development of skills for daily living; and, providing social contact to reduce isolation and loneliness.

Decision: Final adjudication of any board or other body granted jurisdiction under any land use ordinance or the Pennsylvania Municipalities Planning Code (Act 247 of 1968 as amended) to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Luzerne County.

Deck: A platform with railing but without a roof, projecting out from the main wall of a dwelling and intended to be used as an area for seating, dining, or recreation outdoors.

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

Density, Gross: The maximum density that shall be permitted in any district. It is calculated by dividing the total number of dwelling units by the total site area. This density is illustrative only, net density is controlling.

Density, Net: The maximum density permitted on the buildable portion of the site. Net density is calculated by dividing the total number of dwelling units by the Net Buildable Site Area. This density controls actual site capacity. (See Net Buildable Site Area.)

Developer: Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development (See also Subdivision and Land Development)

Development: (See Land Development)

Determination: Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the governing body,
2. the zoning hearing board; or
3. the planning commission, only if and to the extent the planning commission is charged with final decision on preliminary or final plans under the subdivision and land development ordinance or planned residential development provisions.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

District or Zone: A portion of the area of Dallas Borough as shown on the Zoning Map, containing a uniform class of uses of structures or land, and to which regulations described in the Zoning Ordinance text apply.

Domestic Pets: An animal that is locally available for purchase as household pets for the company or enjoyment of the owner, and that is normally or can generally be kept within the immediate living quarters of a residential structure. Domestic pets shall not include livestock, farm animals, horses, or any animal or bird or “exotic wildlife” for which a permit is required under the Pennsylvania Game and Wildlife Code, 34 Pa. C.S. s. 101 et seq., or the regulations of the Pennsylvania Game Commission.

Domiciliary Care Home: A premises certified by the Area Agency on Aging for the purpose of providing a supervised living arrangement in a homelike setting for a period exceeding twenty four (24) consecutive hours to clients placed there by the Area Agency on Aging.

Drilling: The digging or boring of a well for the purpose of exploring for, developing or producing oil and/or gas or other hydrocarbons.

Drive-In: A business establishment, including an eating establishment, offering refreshments, entertainment, goods or services to patrons, who purchase and/or consume such refreshments, entertainment or services on the premises and/or outside of the building, including patrons who may receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Drive-Thru: A portion of a business establishment dependent on providing an access drive approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Driveway: A private improved surface designed and constructed to provide vehicular movement from a street to a parking area, garage, dwelling, building or structure within a lot or property containing a one single-family dwelling unit or a farm.

Dwelling: A building designed or used as the living quarters for one or more households, but not intended to include bed and breakfast, motel, or hotel.

Dwelling Types

1. Dwelling, Industrialized Houses (Modular): Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation, on the building site, but excluding mobile homes.
2. Dwelling, Mobile Home (See Mobile Home.)
3. Dwelling, Two-Family (Duplexes and Flats): Two (2) dwelling units accommodating two (2) households which are attached side-by-side through the use of a party wall and having one side yard adjacent to each dwelling unit (duplex), or which are attached one over the other and having two (2) side yards for the lower dwelling (flat).
4. Dwelling, Multiple-Family
 - a. Apartment House: Three (3) or more dwelling units accommodating three (3) or more households which are located one over the other and which, when more than three (3) units are utilized, are attached side-by-side through the use of common party walls, and which have side yards adjacent to each first-story end unit. Each dwelling unit is accessible by a common stairwell.
 - b. Townhouse (Row House): Three (3) or more dwelling units accommodating three (3) or more households which are attached side-by-side through the use of common party walls and which have side yards adjacent to each end unit. Each dwelling unit is two (2) to two and one-half (2 1/2) stories in height. Each dwelling unit is accessible by separate entrances.
5. Dwelling, Residential Conversion Unit (See Residential Conversion Unit.)
6. Dwelling, Single-Family Detached: A dwelling unit accommodating a single family and having two (2) side yards. This definition is intended to include Mobile Home on Permanent Foundation. (See also Mobile Home)

Dwelling Unit, (Housing Unit): One or more rooms used for living and sleeping purposes and having a kitchen(s) with fixed cooking facilities, toilet and bathroom facilities and arranged for occupancy by not more than one family.

Easement: A limited right of use granted in private land for public or semi-public purposes.

Essential Services for Public Utilities: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

Excavation: Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. It shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation of the final grade. The material used to make fill.

Fairgrounds: The site for a gathering or event usually held annually, consisting of displays of farm and home products; various competitions and entertainment; or the sale or auction of goods for the benefit of a charity or semi-public or public institution.

Family or Household: One (1) or more persons who live together in one (1) dwelling unit and maintain a common household. A family may consist of a single person or two (2) or more persons, whether or not related by blood, marriage or adoption. Family may also include domestic servants and gratuitous guests.

Farm: A tract of agricultural land of at least five (5) acres, together with the fields, buildings, animals, and personnel there assembled for the purpose of raising, breeding, or production of specified types of animals or crops. (See also Stable)

Farm Animals: Those animals which are commonly associated with agriculture purposes or uses and are not generally housed within the living quarters of a residence. These animals include horses.

Farmer's/Flea Market: An indoor and/or outdoor establishment used for the sale of assorted new and used goods by auctioneers or by vendors on a periodic basis.

Financial Institution: An establishment in which money is kept for saving or commercial purposes or is invested, supplied for loans or is exchanged and that has routine interactions with the public. Financial services may also provide financial counseling, planning, and services related to money management.

Floor Area: For the purpose of applying the requirements for off-street parking and loading. 'floor area', in the case of offices, merchandising and service types of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients as measured by the outside dimensions of the building or portion thereof.

Floor Area, Habitable: The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, bathroom, closets, hallways, and stairways, but not including unheated areas such as enclosed porches.

Food Service Facility: An establishment in which food is processed and/or prepared on the premises, and which may be sold and consumed on the premise. This term shall also include bakeries and catering establishments.

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

Funeral Homes: An establishment conducting embalming and cremation which may include the viewing of the deceased and ceremonies connected therewith prior to burial or cremation, but not including cemeteries, columbariums, mausoleums, and entombments.

Gallery/Museum: A space for the exhibition of art, usually visual art, and usually primarily paintings, illustrations, and sculptures. It is also sometimes used as a location for the sale of art displayed on the premises.

Garage, Private Residential: Any accessory residential building or part of a principal residential building used for the storage of motor vehicles owned or used by the owner or tenant of the premises and having no public shop or service in connection therewith.

Garage, Commercial Service: A commercial garage used for the storage, equipping for operation, repairing, maintaining, keeping for remuneration, hiring, or selling of motor vehicles.

Gas: Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas or Oil Production: The drilling and/or extraction of gas or oil.

Gas Well: Any well drilled, to be drilled, or used for the intended or actual production of gas.

Gasoline Service Station: A place, building, or establishment from which a gasoline refueling service for motor vehicles and repair service for such vehicles are provided. (See also Mini-Market with Gas Pumps)

General Nuisance: Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare, including without limitation the following: fire and explosion hazards; electrical and radio-active disturbances; noise and vibration; dust, dirt, and fly ash; glare; smoke and odors; and other forms of air pollution.

Group Home: A dwelling inhabited by handicapped persons, as identified and provided for by the Fair Housing Act and this chapter. This definition does not include persons occupying a hotel, motel, dormitory, lodge, halfway house, boarding house or institution. A group home involves not more than eight (8) persons functioning as a common household unit, providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution because of physical disability, old age, or mental retardation/developmental

disability, or that the applicant proves to the satisfaction of the Zoning Officer meets the definition of “handicap”, as defined by applicable federal law. (NOTE: The Federal Fair Housing Act amendments define “handicap” as follows: “(1) a physical or mental impairment which substantially limits one or more of such person’s major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21.” This definition was subsequently adjusted by Section 512 of the Americans with Disabilities Act to address certain situations related to substance abuse treatment.) For purposes of this ordinance, Group Homes shall be permitted by right in all zoning districts where single-family residential dwellings are permitted. (See Community Living-Facility.)

Hazardous Material: A solid material or waste, or a combination of these which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. This definition is intended to include radioactive material.

Hearing: An administrative proceeding conducted by a board pursuant to Section 1001.4 and 1002.4.

Height of Communications Tower: The vertical distance measured from the ground level to the highest point on a communications tower, including antennas mounted on the tower.

Home Gardening: The cultivation of herbs, fruits, flowers, or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of livestock.

Home Nurseries and Greenhouses: The cultivating of plants either outdoors or in glass enclosed structures on the same lot as a dwelling and not for sale commercially. (See also Nursery Plants.)

Home, Occupation: A business, profession, occupation, or trade of a service nature conducted for gain or support and located entirely within a residential building, or a structure accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

Hotel: An establishment which provides transient lodging accommodations to the general public in sleeping units which each have separate access to a common interior corridor and which may provide such additional supporting services such as restaurants, meeting rooms, recreation facilities and living quarters for a resident manager or proprietor.

Impervious Cover: Those ground areas covered by surfaces which do not absorb water are impervious. They consist of all building, paved parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt.

Industrial Park: An industrial area organized and laid out in accordance with an overall plan for a community of industries, including the servicing of these industries, and designed to ensure compatibility between the industrial operations in the park and the surrounding area through such devices as landscaping architectural control, setbacks, performance standards and use requirements.

Junk: Junk shall include all scrap metals and alloys and bones, rap, cloth, rubber, rope, tinfoil, bottles, machinery, tools, appliances, fixtures, utensils, lumber, boxes, crates, pipe or pipe fittings, vehicles, tires and all other manufactured goods that are so worn, deteriorated, or obsolete as to make them unusable in their existing condition, and therefore subject to being dismantled. This definition is to be construed as including two (2) or more abandoned or unlicensed vehicles.

Junk Yard: A place for conducting any business or activity, whether or not for profit, which involves the collection, storage, dumping, disassembling, salvaging, sorting, or otherwise handling or arranging discarded junk or salvaged materials. Junk yards include automobile wrecking yards, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment. Junk yards do not include such uses when conducted entirely within a completely enclosed building, nor pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, or the processing of used, discarded or salvaged materials as part of manufacturing operations.

Keeping of Domestic Pets: An accessory use to a residential dwelling unit involving the keeping of not more than three (3) adult domestic pets, or as otherwise permitted.

Land Development - any of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - a. a group of two or more residential or nonresidential buildings whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - b. the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
2. A subdivision of land. (See Subdivision.)
3. Development excluding the following:
 - a. the conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three (3) residential units, unless such units are intended to be a condominium;
 - b. the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.

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

Land Use Ordinance: Any ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI and VII of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as amended.

Laundry and Dry Cleaning Establishment (Personal): A business premises equipped with individual clothes-washing equipment for the use of retail customers or the drop off and pick up of clothing for dry cleaning (off site).

Livestock: Large animals and farm animals, including, but not necessarily limited to, the following: horses, ponies, donkeys, mules, cattle, sheep, goats or swine but also includes poultry. For purposes of this ordinance, livestock shall not be considered domestic pets.

Loading Space or Loading Area: A space, accessible from a street or way, in a building or on a lot, for the temporary use of vehicles, while loading or unloading people, merchandise or materials. Required on-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot: A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Lot Area: The total horizontal area of the lot lying within the lot lines, provided that no area of land lying within any street line shall be deemed a portion of any lot area. The area of any lot abutting a street shall be measured to the street right-of-way line only. The area of any lot shall include the area of any easement.

Lot, Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Lot, Depth: The mean horizontal distance between the front and rear lot lines. Measurement shall be from the street or highway right-of-way line to the opposite rear line.

Lot Frontage: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Lot, Interior: A lot other than a corner or through lot.

Lot Line: Any boundary line of a lot.

Lot of Record: Any lot which individually, or as part of a subdivision, has been recorded in the Office of the County Recorder of Deeds.

Lot, Through: An interior lot having frontage on two parallel or approximately parallel streets or roads.

Lot Width: The distance between the straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty (80) percent requirement shall not apply.

Message Therapy Establishment: Any business or part thereof, other than an adult massage establishment, where massage services are provided by a person having graduated from a message therapy training program approved by the Pennsylvania State Board of Private Licensed Schools or equivalent agency if trained in another state; by a person certified through a massage therapy certification examination approved by the National Commission for Certifying Agencies; by a person certified through the National Certification Board for Therapeutic Massage and

Bodywork; or is a practitioner or member of either of the American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMP), or International Massage Association (IMA).

Medical Clinic: An establishment where patients are admitted for examination and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, consultation rooms, and x-ray, but may also include a pharmacy provided that such use has access only from the interior of the building or structure, on an outpatient basis by three (3) or more licensed medical professionals including physicians, dentists, opticians, psychologists, other similar medical personnel and vocations.

Mini-Market with Gas Pumps: A convenience store (of not more than one-thousand (1,000) square feet) providing for the sale of grocery, household items, newspapers, and similar products as well as vehicular gasoline at gas pumps at a service island outside the store.

Mixed Use: Occupancy of building or land for more than one use, generally a permitted non-residential and permitted residential use, but may include more than one (1) permitted non-residential use.

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

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.

Mobile Home Park: A parcel, or contiguous parcels, of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

Model Home or Apartment: A dwelling unit used initially for display purposes which typifies the type of unit that will be constructed in a subdivision or in a multiple family dwelling structure.

Motel: An establishment which provides transient lodging accommodations to the general public in sleeping units which each has separate access directly to the outside and which may provide such additional supporting services as restaurants, recreation facilities and living quarters for a resident manager or proprietor.

Municipality: Dallas Borough, Luzerne County, Pennsylvania.

Municipal Owned Uses: Any establishment, use, facility, and/or structure owned and/or operated by Borough of Dallas, or its authorized municipal authorities or agents (See Section 407.2).

Net Buildable Site Area: The area of a site remaining after area used for streets, easements, flood plains, swamps, steep slopes, recreation land or required open space are deducted from the total area.

No Impact Home-Based Business: A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which

involves no customer, client or patient traffic whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use. (Also see Home Occupation).

Non-Conforming Lot: A lot area or dimension of which was lawful prior to the adoption or amendment of a 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: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such non-conforming structures include, but are not limited to, nonconforming signs.

Non-Conforming Use: A use, whether of land or of structure, which does not comply with the applicable use provisions in the zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

Non-Profit: Something owned, operated, and supported by private individuals or a corporation, without seeking profit, for the use or benefit of the general public or for some part of the general public.

Nurseries and Day Care Centers for Children: Places where children are kept and cared for away from home and their parents. The children are generally of pre-school age.

Nursery (Plants): An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items such as clay pots, potting soil, fertilizer, etc., directly related to their care and maintenance.

Nursing or Convalescent Home: Any commercial premises providing sleeping rooms where patients are lodged and furnished with meals and long-term nursing care.

Oil or Petroleum: Hydrocarbons in liquid form at standard temperature of 60°F. and pressure 14.7 psia.

Oil Well: Any well drilled, to be drilled, or used for the intended or actual production of oil.

Opacity/Opaque: Not transparent or translucent; impenetrable to light; not allowing light to pass through.

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

Parking Compound: A principal use of a public or private lot, building or structure that is designed and used for the short term, daily, or overnight off-street storage and parking of passenger vehicles. This use shall include surface parking lots and parking structures including buildings and decks.

Parking Lot: Any area of a lot used for off street parking facilities, providing for the transient storage of automobiles or motor-driven vehicles. Such parking services may be provided as a free service or may be provided for a fee.

Parking Structure: A building where passenger vehicles may be stored for short-term, daily or overnight off-street parking, including decks and buildings.

Parking, Off-Street: A reasonably level space, available for parking one (1) motor vehicle, and having dimensions of ten (10) feet in width and twenty (20) feet in depth, or two hundred (200) square feet, exclusive of passageways, driveways, or other means of circulation or access.

Patio: A courtyard with or without railings and without a roof or awning, adjacent to or near a structure but not a part of the structure, and intended to be used as an area for seating, dining, or recreation outdoors.

Pavilion: A tent or tent-like covering or an open aided structure with a roof, located in a yard, but not attached to a dwelling, and intended to be used as an area for seating, dining, or recreation outdoors.

Permanent Foundation: A support for a building or structure consisting of poured concrete, concrete blocks, cinder blocks, brick, pressurized wood, or stone to form a horizontal pad or vertical wall placed on a concrete footer on which the building or structure is placed and is intended to remain indefinitely. In the case of mobile homes, permanent placement on such a foundation is intended to first require the removal of the wheels from the mobile home.

Personal Care Board Home for Adults: A premises in which food, shelter, personal assistance or supervision are provided for a period exceeding twenty-four (24) consecutive hours for more than three (3) adults who are not relatives of the operator and who require assistance or supervision in matters as dressing, bathing, diet or medication prescribed for self-administration but do not require hospitalization or care in a skilled nursing or intermediate care facility.

Personal Services: An establishment where service oriented activities for personal needs are provided to the general public, but which do not involve primarily retail sales of goods or does not involve professional advisory services. Such activities shall include and be similar to barbershops, beauty salons, health spas; photographic studios; radio and television repair, repair shops for home appliances and tools, bicycles, guns, locks, shoes and watches; tailor and dressmaking shops; and pet grooming with no overnight boarding.

Place of Religious Worship: A building used for religious services, including churches, synagogues, mosques, and similar edifices.

Planned Residential Development: An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and non-residential uses, the development plan for which does not correspond in lot size, bulk or type of dwelling, or use, density, or intensity, 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.

Planning Commission: The Planning Commission of Dallas Borough.

Porch: A platform in area of four (4) feet by five (5) feet or twenty (20) square feet in area with or without railings, but with a roof, projecting out from the main wall of the dwelling and intended to be used as an entrance to the dwelling or as an area for seating, dining, or recreation outdoors.

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

Professional Offices: Offices and related spaces used for such professional services as provided by licensed medical professionals including physicians, dentists, opticians, psychologists, other similar medical personnel and vocations; real estate, stock and bond brokers, accountants, adjusters, appraisers, lawyers, architects, engineers, planners, insurance agents; and similar professional vocations.

Public: Something owned, operated, and supported by the community or the people for the use or benefit of the general public.

Public Building: Any structure used or intended for supporting or sheltering uses for the public including municipal, county, state and federal government units or their authorized authorities or agents, including administration uses, post office, community center, public library, offices for public utilities.

Public Grounds: Includes:

1. parks, playgrounds, trails, paths, and other recreational areas, and other public areas;
2. sites for schools, sewage treatment, refuse disposal, and other publicly owned or operated facilities; and
3. publicly owned or operated scenic and historic sites.

Public Hearing: A formal meeting held pursuant to public notice by the governing body or planning agency, 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 state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Public Utilities (See Essential Services for Public Utilities.)

Report: Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other

parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

Residential Conversion: The conversion of a single-family detached dwelling into accommodations for more than one dwelling unit.

1. Multiple Family Conversion: A residential use designed through the creation of three (3) or more living units by conversion of an existing single-family detached dwelling.
2. Two-Family Conversion: A residential use designed through the creation of not more than two (2) living units by conversion of an existing single-family detached dwelling.

Residential District or Zones: Any district or zone in this ordinance where residences are permitted as 'Principal Uses'.

Restaurant: An establishment that sells ready to consume food or drink and that routinely involves the consumption of at least a portion of such food on the premises. A restaurant may include the accessory sale of alcoholic beverages. However, if such sales are a primary or substantial portion of the total trade, the requirement of a "tavern/bar" as applicable must be met.

Retail Business: An establishment which sells goods or merchandise and repair services for goods or similar merchandise sold on the premises to the general public for personal and household consumption and rendering services incidental to the sale of such goods.

Retaining Wall: A wall for sustaining a bank or earth liable to a landslide or erosion.

Rooming or Boarding House: Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire with or without meals in the home of the resident owner. A rooming house or a furnished-room house shall be deemed a boarding house.

Sanitary Sewage Disposal System, Community: 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, the total system being publicly or privately owned.

Sanitary Sewage Disposal System, On-Lot: A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of the Commonwealth or by means of conveyance to another site for final disposal.

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

School, Commercial: A school conducted for profit for such instruction as business, art, drama, music, handicraft, dancing, and other similar type low impact uses conducted within a completely enclosed structure.

School, Private or Public: Any public, sectarian, or private non-profit establishment approved by the Commonwealth of Pennsylvania offering formal academic instruction and services for state-required or largely state-funded programs at the kindergarten, elementary, and secondary levels. This term shall not include those uses considered commercial schools.

School, Vocational: Same as public or private school except that the primary activity is training in a trade or vocation, which may be conducted wholly or partially outside of an enclosed structure. This term shall not include those uses considered commercial schools.

Semi-public: Something owned, operated, and supported by private individuals or a corporation, on a non-profit basis, for the use or benefit of the general public or for some part of the general public.

Setback Line: The line within a property defining the required minimum distance between any building to be erected and the adjacent property line. The front yard setback shall be measured at right angles from the front street right-of-way line which abuts the property upon which said building is located and shall be parallel to said right-of-way line.

Shopping Center: A retail commercial area under single ownership, designed as a unit, with adequate off-street, free parking area, and usually consisting of several one story or two-story buildings.

Sign: An advertisement displayed outside a building, pertaining to a product, service or name, related directly to the permitted activity carried on and use of the lot on which it is placed, including painted walls and structures. This definition does not include flags or pennants. (See also Outdoor Advertisement)

Sign Area: The facing of a sign, including copy, insignia, background, structural supports, and border and trim. The measurement shall be determined by the smallest rectangle inclusive of all letters and images. The structural supports shall be excluded if they do not constitute a major part of the sign or if the structure is not used to identify or attract attention to the business or product.

Sign, Directional: A sign indicating the location or distance to a point of destination.

Sign, Flashing: A sign having a device that automatically switches an electric lamp off and on in intermittent bursts of light.

Sign, Informational: A sign supplying facts of knowledge.

Sign, Outdoor Advertising: (See Outdoor Advertising.)

Sign, Temporary: A sign which serves for a limited time.

Social Hall: A room or building used for friendly or convivial gatherings.

Special Exception: Any uses considered to have special requirements in certain zones or districts where the conditions described for permitting each such use have been enumerated in the Zoning Ordinance and where approval for permitting such use can only be given by the Zoning Hearing Board.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

Story, Half: A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story.

Street: Includes street, avenue, boulevard, road, highway, expressway, parkway, lane, alley, viaduct and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private. The strip of land including the entire right-of-way, not just the cartway, and classified as follows:

1. Arterial Road: A road whose function is to provide for the movement of high volumes of through traffic and both limited access and direct access to abutting properties, subject to necessary control of entrances, exits, and curb use. The right-of-way is usually in excess of sixty (60) feet wide.
2. Collector Street: A road or street which provides for the movement of large volumes of traffic between arterials and local streets and direct access to abutting property. The right-of-way is usually between fifty (50) and sixty (60) feet wide.
3. Local Street: A street or road whose function is to provide for local traffic movement and direct access to abutting properties. The right-of-way is usually fifty (50) feet or less in width.

Street Right-of-Way Line: The line dividing a lot from the full street right-of-way, not just the cartway. The word 'street' shall be defined as above.

Structure: Structure means any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land and includes, among other things, buildings, stadiums, platforms, radio towers, sheds, carports, storage bins, fences, and display signs.

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, of 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 street or easement of access or any residential dwelling, shall be exempted. (See also Land Development)

Swimming Pool

1. Private: Any private swimming pool permanently attached to or temporarily erected on or in the ground, not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half (1 1/2) feet. Farm ponds, lakes and streams are not included, provided that swimming is not the primary purpose for their construction or use. (See also Private)
2. Community or Club (Public or Semi-Public): Any public or semi-public swimming pool shall be construed to mean any outdoor pool constructed by a unit of government for use by residents of the borough or region and their guests or by an association of property owners or by a private club solely for the use and enjoyment of members of the association or club and their families and guests. (See also Public and Semi-public)

Tavern /Bar: An establishment which serves primarily alcoholic beverages for mostly on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board. Taverns may also serve food.

Temporary Use: A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Terrace: A raised level or platform of earth, supported on one or more faces by a wall, a bank of turf, or the like, or a series of such raised levels or platforms arranged one above the other on a slope.

Theatre: A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater or uses consider adult mini-motion and motion picture theaters.

Trailer

1. Pick-Up Coach: A structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation, and vacation use.
2. Motor Home: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
3. Trailer or Mobile Home (See Mobile Home)
4. Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation use, permanently identified 'travel trailer' by the manufacturer of the trailer and, when factory-equipped for the road, having a body width not exceeding eight (8) feet, or being of any weight, provided its body length does not exceed thirty-four (34) feet.
5. Utility Trailer: Any smaller trailer usually drawn by a passenger automobile and used for the occasional transport of personal effects.

Transit Facility/Bus Stops: The use of land building, or structure for loading and unloading freight and passengers on and off buses, and for uses including ticket offices, restaurant, luggage checking facilities, waiting area and similar uses.

Treatment Center: A use (other than a prison or a hospital) providing housing for three (3) or more unrelated persons who need specialized housing, treatment and/or counseling because of:

1. Criminal rehabilitation, such as criminal halfway house;
2. Current addiction to alcohol or a controlled substance that was used in an illegal manner; and/or
3. A type of mental illness or other behavior that causes a person to be a threat to the physical safety of others.

Trucking Facility: A station having as its components a storage area, management and dispatch offices, and loading and unloading facilities connected with the receipt or delivery of freight shipped by truck.

University/College: An educational establishment, authorized by the Commonwealth of Pennsylvania as such to award associate, baccalaureate or higher degrees, including, principal uses for classrooms, libraries, auditoriums, gymnasiums, stadiums, administrative offices, dormitories and dining facilities, boarding houses and other housing, maintenance and operating facilities as well as ancillary uses, such as research facilities, retail services and businesses that support student, faculty and staff needs.

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

Use. Principal: The main use of a lot.

Use. Temporary: The use of land or the structure or building located on a lot for a limited time as regulated by this ordinance.

Variance: The permission granted by the Zoning Hearing Board, following a public hearing that has been properly advertised as required by the provisions of this ordinance, for an adjustment to the application to a specific piece of property of some regulation which, if strictly adhered to, would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the ordinance.

Warehouse (self-storage type): Individual household rental storage space only.

Water Supply and Distribution System, Community: A system for supplying and distributing water from a common source to two or more dwellings and other buildings within a subdivision, neighborhood, or whole community, the total system being publicly or privately owned.

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

Wind Energy Conversion System (WECS) (Personal): A device which converts wind energy to mechanical or electrical energy.

Wind Energy Facility (Non-Personal): Unless specifically defined elsewhere herein this Article, the following words and phrases when used in Article 7 of this ordinance relating to the Wind Energy Facility (Non-Personal) shall have the meaning given to them herein this subsection unless the context clearly indicates otherwise:

1. Applicant: The person or entity filing an application under this section.
2. Facility Owner: The entity or entities having equity interest in the Wind Energy Facility, including their respective successors and assigns.
3. Operator: The entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.
4. Hub Height: The distance measured from the surface of the tower foundation to the eight of the Wind Turbine hub, to which the blade is attached.

5. Occupied Building: A residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
6. Shadow Flicker: Alternating changes in light intensity caused by the moving Wind Rotor blade casting shadows on the ground and stationary objects.
7. Turbine Height: The distance measured from the surface of the tower foundation to the highest point of the Wind Rotor.
8. Wind Turbine: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator; and includes the nacelle, rotor, tower, and pad transformer, if any.
9. Wind Energy Facility: An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
10. Non-Participating Landowner: Any landowner except those on whose property all or a portion of a Wind Energy Facility is located pursuant to an agreement with the Facility Owner or Operator.

Wind Rotor: The blades, plus hub, to which the blades are attached, that are used to capture wind for purpose of energy conversion. The wind rotor is used generally on a pole or tower and along with other generating and electrical storage equipment forms a wind energy conversion system.

Yard: An unoccupied space open to the sky, on the same lot with a building or structure, but not intended to mean 'court', which is completely enclosed by walls.

Yard, Front: An open, unoccupied space on the same lot with a main building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

Yard, Rear: An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building.

Yard, Side: An open, unoccupied space on the same lot with the building situated between the building and the side of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

Zoning: The designation of specified districts within the municipality, reserving them for certain classes of uses, together with limitations on lot area and size, heights of structures, and other stipulated requirements.

Zoning Hearing Board: The Zoning Hearing Board of Dallas Borough.

Zoning Map: The officially adopted Zoning Map of Dallas Borough, Luzerne County, Pennsylvania, containing districts, together with all amendments subsequently adopted.

Zoning Officer: The Zoning Officer or his authorized representative appointed by the Dallas Borough Council to enforce this ordinance.

Zoning Ordinance: The Zoning Ordinance of Dallas Borough, as amended.

Zoning Permit: A document signed by a zoning officer, as required in this ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, that acknowledges that such use, structure or building complies with the provisions of this ordinance or authorized variance therefrom.

Adopted December 16, 2009

Article 4

ESTABLISHMENT OF DISTRICTS

- 401** Names of Zoning Districts
- 402** Zoning Map
- 403** Interpretation of Boundaries
- 404** District Boundaries
- 405** State-Owned Property
- 406** Federally Owned Property
- 407** Exemptions

Article 4

ESTABLISHMENT OF DISTRICTS

401 Names of Zoning Districts

For the purposes of this ordinance, the Borough of Dallas is divided into the following districts:

- R-1 Single and Two-Family Residential District
- R-2 Single and Two-Family Residential District
- R-2A Single and Two-Family Residential District
- R-3 Two- and Multi-Family Residential District
- C Conservation District
- 1 Industrial District
- TDA Traditional Downtown Area District
- B-2 Highway Business District
- PRD Planned Residential Development District

402 Zoning Map

The boundaries of the above districts are delineated on a map entitled Borough of Dallas, Luzerne County, PA 'Zoning Map', which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance. The originals of said 'Zoning Map', properly attested, shall be and remain on file in the offices of the Dallas Borough Zoning Officer.

403 Interpretation of Boundaries

If uncertainty exists as to the boundary of any district shown on the Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth below.

404 District Boundaries

Where uncertainty exists as to boundaries of any district as shown on the Zoning Map, the following guidelines shall apply in determining the location of such boundary:

1. District boundary lines are intended to follow or parallel the center line of streets, streams, and railroads; and lot or property lines as they exist on a recorded deed or plan in the County Recorder of Deeds Office at the time of adoption of this ordinance, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.
2. Where a district boundary is not fixed by dimensions and where it approximately follows lot lines, and when it does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise
3. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the Zoning Map or by survey of a registered surveyor hired and paid for by the property owner questioning or contesting the boundary location.

405 State-Owned Property

Wherever state owned property is included in one or more zoning districts, it shall be subject to the provisions of the ordinance only insofar as permitted by the Constitution and laws of the Commonwealth of Pennsylvania.

406 Federally-Owned Property

Wherever federally-owned property *is* included in one or more zoning districts, it shall be subject to the provisions of the ordinance only insofar as permitted by the Constitution and laws of the United States Government.

407 Exemptions

1. Public Utilities

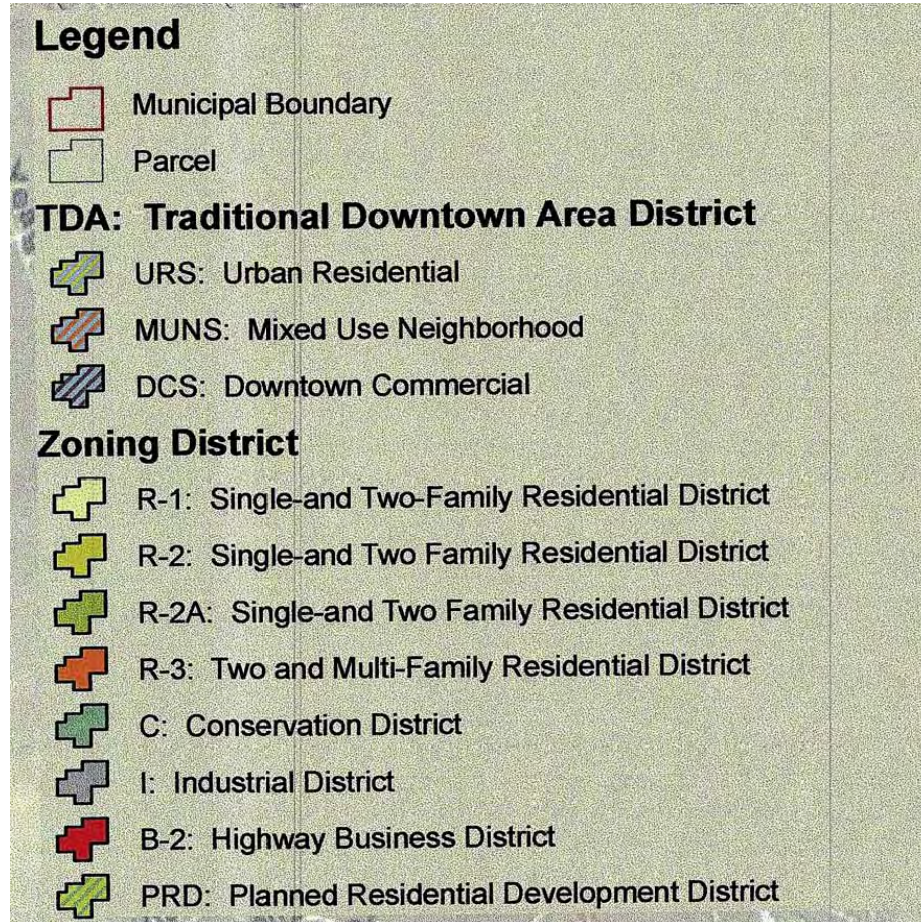
This ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, it, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation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

It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceeding.

2. Borough of Dallas

Notwithstanding the foregoing, the requirements of this ordinance shall not apply to municipal owned uses, land, facilities or structures owned by the Borough of Dallas, nor to land, uses or structures owned by those municipal authorities or agent authorized or created by it to provide governmental or public health and safety services. Further, the requirements of this ordinance do not apply to private uses permitted by the Borough of Dallas, or it's authorized municipal authorities or agents, to be conducted on, upon, or in borough/authority land or structures. In any instance in which applicable zoning provisions would be violated but for the exemption provided herein, the Borough Council shall provide at least twenty-one (21) days prior written notice to the owners of property within two hundred (200) feet of the exempt tract.

Dallas Borough Zoning Map Legend:



Article 5

DISTRICT REGULATIONS

501	R-1	Single-and Two-Family Residential District
502	R-2	Single-and Two-Family Residential District
503	R-2A	Single- and Two-Family Residential District
504	R-3	Two and Multi-Family Residential District
505	C	Conservation District
506	I	Industrial District
507	TDA	Traditional Downtown Area District
508	B-2	Highway Business District
509	PRD	Planned Residential Development District

Article 5

DISTRICT REGULATIONS

501 Single- and Two-Family Residential District (R-1)

1. Purpose: The purpose of this district is to provide for housing at medium densities for a wide variety of housing types in neighborhoods.
2. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
 - a. Single-family houses
 - b. Two-family houses
 - c. Forestry (See Article 8)
3. Accessory Uses: Any uses accessory to the above, including but not limited to:
 - a. Garages (private residential) and carports
 - b. Garden sheds
 - c. Swimming pools (private)
 - d. No-Impact Home-Based Business
 - e. Wind Energy Conversion Systems (Personal)
4. Special Exception Uses (See Article 6.)
 - a. Cemeteries and crematories
 - b. Community living facilities
 - c. Daycare centers for adults
 - d. Domiciliary care home
 - e. Home occupations
 - f. Nurseries and Day Care Center for Children
 - g. Nursing and convalescent homes
 - h. Personal care board home for adults
 - i. Places of religious worship
 - j. Public and semi-public uses (other than Municipal Owned Uses), (excluding maintenance garages, storage yards, sanitary landfills)
 - k. Public, parochial, and other private elementary, middle, and high schools and colleges
 - l. Recreation facilities and uses outdoors (public, semi-public, and private, not commercial)
 - m. Rooming and boarding houses
 - n. Temporary structures and buildings including trailers
5. Dimensional Regulations
 - a. Minimum Lot Area: 10,000 square feet per housing unit
 - b. Minimum Lot Width: 70 feet per housing unit
 - c. Minimum Front Yard: 30 feet
 - d. Minimum Side Yard: 10 feet each side
 - e. Minimum Rear Yard: 30 feet
 - f. Maximum Building Height: The lesser of 2 ½ stories or 35 feet

- g. Maximum Lot Coverage: 25% by buildings; 50% total impervious
- 6. Supplementary Regulations: (See Article 8)
- 7. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations of the Subdivision and Land Development Ordinance.

502 Single- and Two-Family Residential District (R-2)

- 1. Purpose: The purpose of this district is to provide for housing at medium-high densities for a wide variety of housing types in neighborhoods.
- 2. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
 - a. Single-family houses
 - b. Two-family houses
 - c. Forestry (See Article 8)
- 3. Accessory Uses: Any uses accessory to the above, including but not limited to:
 - a. Garages (private residential) and carports
 - b. Garden sheds
 - c. Swimming pools (private)
 - d. No-Impact Home-Based Business
 - e. Wind Energy Conversion Systems (Personal)
- 4. Special Exception Uses (See Article 6.)
 - a. Cemeteries and crematories
 - b. Community living facilities
 - c. Day-care centers for adults
 - d. Domiciliary care home
 - e. Home occupations
 - f. Nurseries and Day Care Centers for Children
 - g. Nursing and convalescent homes
 - h. Personal care board home for adults
 - i. Places of religious worship
 - j. Public and semi-public uses (other than Municipal Owned Uses) (excluding maintenance garages, storage yards, sanitary landfills)
 - k. Public, parochial, and other private elementary, middle, and high schools, and colleges
 - l. Recreation facilities and uses outdoors (public, semi-public, and private, not commercial)
 - m. Rooming and boarding houses
 - n. Temporary structures and buildings including trailers
- 5. Dimensional Regulations
 - a. Minimum Lot Area: 7,000 square feet per housing unit
 - b. Minimum Lot Width: 50 feet per housing unit
 - c. Minimum Front Yard: 30 feet

- d. Minimum Side Yard: 10 feet each side
 - e. Minimum Rear Yard: 30 feet
 - f. Maximum Building Height: The lesser of 2 ½ stories or 35 feet
 - g. Maximum Lot Coverage: 25% by buildings; 50% total impervious
6. Supplementary Regulations (See Article 8)
7. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations of the Subdivision and Land Development Ordinance.

503 Single- and Two-Family Residential District (R-2A)

1. Purpose: The purpose of this district is to provide for housing at higher densities for a wide variety of housing types in neighborhoods.
2. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
- a. Single-family houses
 - b. Two-family houses
 - c. Forestry (See Article 8)
3. Accessory Uses: Any uses accessory to the above, including but not limited to:
- a. Garages (private residential) and carports
 - b. Garden sheds
 - c. Swimming pools (private)
 - d. No-Impact Home-Based Business
 - e. Wind Energy Conversion Systems (Personal)
4. Special Exception Uses (See Article 6.)
- a. Cemeteries and crematories
 - b. Community living facilities
 - c. Day-care centers for adults
 - d. Domiciliary care home
 - e. Home occupations
 - f. Nurseries and Day Care Centers for Children
 - g. Nursing and convalescent homes
 - h. Personal care board home for adults
 - i. Places of religious worship
 - j. Public and semi-public uses (other than Municipal Owned Uses) (excluding maintenance garages, storage yards, sanitary landfills)
 - k. Public, parochial, and other private elementary, middle, and high schools, and colleges
 - l. Recreation facilities and uses outdoors (public, semi-public, and private, not commercial)
 - m. Rooming and boarding houses
 - n. Temporary structures and buildings including trailers

5. Dimensional Regulations

- a. Minimum Lot Area: 4,400 square feet per housing unit
- b. Minimum Lot Width: 40 feet per housing unit
- c. Minimum Front Yard: 30 feet
- d. Minimum Side Yard: 7.5 feet each side
- e. Minimum Rear Yard: 20 feet
- f. Maximum Building Height: The lesser of 2 ½ stories or 35 feet
- g. Maximum Lot Coverage: 25% by buildings; 50% total impervious

6. Supplementary Regulations (See Article 8)

7. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations of the Subdivision and Land Development Ordinance.

504 Two- and Multi-Family Residential District (R-3)

1. Purpose: The purpose of this district is to provide for housing at high densities for two-family and multi-family houses.
2. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
 - a. Two-family houses
 - b. Multi-family houses
 - c. Forestry (See Article 8)
3. Accessory Uses: Any uses accessory to the above, including but not limited to:
 - a. Garages (private residential) and carports
 - b. Garden sheds
 - c. Swimming pools (private)
 - d. No-Impact Home-Based Business
 - e. Wind Energy Conversion Systems (Personal)
4. Special Exception Uses (See Article 6.)
 - a. Cemeteries and crematories
 - b. Community living facilities
 - c. Day-care centers for adults
 - d. Domiciliary care home
 - e. Home occupations
 - f. Nurseries and Day Care Centers for Children
 - g. Nursing and convalescent homes
 - h. Personal care board home for adults
 - i. Places of religious worship
 - j. Public and semi-public uses (other than Municipal Owned Uses) (excluding maintenance garages, storage yards, sanitary landfills)
 - k. Public, parochial, and other private elementary, middle, and high schools, and colleges
 - l. Recreation facilities and uses outdoors (public, semi-public, and private, not commercial)

- m. Rooming and boarding houses
 - n. Temporary structures and buildings including trailers
5. Dimensional Regulations
- a. Minimum Lot Area: 7,500 square feet or 2,500 square feet per housing unit, whichever is greater
 - b. Minimum Lot Width: 50 feet per housing unit
 - c. Minimum Front Yard: 30 feet
 - d. Minimum Side Yard: 10 feet each side
 - e. Minimum Rear Yard: 30 feet
 - f. Maximum Building Height: The lesser of 2 ½ stories or 35 feet
 - g. Maximum Lot Coverage: 25% by buildings; 50% total impervious
6. Supplementary Regulations (See Article 8)
7. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations of the Subdivision and Land Development Ordinance.

505 Conservation District (C)

1. Purpose: The purpose of this district is to protect hilly areas, steep watershed areas along the reservoir and streams, and areas of rugged terrain from intensive development and from development which would significantly change the natural character of the land so as to help prevent land slides, floods, contaminated water supplies, or difficult public access and expensive public services and maintenance.
2. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
- a. Agriculture, horticulture, and watershed
 - b. Fairgrounds (non-profit)
 - c. Nurseries and greenhouses.
 - d. Horse stables and riding academies (private, semi-private, and commercial)
 - e. Game lands, bird sanctuaries, and fish hatcheries
 - f. Hunting preserves (public, private, and semi-public)
 - g. Single-family houses
 - h. Public parks
 - i. Forestry (See Article 8)
3. Accessory, Uses: Any uses accessory to the above, including but not limited to:
- a. Barns, silos, sheds, etc.
 - b. Farm produce stands
 - c. Nursery and greenhouse sales
 - d. Garages (private residential) and carports
 - e. Swimming pools (private)
 - f. No-Impact Home-Based Business
 - g. Wind Energy Conversion Systems (Personal)

4. Special Exception Uses (See Article 6)
 - a. Home occupations
 - b. Temporary Structures and buildings including trailers
5. Conditional Uses (See Article 7.)
 - a. Planned Residential Development
 - b. Communications Antenna, Towers, Equipment, Transmitting & Receiving
 - c. Wind Energy Facility (Non-Personal)
6. Dimensional Regulations
 - a. Minimum Lot Area: 87,120 square feet (2 acres)
 - b. Minimum Lot Width: 200 feet
 - c. Minimum Front Yard: 50 feet
 - d. Minimum Side Yard: 50 feet each side
 - e. Minimum Rear Yard: 50 feet
 - f. Maximum Building Height: The lesser of 2 ½ stories or 35 feet
 - g. Maximum Lot Coverage: 5% by buildings; 8% total impervious
7. Supplementary Regulations (See Article 8.)
8. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations of the Subdivision and Land Development Ordinance.

506 Industrial District (1)

1. Purpose: The 1 district is intended to provide for wholesale, warehousing, contractors' yards used primarily for storage, and small-product fabrication operations conducted in enclosed buildings. All such activities are intended to produce minimum annoyance to nearby residential and commercial districts.
2. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
 - a. Contractor offices, shops, and yards, such as building, cement, electrical, heating, excavating, masonry, painting, roofing, plumbing, and monument
 - b. Laboratories for researching, testing, and experimenting
 - c. Laundry, dry cleaning and dyeing plants
 - d. Manufacturing, including production, processing, assembling, cleaning, testing, and distribution of materials
 - e. Printing, publishing and binding plants
 - f. Public and public utility buildings, maintenance garages and storage yards
 - g. Warehouse facilities (including large-scale and self-storage)
 - h. Wholesale business establishments
 - i. Forestry (See Article 8)
 - j. All non-residential uses permitted in the Traditional Downtown Area District (TDA) and Highway Business District (B-2)
 - k. Gas and oil well production (See Article 8)

3. Accessory Uses: Any customary uses accessory to the above.
 - a. Wind Energy Conversion Systems (Personal)
4. Special Exception Uses (See Article 6)
 - a. Bulk fuel storage (1,000 gallons or more)
 - b. Temporary structures and buildings including trailers
 - c. Welding shops
5. Conditional Uses: (See Article 7)
 - a. Communications Antenna, Towers, Equipment, Transmitting & Receiving
 - b. Wind Energy Facility (Non-Personal)
 - c. Adult Entertainment Establishments
 - d. Treatment Centers
 - e. All Other Uses
6. Dimensional Regulations
 - a. Minimum Lot Area: 15,000 square feet
 - b. Minimum Lot Width: 100 feet
 - c. Minimum Front Yard: 20 feet
 - d. Minimum Side Yard: 15 feet each side
 - e. Minimum Rear Yard: 30 feet
 - f. Maximum Building Height: The lesser of 3 stories or 35 feet
 - g. Maximum Lot Coverage: 50% by buildings; and 75% total impervious.
7. Supplementary Regulations (See Article 8)
8. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance.

507 Traditional Downtown Area

1. Purpose: The purpose of this Traditional Downtown Area Zoning District is to:
 - a. Implement elements of the Dallas Borough Downtown Master Plan and Back Mountain Area Council of Governments Comprehensive Plan.
 - b. Further provisions set forth in the Pennsylvania Municipalities Planning Code (MPC), particularly relating to:
 - (1) Section 603(a), which states in part that zoning ordinances should reflect the policy goals of the statement of community development objectives and give consideration to the character of the municipality, the needs of the citizens, and the suitability and special nature of particular parts of the municipality;

- (2) Section 603(b)(2), which states that zoning ordinances “may permit, prohibit, regulate, restrict and determine...size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structure”; and
- (3) Section 603(b)(3), which states that zoning ordinances “may permit, prohibit, regulate, restrict and determine...areas and dimensions of land...to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures.”
- c. Implement specific provisions of the MPC, such as:
 - (1) Section 604(1), which states that zoning ordinances shall be designed to promote, protect and facilitate any or all of the following: “the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population;...access to...vehicle parking and loading space...recreational facilities...; as well as preservation of the natural, scenic and historic values in the environment.”
 - d. Address the purposes, objectives, and standards of Article VII-A, Traditional Neighborhood Development, of the MPC.
 - e. Provide a manual of written and graphic design guidelines (known as The Borough of Dallas Design Guidelines developed as part of the Dallas Borough Downtown Master Plan) to assist applicants in the preparation of proposals in accordance with Section 708-A of the MPC helping further enhance the area in and around the traditional downtown area of Dallas Borough by ensuring development and uses are planned, designed, reviewed and undertaken in a manner that is consistent and compatible the Dallas Borough Downtown Master Plan and Back Mountain Area Council of Governments Comprehensive Plan.
- 2. General Provisions:
 - a. Unless otherwise specifically noted elsewhere, whenever and wherever the requirements of this Section 507 are at variance with the standards and requirements of any other Article or section of this ordinance or the Luzerne County Subdivision and Land Development Ordinance, those standards and regulations set forth in this Section 507 shall govern development.
 - b. The Luzerne County Subdivision and Land Development shall govern the procedures respecting applications, hearings and preliminary and final approvals for subdivision and land developments within this zoning district.
 - c. All applications for development shall be subject to review by the “design review committee” accordance with the standards set forth in any such ordinance creating such committee, assuming such committee has been established by the Borough Council.
 - d. Development within this Traditional Downtown Area zoning district shall be composed of three (3) sub-areas with the following purpose statements:
 - (1) Urban Residential Sub-Area (URS) Purpose: This sub-area is generally comprised of those areas along the eastside of Lake Street and the area between Foster and Mill Streets which typically possess certain unique housing and development

characteristics including larger, multi-story, traditionally designed single-family detached homes with front porches on larger and wider lots. This zoning sub-area provides for similar compatible reuse and infill development. The zoning sub-area seeks to promote and protect these important low and moderate intensity residential areas in close proximity to the both the Mixed Use Neighborhood and Downtown Commercial sub-area of the borough.

- a. **Mixed Use Neighborhood Sub-Area (MUNS) Purpose:** This sub-area is generally comprised of those areas along the west side of Lake Street and Machell Avenue. This sub-area provides for a combination of a wider variety of moderate to more intensive residential dwelling types including single and multi-unit housing along with some compatible neighborhood, pedestrian oriented public and business related services. This sub-area is generally adjacent to and serves as a transition between the less intense Urban Residential and more intense Downtown Commercial sub-areas where adaptive reuse of existing and former residential structures and compatible infill development may occur in a manner that protects and enhances the existing pattern of traditional residential areas and promotes complimentary and supporting business and public uses to serve those and surrounding neighborhoods and Misericordia University.
 - b. **Downtown Commercial Sub-Area (DCS) Purpose:** This sub-area is comprised of the area of Dallas Borough traditionally recognized as the central business district (or downtown), around the “5 point intersection”. This sub-area is primarily intended to become the boroughs and surrounding region’s new traditional downtown and focal point of the community. The sub-area is intended to accommodate a wide range of pedestrian-oriented and pedestrian-dependent business, public, and upper floor residential uses in proximity to one another. The sub-area helps to ensure the mixture of compatible and pedestrian-friendly retail, service, office, public, residential, and other appropriate uses within buildings are appropriately scaled, designed, and/or adaptively reused to create distinct storefront character and pleasant gathering, shopping, business, and living environments for residents, business owners, and visitors. Building forms and types in this sub-area cultivate a new traditional “downtown” character including buildings that are generally 2 to 3 (two to three) stories, oriented to and abutting the sidewalk, and include a mixture of pedestrian-oriented retail and other appropriate businesses on the lower floors with upper floors used for office, service, and residential purposes. Desirable and appropriate accessory uses/structures specifically include outdoor dining/seating, parking provided on-street and in shared off-street lots located behind buildings, and pedestrian-oriented signs.
- (4) Standards for each sub-area are given below herein this Section 507.
- e. The general and specific lot, building and development design standards set forth in this Section 507 shall govern the following:
 - (1) residential, non-residential, and mixed uses (housing, businesses, civic and recreation), including principal and accessory;
 - (a) buildings/structures (principal & accessory), and lots;
 - (3) lot access/parking/loading;

- (4) lighting;
 - (5) screening/buffering;
 - (6) signs;
 - (7) sidewalks/curbs/gutters;
 - (8) landscaping/street trees; and
 - (9) other important development design features and characteristics.
- f. The Borough of Dallas Design Guidelines, developed as part of the Dallas Borough Downtown Master Plan shall also serve as the manual of written and graphic design guidelines for development in accordance with Section 708-A of the MPC. Proposals for development and uses are strongly encouraged to be planned, designed, reviewed, and undertaken in a manner that is consistent and compatible The Borough of Dallas Design Guidelines to help implement the Dallas Borough Downtown Master Plan.
- g. Minimum Required Data and Information for Applications

The following data and information requirements are the minimum amounts and types needed to review to ensure the proposed development activity is consistent and in substantial compliance with the standards and guidelines referenced herein this Section. It shall be the applicant's responsibility to determine and provide the following:

- (1) A written description indicating how the proposed development meets the guidelines and standards referenced herein above;
- (2) A complete set of calculations (i.e. averages of setbacks, etc.) used to determine and demonstrate compliance with all applicable standards set forth in each sub-areas dimensional regulations;
- (3) A site plan drawn to scale, including the following:
 - (a) All lot lines; existing, proposed, and required setbacks; lines of existing street cartways and rights-of-way (including alleys) and utilities and rights-of-way/easements;
 - (b) All existing, proposed, and required improvements on the lot, including, but not limited to: buildings, structures, driveways/access drives, parking areas, curbs, sidewalks, lighting devices and landscaped areas;
 - (c) Recent digital images or hardcopy photographs (both in color) of the current conditions/improvements on the lot and abutting property(ies);
 - (d) The principal building's front, side and rear elevations (schematic architectural drawings) and typical floor plans in the case of new principal buildings or additions to existing principal buildings; and
 - (e) Examples and list of the principal building's proposed exterior materials.

3. Principal Uses: A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes. Specifically in the Mixed Use Neighborhood and Downtown Commercial Sub-Areas, mixture of more than one principal use may be located within one building. All permitted uses shall be conducted within completely enclosed buildings unless otherwise specified:

Principal Use	Traditional Downtown Area Sub-areas		
	Urban Residential (URS)	Mixed-Use Neighborhood (MUNS)	Downtown Commercial (DCS)
Bed and Breakfast	P	P	P
Business Services	Not Permitted	P	P
Community Living Facilities / Group Home	P	P	Not Permitted
Craftsman / Artisan Studio	Not Permitted	P	P
Day-Care Center for Adults	Not Permitted	P	P
Domiciliary Care Home	P	Not Permitted	Not Permitted
Farmer's / Flea Market (indoor and outdoor)	Not Permitted	Not Permitted	P
Financial Institution	Not Permitted	P	P
Food Service Facility	Not Permitted	Not Permitted	P
Forestry	P	P	P
Funeral Homes	Not Permitted	P	P
Gallery / Museum	Not Permitted	P	P
Hotel	Not Permitted	P	P
Laundry and Dry Cleaning Establishment (Personal)	Not Permitted	Not Permitted	P
Massage Therapy Establishment	P	P	P
Multiple-Family Dwelling & Conversion (limited to upper floors in the DCS)	P	P	Not Permitted
Nurseries and Day Care Centers for Children	Not Permitted	P	P
Nursing and Convalescent Homes	P	Not Permitted	Not Permitted
Parking Structure	Not Permitted	P	P
Personal Care Board Home for Adults	P	Not Permitted	Not Permitted
Personal Services	P	P	P
Places of Religious Worship	P	P	P
Private Club, Clubhouse, or Lodge	Not Permitted	P	P
Professional Offices	P	P	P
Public Building	Not Permitted	P	P
Public Park, plaza, square, courtyard, urban garden, and other public outdoor recreation areas	P	P	P
Restaurant	Not Permitted	Not Permitted	P
Retail Business	Not Permitted	P	P
Rooming and Boarding Houses	P	P	P
School, Commercial	Not Permitted	P	P
School, Private / Public	P	P	P
Single-Family Detached Dwellings	P	P	P
Tavern / Bar	Not Permitted	Not Permitted	P

Theater	Not Permitted	P	P
Transit Facilities / Bus Stops	Not Permitted	P	P
Two-Family Dwellings and Conversions	P	P	Not Permitted
University / College	P	P	P

P = Permitted

4. Accessory Uses: Any uses accessory to the above permitted principal uses, including but not limited to:

Accessory Use	Traditional Downtown Area Sub-areas		
	Urban Residential (URS)	Mixed-Use Neighborhood (MUNS)	Downtown Commercial (DCS)
Automated Banking Facility (excluding drive up / drive through)	Not Permitted	P	P
Home Occupation	P	P	P
No-Impact Home Based Business	P	P	P
Outdoor Dining / Café	Not Permitted	Not Permitted	P
Upper floor apartments above permitted ground floor or lower level non-residential uses	Not Permitted	P	P

P = Permitted

5. Prohibited Uses: In addition to any principal and accessory use not specifically permitted in this zoning district or specific sub-area, the following uses are specifically prohibited unless otherwise noted:

Use	Traditional Downtown Area Sub-areas		
	Urban Residential (URS)	Mixed-Use Neighborhood (MUNS)	Downtown Commercial (DCS)
Adult Entertainment Establishments	Not Permitted	Not Permitted	Not Permitted
Automotive related activities / businesses (Automotive Service/Repair Garage; Garage; Commercial Service; Gasoline Service Station; Junk Yard; Mini-Market w/ Gas Pumps)	Not Permitted	Not Permitted	Not Permitted
Drive-In / Drive-Thru Facilities	Not Permitted	Not Permitted	Not Permitted
Ground Floor / First Floor Residential	P	P	Not Permitted
Outdoor / Unenclosed Storage for Non-Residential and Mixed Uses	Not Permitted	Not Permitted	Not Permitted
Parking Lots (Principal Use)	Not Permitted	Not Permitted	P
Trucking Facilities	Not Permitted	Not Permitted	Not Permitted

P = Permitted

6. Dimensional Regulations:

Dimensional Feature	Traditional Downtown Area Sub-areas		
	Urban Residential (URS)	Mixed-Use Neighborhood (MUNS)	Downtown Commercial (DCS)
Minimum Lot Area:	2,500 square feet per dwelling unit or unit of occupancy	2,000 square feet per dwelling unit or unit of occupancy	None, shall be based on the size of the building, required setbacks, coverage, parking, loading/unloading, and other applicable standards including stormwater management requirements.
Minimum Lot Width:	45 feet	25 feet	None, shall be based on the size of the building, required setbacks, coverage, parking, loading/unloading, and other applicable standards including stormwater management requirements.
Minimum / Maximum Front Yard:	25/50 feet or average of abutting properties (covered front porches shall be permitted to fulfill this requirement)	10/30 feet or average of abutting properties (covered front porches shall be permitted to fulfill this requirement)	0/5 feet or average of abutting properties
Minimum Side Yard:	10 feet each side	5 feet each side, except 0 feet at the shared lot/building line of lawfully attached buildings constructed with a shared common party wall and the written consent of the owner of the abutting lot and building	5 feet each side, except 0 feet at the shared lot/building line of lawfully attached buildings constructed with a shared common party wall and the written consent of the owner of the abutting lot and building.
Minimum Rear Yard:	30 feet	20 feet	0 feet
Minimum / Maximum Building Height:	2 stories or 24 feet / 3 stories or 35 feet	2 stories or 24 feet / 3 stories or 35 feet	2 stories or 24 feet / 4 stories or 50 feet
Maximum Building Footprint:	2,500 square feet	5,000 square feet	10,000 square feet
Maximum Lot Coverage:	65% total impervious surface	80% total impervious surface	90% total impervious surface
Minimum Unit dwelling Size:	700 square feet	700 square feet	700 square feet

7. Additional Building Design Standards: In addition to the standards and provisions set forth herein this Section 507 and elsewhere in the ordinance, proposed building development shall be consistent with The Borough of Dallas Design Guidelines developed as part of the Dallas Borough Downtown Master Plan:

a. Reuse of Existing or Former Residential Buildings

- (1) The reuse of existing or former residential buildings for all permitted uses and establishments shall be undertaken in a manner in which the building maintains and exterior appearance that resembles and is compatible with any existing residential dwellings and residential buildings in the neighborhood. All modifications or alternations to the external appearance of the front and street side facades of the

building (except for permitted signs and front porch enclosures) which would alter its existing or former residential character shall not be permitted.

b. New Buildings and Alterations to Existing or Former Non-Residential Buildings

(1) New buildings and alterations to existing or former non-residential buildings shall be provided in accordance with the following:

(a) Building Orientation

(i) The orientation or location of a building's main or everyday entrance and windows shall be provided in accordance with the following standard:

a. Interior Lots

1. Principal buildings shall have their primary front facades, provided with a main or everyday front entrance and windows, oriented toward and facing the public street (excluding alleys).

b. Corner Lots

1. Principal buildings on lots fronting on more than one (1) public street (excluding) shall have their primary front facades, provided with a main or everyday front entrance and windows, oriented towards and facing (in order of preference):

(a) both the intersecting streets (excluding alleys); or

(b) the corner, with one entrance located at and oriented toward the corner.

(b) Building Frontage and Width Requirements

(i) In the Mixed Use Neighborhood Sub-Area, where a building is proposed, at least sixty-five (65) percent of the building's front façade shall be located the at minimum/maximum front yard building setback. Covered front porches shall be permitted to fulfill this requirement; and

(ii) In the Downtown Commercial Sub-Area, where a building is proposed, at least eighty-five (85) percent of the building's front façade shall be located the at minimum/maximum front yard building setback.

8. Lot Access and Parking

a. In addition to the standards set forth in Article 8 of this ordinance relating to lot access, parking, driveways, and access drives, such features shall be provided in accordance with the following:

(1) For lots abutting an alley, new curb cuts for driveways and access drives serving individual properties onto Main Street, Lake Street, Machell Avenue, Foster Street, and Church Street are prohibited.

b. Off-Street Parking Requirements

- (1) Off-street parking spaces for uses and buildings in the Downtown Commercial Sub-Area are not required.
- (2) Off-street parking spaces for outdoor dining/cafes are not required.
- (3) Required off-street parking (surface lots and areas) shall:
 - (a) be provided in the rear of the principal building, but may be permitted to the side of the principal building;
 - (b) not be located between the principal building and the public street (excluding alleys);
 - (c) not be located on corner lots abutting the intersection of any two (2) streets (excluding alleys); and
 - (d) not be located or have frontage along, or otherwise abut Main Street, Lake Street, Machell Avenue, Foster Street, and Church Street unless provided with required buffering and screening.
- (4) Off-street surface parking (for other than single family detached and two (2) family residential dwelling) abutting a public street right-of-way including alleys, shall be provided with a continuous street-fronting three and one half (3 ½) foot high masonry wall or a perimeter planting at least five (5) feet in depth measured from all sides of the parking area towards the lot/street line with a mix of high and low level screening in accordance with Article 8 of this ordinance. Wall breaks for driveways and access drives shall be not more than twenty-four (24) feet in width.
- (5) Off-Street Parking Interconnections
 - (a) Abutting non-residential, multiple family dwelling, and mixed use parking lots shall be interconnected via internal vehicular connections to one another by a connection via a rear alley or shared/cross-access easements; and
 - (b) Each non-residential, multiple family dwelling, and mixed use lot shall provide a shared/cross-access easement agreement, in a form acceptable to the borough and recorded with the Luzerne County Recorder of Deeds on the same date as the recording as the Final Plan or prior to issuance of any permit, for its parking areas and access drives guaranteeing access to abutting lots. Interconnections shall be logically placed and easily identifiable to ensure convenient traffic flow.
- (6) All above ground off-street parking garages and structures:
 - (a) shall comply with all provisions for principal buildings and uses in the zoning district where the parking structures and building is proposed; and
 - (b) located along any street right-of-way line (excluding alleys) shall be provided with continuous, usable, street-fronting, ground-level, non-residential facades,

space, and uses along the entire length of the structure, except for ingress and egress points necessary for building entrances and pedestrian entrances to stairs and elevator lobbies into the garage or structure.

- c. **Parking Reductions:** This section is an opportunity for applicants to meet the parking requirements by alternative means other than providing parking via paved off-street parking spaces located on the same lot. Where applicable, each use may reduce the number of required off-street parking spaces by up to one hundred (100) percent provided the requirements are met by one or a combination of the following:
- (1) **Municipal Owned Parking Lots for Non-Residential Uses:** For all non-residential uses, located within a six hundred (600) foot radius of a public parking facility owned and/or operated by Dallas Borough or its agent, may include the parking spaces provided in said public parking facility as a part of the parking requirements.
 - (2) **On-Street Parking for Non-Residential Uses:** Where on-street parking is legally permitted, the following on-street parking standards shall apply:
 - (a) On-street parking spaces may be designated and provided along public street rights-of-way (excluding alleys) only when parking on that public street right-of-way has been approved by PennDOT (for all state owned streets) and/or the Borough Council (for borough owned streets).
 - (b) Such on-street parking spaces may be counted toward the required parking for non-residential uses as set forth in Article 8 of this ordinance.
 - (c) On-street parking spaces may only be counted along the abutting street right-of-way frontage for the lot owned by the applicant or landowner, exclusive of any driveway, access drive or other curb cut, and exclusive of any existing cartway and perpendicular street right-of-way.
 - (d) A bona-fide on-street parking space, parallel to the curb line, shall measure at least seven (7) feet in width and twenty-two (22) feet in length, and shall be exclusive of any street cartway. Otherwise, if angled parking is permitted along the street by the borough or PennDOT, then dimensions and number of on-street parking spaces shall be acceptable to the borough and/or PennDOT.
 - (e) All eligible on-street parking spaces shall be graphically depicted and other indicated upon any permits and/or plans required by the borough. Such parking spaces shall not conflict with any turning movements to and from the cartway or obstruct access or sight distances to any street, driveway, access drive, sidewalk, crosswalk, other pedestrian or vehicle accessway, or fire hydrant.
 - (3) **Shared Parking for All Uses:** Where shared parking is proposed to be utilized, the following standards shall apply:
 - (a) Users of shared parking facilities shall be required to show shared parking are reasonably close in proximity to each use in accordance with the following standards:

- (i) Less than one hundred (100) feet for people with disabilities; deliveries and loading; emergency services; food service establishments providing food and beverages such as “fast food” and/or via walkup window (generally no sit down); and convenience store.
 - (ii) Less than four hundred (400) feet for residents; grocery stores; business and professional offices; personal services.
 - (iii) Less than six hundred (600) feet for general retail sales; food service establishment serving food or beverages to the general public via sit down (generally not fast food) such as restaurants, taverns/bars; employees; private clubs; places of worship; schools; public uses; parks.
- (b) If parking is to be shared by uses located on two (2) or more lots, an executed shared/cross-access easement agreement, in a form acceptable to the borough and recorded with the Luzerne County Recorder of Deeds on the same date as the recording of the Final Plan or prior to issuance of any permit, assuring use of the required parking spaces until or unless the required parking spaces are located on the same lot as the use they serve.
- (c) The minimum amount of shared parking required to be calculated according to the following:
- (i) Calculate the minimum number of off-street parking spaces required for each use as if it were a separate use.
 - (ii) To determine the peak parking requirements, multiply the minimum parking required for each proposed use by the corresponding percentage in the table below for each of the six (6) time periods:

Uses	Monday – Friday			Saturday - Sunday		
	8 am – 6 pm	6 pm – midnight	midnight - 8 am	8 am – 6 pm	6 pm – midnight	midnight - 8 am
Residential	40%	100%	100%	80%	100%	100%
Office (All types including business and professional)	100%	10%	5%	5%	5%	5%
Retail Sales / Personal Services	90%	80%	5%	100%	60%	5%
Hotel	70%	100%	100%	70%	100%	100%
Establishment serving food or beverages to the general public, such as restaurant, food/service facility, tavern / bar	70%	100%	10%	70%	100%	20%
Theater, including motion pictures and stage play	40%	80%	10%	80%	100%	10%
Private clubs, clubhouse, lodge	40%	100%	10%	80%	100%	50%
Places of Religious Worship	20%	40%	5%	100%	50%	5%

- (iii) Calculate the column total for each of the six (6) time periods.

- (iv) The column total (time period) with the highest value shall be the minimum parking requirement.
- d. Loading/Unloading: In addition to the standards set forth in Article 8 of this ordinance relating to loading/unloading facilities, such facilities shall be provided in accordance with the following:
 - (1) Uses and buildings in the Downtown Commercial Sub-Area are not required to provide loading facilities.
 - (2) Required loading facilities for uses and buildings in Mixed Use Neighborhood Sub-Area, may be provided in rear alleys or access easements between the hours of 9 am and 4 pm.
- 9. Lighting: In addition to the standards set forth in Article 8 of this ordinance relating to lighting, lighting shall be provided in accordance with the following:
 - a. Parking lot lighting shall be installed and maintained as follows:
 - (1) Shoebox light fixtures shall be used to direct light downwards.
 - (2) Fixture height shall not be higher than fifteen (15) feet.
 - (3) For parking lot lighting abutting a residential property, a shield shall be used to deflect light away from the property.
 - b. Exterior lighting attached to buildings
 - (1) Exterior lighting is restricted to that which is necessary for minimum safety and security levels. Light standards shall be low profile and shall have a sharp cut-off shield and directed downward to reduce dispersal of ambient light to the night sky, deflect light away from adjacent property. Sodium vapor lights shall not be allowed.
- 10. Screening/Buffering: In addition to the standards set forth in Article 8 of this ordinance relating to screening/buffering, screening/buffering shall be provided in accordance with the following:
 - a. All wall-mounted mechanical, electrical, communication, and service equipment, including satellite dishes (not including residential uses), vents and pipes shall not be located or oriented directly toward any abutting residential zoning district or an existing single family detached and two (2) family residential dwelling permitted in the zoning district, and shall be screened from public view by parapets, walls, fences, landscaping, or other approved means.
 - b. All rooftop mounted equipment and other appurtenances shall be concealed by or integrated within the roof form or screened from view at ground level of nearby streets. The following, when above the roofline, requires screening: stair wells, air conditioning units, large vents, heat pumps, and mechanical equipment. In no case shall fencing be used as a rooftop equipment screen.

11. Refuse Facilities: In addition to the standards set forth in Article 8 of this ordinance relating to storage of refuse, including dumpsters, trash bins, and recycling receptacles for non-residential, multiple family dwelling, and mixed uses, such facilities shall be consistent with the Downtown Master Plan and provided in accordance with the following:
 - a. provided within the principal or accessory building(s): or
 - b. within an outdoor area enclosed by walls or opaque fencing provided that such facilities:
 - (1) are located behind the rear wall of the principal building;
 - (2) are not located between the principal building and the public street (excluding alleys);
 - (3) do not have frontage, or otherwise abut a public street (excluding alleys);
 - (4) are not located on corner lots, abutting the intersection of two (2) streets; and
 - (5) are designed to be architecturally compatible with the principal or accessory building (including design, materials, and colors).

12. Signs: In addition to the general standards and regulations set forth in Section 801.8.a of this ordinance relating to signs, signs shall be provided in accordance with the following permitted sign types and standards:
 - a. Wall Signs (with or without border): A wall sign, a sign mounted parallel to the exterior surface of a building, shall comply with the following:
 - (1) The maximum sign area shall not be more than one (1) square foot per three (3) linear feet of principal building frontage, nor greater than twenty-five (25) square feet, whichever is less.
 - (2) Size: Wall signs shall cover no more than twenty-five (25) percent of the total square footage of the principal building facades to which they are affixed.
 - (3) Wall signs shall not be permitted in the URS or in the MUNS.
 - b. Free-Standing Signs: A free-standing sign is self supported by a pole or post and not attached to any building, wall, or fence, but in a fixed location. Free standing signs which include post and arm, monument, and pole signs, shall comply with the following standards:
 - (1) Free-Standing signs shall not be permitted for establishments (uses and buildings) that are set back less than twenty-five (25) feet from the street right-of-way line. Additionally:
 - (a.) Monument Signs: A monument sign, an outside sign identifying a development, businesses, services, or homes (such as a shopping area or housing development) made of brick, masonry or stone, the bottom of which is attached directly and permanently to the ground and physically separated from any other structure, shall comply with the following:

- (i) The maximum sign area shall be fifteen (15) square feet.
 - (ii) The maximum sign height shall be five (5) feet from the ground (including the base) to the top of the sign.
 - (iii) The sign must be set back ten (10) feet from any lot line, including the street right-of-way.
- (b) Post and Arm Signs: A post and arm sign, a free-standing sign comprised of a vertical post to which a perpendicular arm is attached and from which a sign hangs, shall comply with the following:
 - (i) The maximum sign area shall be ten (10) square feet.
 - (ii) The maximum sign height shall be eight (8) feet from the ground to the top of the sign.
 - (iii) The sign must be set back ten (10) feet from any lot line, including the street right-of-way.
- (c) Pole Signs: A pole sign, a free-standing sign with the base of the actual sign area at least five (5) feet above the ground supported by vertical pole(s), shall comply with the following:
 - (i) The maximum sign area shall be ten (10) square feet.
 - (ii) The maximum sign height shall be ten (10) feet from the ground to the top of the sign.
 - (iii) The sign must be set back at least ten (10) feet from any lot line, including the street right-of-way.
- c. Projecting Signs: A projecting sign, a sign attached to a building wall or structure that projects horizontally more than twelve (12) inches from the face of the wall, shall comply with the following:
 - (1) The maximum sign area shall be eight (8) square feet.
 - (2) The maximum projection distance from the building façade shall be one (1) feet.
 - (3) The minimum clearance from the ground shall be eight (8) feet.
- d. Window Signs: A window sign, any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is permanently affixed inside a window or upon the window panes or glass and is visible from the exterior of the window, shall comply with the following:
 - (1) The maximum sign area shall be twenty-five (25) percent of the total window area of the windows on the ground floor façade of the principal building.
 - (2) The maximum height of the lettering shall be eight (8) inches.

- e. **Awning or Marquee Signs:** An awning sign, a non-illuminated sign painted on or attached to a fabric or vinyl cover on a rigid frame; only business names and/or logos may be attached to, painted, stenciled, or otherwise placed on these devices: and/or marquee sign, a sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter which projects from the face of a building, shall comply with the following:
 - (1) The maximum projection distance over the sidewalk shall be seven (7) feet.
 - (2) The maximum height of the lettering shall be six (6) inches and (for awnings) on the valance only.
 - (3) The extent of the lettering may cover a maximum of eight (8) feet in width or fifty (50) percent of the valance width, whichever is less.
 - (4) The minimum clearance from the ground (sidewalk) shall be ten (10) feet.
 - (5) Awning or marquee signs are not permitted in the URS or in the MUNS.
- f. **Number:** No establishment shall display more than three (3) signs. Each establishment may display only one (1) free-standing sign (where permitted), which is included in the three (3) permitted sign limit.
- g. **Location:**
 - (1) Signs shall be concentrated near the pedestrian level.
 - (2) Signs posted on the upper floor facades of the buildings shall not cover more than twenty (20) percent of the total square footage of the upper façade facing the street. No sign shall be located on the roof of a building, nor higher than the roofline.
 - (3) Signs shall not obscure important architectural details or feature such as windows, transoms, panels, sills, moldings, and cornices.
 - (4) Signs on abutting storefronts within the same building shall be coordinated in height and proportion and should be encouraged to use the same signing format.
- h. **Sign Illumination**
 - (1) Only white light may be used to illuminate a sign, except in the case of neon which is only permitted for window signs.
 - (2) The illumination from any sign may not cause any reflection or glare upon a public street right-of-way, sidewalk, or adjacent property.
 - (3) Exposed lighting sources such as bulbs, tubes, and the like are prohibited. All external sources of illumination must be hidden from view by shrubbery or some other permitted material.
 - (4) With the exception of DCS, no exterior signs on any building or premises shall be illuminated after 12:00 midnight, except on those places of business which shall

remain open after midnight, and they shall be extinguished at the time of closing such business.

i. Other permitted, non-permanent signs, not requiring permits:

- (1) Temporary Business Advertising Signs: A temporary, non-permanent business promotional, special event, or grand opening type sign, banner, or similar sign, shall comply with the following:
 - (a) All temporary business advertising signs shall not be displayed more than two (2) weeks prior to the sale, promotion, or event, and must then be removed not later than one business day after the sale, promotion, or event.
 - (b) For temporary business advertising signs located in a window, the maximum sign area shall be twenty-five (25) percent of total window area of the windows on the ground floor façade of the principal building.
 - (c) For temporary business advertising signs located outdoors the maximum sign area shall be fifteen (15) square feet.
- (2) Menus and Signs Indicating Business Hours: A menu or hours of operation sign, a temporary sign used to inform the public of hours of operation of a business and/or the list of entrees, dishes, foods, and entertainment available inside the restaurant, food service facility, or tavern/bar, shall comply with the following:
 - (a) The maximum sign area shall be two (2) square feet.
 - (b) Signs shall be located in a permanently mounted display box on the façade of the building adjacent to the entrance, displayed within a window adjacent to the entrance, or at a podium that will be placed inside the restaurant, food service facility, or tavern/bar upon closing.
- (3) Sandwich Board Signs: A sandwich board sign, a temporary “a” frame sign that is not permanently attached to the ground or other permanent structure, shall comply with the following:
 - (a) The maximum sign area shall be eight (8) square feet.
 - (b) Signs are permissible along the sidewalk, provided a minimum walking distance of four (4) feet shall be maintained to allow for a pathway for pedestrians.
 - (c) Signs shall be taken indoors at the close of each business day.
 - (d) Signs shall be weighted at the base so that the sign cannot be moved by strong winds; however, no sign shall be chained, tied, or otherwise affixed to any object, structure, or the ground.
 - (e) Only one (1) sandwich board sign will be permitted in front of the business it advertises.

13. Sidewalks, Curbs and Gutters: In addition to the standards set forth in Chapter 53-1 of the Borough Codified Ordinance and the Luzerne County Subdivision and Land Development Ordinance, sidewalks, curbs and gutters shall be provided in accordance with the following:
 - a. Sidewalks are required along all public streets and access drives.
 - b. Sidewalks are required to connect the street right-of-way to all front building entrances, parking areas, central open spaces, and any other destination or use that generates pedestrian traffic.
 - c. Sidewalks shall connect to existing sidewalks on abutting tracts and other nearby pedestrian destination points and transit stops.
 - d. The sidewalk pattern, a minimum of six (6) feet in width in the URS and MUNS, and eight (8) feet in the DCS, shall continue across driveways and access drives.
 - e. Sidewalks shall be made of concrete or brick.
 - f. Curb and gutters shall be provided along all streets and access drives.
 - g. Curbs shall be of the vertical concrete type with a six (6) inch reveal.
 - h. Curbs shall be made to promote barrier-free access and to accommodate pedestrians with disabilities, in accordance with ADA requirements.
14. Landscaping and Street Trees: In addition to the standards set forth in Article 8 of this ordinance and the Luzerne County Subdivision and Land Development Ordinance relating to landscaping and street trees, such facilities shall be provided in accordance with the following:
 - a. All required maintenance and upkeep of the landscaping on private property, as well as, any street tree within the public right-of-way, shall be the responsibility of the owner on whose property the tree is located or to be planted or whose property abuts the right-of-way in which the street tree is located.
 - b. The street trees shall be two and one-half (2.5) inches minimum diameter (caliper) at breast height when installed.
 - c. Street trees shall be installed and maintained consistent with the Downtown Master Plan and they shall not block visibility or store windows. Tree growth shall not interfere with the street cartway, sidewalk or utility lines.
 - d. Street trees shall be installed and maintained in a planting bed, a minimum of four (4) feet by four (4) feet.
15. Hours of Operation: For proposed non-residential and mixed use developments, the hours of operation and activities must be appropriately scheduled to protect the existing neighborhood from detrimental noise, disturbance or interruption. An hours of operations plan shall be submitted as part of any application for such use.

16. **Outdoor Café/Dining:** Outdoor Cafes/Dining shall be permitted as an accessory to a permitted restaurant, tavern/bar, food service facility, and/or use or establishment which serves food or beverages, subject to the following criteria:
- a. Outdoor furnishings shall be limited to tables, chairs umbrellas, benches, trash/recycling type facilities, outdoor heaters, and reservation podium.
 - b. Outdoor furnishings, when permitted within any public right-of-way, shall be removed and stored in an enclosed facility after normal operating hours.
 - c. The limits of the outdoor dining area shall be defined. In addition to decorative fencing and landscaping, decorative planters, posts with ropes, and other removable enclosures, as well as reservation podium ar3e encouraged as a way of defining the area occupied by the outdoor dining area.
 - d. Outdoor dining shall not impede public sidewalks. Where permission is granted by the entity having jurisdiction over the public right-of-way in which the outdoor dining is proposed, a minimum of four (4) feet uninterrupted (obstacle free) pathway can be continuously maintained, public sidewalks may be utilized for outdoor dining areas.
 - e. Exterior trash and recycling receptacles shall be provided amid any outdoor dining area. Such trash receptacles shall be routinely emptied so as to prevent the scattering of litter and debris. All applications shall include a description of a working plan for the cleanup of litter and recycling.
 - f. Advertising or promotional features, other than permitted signs in accordance with this standards and regulations herein this Section 507 and Article 8 of this ordinance, shall be limited to umbrellas and canopies.
 - g. All reasonable provisions shall be made to prevent or minimize noise, odor, and vibration, light or electrical interference to an adjoining property within a residential zoning district or an existing single family detached and two family residential dwelling permitted in the zoning district in accordance with Article 8 of this ordinance.

508 Highway Business District (B-2)

1. **Purpose:** The purpose of this district is to accommodate the needs of highway travelers who may require automotive service, food, and lodging and the needs of the local residents pertaining to automotive sales and services and to other uses commonly found along highways.
2. **Principal Uses:** A lot or parcel may be used and a building or structure may be erected and used for any of the following purposes:
 - a. Animal hospitals
 - b. Automotive related activities, such as:
 - (1) Automotive related activities/businesses (Automotive Serve/Repair Garage; Garage, Commercial Service; Gasoline Service Station; Mini-Market with Gas Pumps); but also including:
 - (a) body repair

- (b) car wash
 - (c) gasoline service stations and truck service plazas
 - (d) new and used car sales and rentals, motorcycle sales and rentals, mobile home trailer sales and rentals, and truck sales and rentals, and boat and marine sales service and repair garages
- c. Business Services
 - d. Contractor offices and shops, such as building, cement, electrical, heating, excavating, masonry, painting, roofing, plumbing, and monument
 - e. Day-Care Centers for Adults
 - f. Farmer's/Flea Market (indoor and outdoor)
 - g. Financial Institutions including drive-in and drive-thru service
 - h. Funeral Homes
 - i. Laundry and Dry Cleaning Establishment (Personal)
 - j. Massage Therapy Establishment
 - k. Medical Clinic
 - l. Motels and hotels
 - m. Professional Offices
 - n. Nurseries and Day Care Centers for Children
 - o. Parking Compound
 - p. Places of Religious Worship
 - q. Private Club, Clubhouse, or Lodge
 - r. Public and public utility maintenance garages and storage yards
 - s. Recreation centers (indoor commercial) including drive-in theaters, bowling alleys, skating rinks, and billiard parlors
 - t. Restaurants and other business establishments serving food and beverages, including the drive-in and drive-thru service
 - u. Retail Sales including drive-in and drive-thru service
 - v. School, Commercial
 - w. School, Private/Public
 - x. Tavern/Bar
 - y. Theater
 - z. Transit Facilities/Bus Stops
 - aa. Warehouse and wholesale facilities
 - bb. Forestry (See Article 8)
 - cc. Gas and oil well production (See Article 8)
3. Accessory Uses: Any customary uses accessory to the above
- a. Automated Banking Facility (including drive up/drive thru service)
 - b. Home Occupation
 - c. No-Impact Home-Based Business
 - d. Outdoor Dining/Café
 - e. Wind Energy Conversion Systems (Personal)
4. Special Exception Uses (See Article 6)
- a. Animal kennels
 - b. Dwellings directly related to certain businesses
 - c. Dwellings over or attached to business establishments
 - d. Outdoor advertising signs

- e. Public and semi-public uses (other than municipal owned uses)
 - f. Temporary structures and buildings including trailers
 - g. Bed and Breakfasts
5. Conditional Uses: (See Article 7.)
- a. Community Shopping Center
6. Dimensional Regulations:
- a. Minimum Lot Area: 10,000 square feet
 - b. Minimum Lot Width: 100 feet
 - c. Minimum Front Yard: 30 feet
 - d. Minimum Side Yard: 10 feet each side
 - e. Minimum Rear Yard: 30 feet
 - f. Maximum Building Height: The lesser of 2 stories or 25 feet
 - g. Maximum Lot Coverage: 50% by buildings 75% total impervious
7. Supplementary Regulations (See Article 8)
8. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance.

509 Planned Residential Development District (PRD)

1. Purpose

The purpose of this District, as stated in the MPC (Act 247 as amended) and as already established as Districts by approval of the Council of Dallas Borough, is to achieve the following:

- a. To ensure that the provisions of the Dallas Borough Zoning Ordinance which are concerned with the uniform treatment of dwelling type, bulk, density and open space within each zoning district, shall not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the ordinance;
- b. To encourage innovations in residential development and renewal so that the growing demand for housing may be met by greater variety in type, design and layout of dwellings and by the conservation and more efficient use of open space ancillary to said dwellings;
- c. To provide greater opportunities for better housing and recreation for all who are or will be residents of the borough;
- d. To encourage a more efficient use of land and public services and to reflect changes in the technology of land development so that the economies so secured may endure to the benefit of those who need homes;
- e. To encourage more flexible land development which will respect and conserve natural resources such as streams, flood plains, ground water, wooded areas, steeply-sloping

areas of unusual attractiveness in the natural environment; and in aid of these purposes;
and

- f. To provide a procedure which can relate the type, design and layout of residential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential areas, and to assure that the increased flexibility of regulations over land development established hereby is carried out pursuant to sound, expeditious and fair administrative standards and procedures.

2. Permitted Uses and Regulations

Existing planned residential developments in Dallas Borough shall abide by the plans for such development that were approved by the Council. All new planned residential developments shall be permitted in the districts where they are allowed as conditional uses and shall be developed according to the requirements for planned residential developments as provided for in Article 7 of this ordinance and the applicable sections of the MPC regulating the said planned residential developments.

Article 6

SPECIAL EXCEPTION USES

- 601** Purpose
- 602** General Provisions
- 603** Specific Provisions

Article 6

SPECIAL EXCEPTION USES

601 Purpose: The purpose of special exception use regulations is to provide additional standards for controlling the unique or special characteristics of certain uses which otherwise conforms to uses permitted in their respective districts.

602 General Provisions: Decisions for granting or denying special exception use permits shall be made by the Zoning Hearing Board as provided for in Article 10.

1. Decisions: Decision of the Board shall be made pursuant to standards and criteria expressed in this Article, to regulations for the respective districts in which the uses are located, and to all other requirements of this ordinance.

The Board shall grant an approval for a special exception use only if it finds adequate evidence that the proposed use meets both the general and specific requirements for such use.

2. Effect of Ordinance Changes on Application: When an application for a special exception has been filed with the Zoning Hearing Board and the subject matter of such application would ultimately constitute either a land development or a subdivision as defined in Article 3, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed.

Provided, further, should such an application be approved by the Zoning Hearing Board, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer or as may be approved by the Zoning Hearing Board following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before the Zoning Hearing Board.

If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of the Pennsylvania Municipalities Planning Code (Act 247 as amended), (MPC) Section 508 (1) through (4), and specifically to the time limitations of Section 508 (4) which shall commence as of the date of filing such land development or subdivision plan. (These sections correspond to Sections 303 through 307 of the Subdivision and Land Development Ordinance of Dallas Borough.)

3. Site Plan: A plan for the proposed development of a site for a special exception use shall be submitted with the application for a special exception permit. Such plan shall show the location of all buildings, open spaces, parking areas, traffic access and circulation, landscaping and any other information required for determining the conformance of the special exception use with the regulations for that use.
4. General Standards: Decisions for granting all special exception uses shall be guided by the following general standards:

- a. The proposed use shall not jeopardize the objectives of the comprehensive plan or of this ordinance.
- b. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use.
- c. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- d. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the use, the size of the site relative to the proposed operation, and the nature and intensity of the operation involved.
- e. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
- f. The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibration, smoke, fly ash, or flashing lights than would be the operations of any permitted use in the district.
- g. Any other reasonable conditions and safeguards, in addition to those expressed in this ordinance, may be imposed by the Board if the Board deems it necessary for implementing the purposes of the MPC, this zoning ordinance, and subsequent amendments.

603 Specific Provisions: Uses permitted by special exception in this ordinance include the following for which additional regulations are prescribed:

1. Animal Kennels (B-2 District)

Animal kennels in which pets are kept, boarded, or trained for commercial purposes shall be in enclosed buildings. All activities shall be maintained within a completely enclosed, soundproof building and no objectionable odors shall be produced outside the building. District yard regulations shall apply.

2. Bulk Fuel Storage (I District)

Bulk fuel storage for wholesale distribution shall be located on a tract of land of not less than (1) acre. Storage tanks shall be located not less than seventy-five (75) feet from any property line and shall be not less than five hundred (500) feet from any dwelling, school church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located at least fifty (50) feet from all property lines.

The tank storage area shall be fenced with an industrial type fence or equivalent protection at least eight (8) feet in height. When the storage property abuts on the rear or side lot lines a district having residences as a principal permitted use, a solid wall or substantial, attractive, sight-tight fence at least five (5) feet in height as well as evergreen hedges of the same height shall be constructed and maintained in good condition along such boundary.

Bulk fuel storage facilities shall be developed in compliance with all applicable federal, state, and insurance regulations. Proof of plan compliance, along with a development plan approved by the borough, shall be required before a special exemption use is granted.

3. Cemeteries and Crematories (R-1, R-2, R-2A, and R-3 Districts)

A crematory, structure, grave or place of permanent burial shall be set back from the property line of the tract at least thirty (30) feet. The cemetery shall have a fence, wall, or shrubbery at least three (3) feet in height along its boundaries. Interior roads shall be at least twenty (20) feet wide and well-maintained with either gravel or paving. The cemetery shall also comply with parking regulations in Article 8.

4. Community Living Facility (R-1, R-2, R-2A, and R-3 Districts)

Community living facilities shall be permitted under the following conditions:

- a. Such facility may be operated by any incorporated, public or private, profit or not-for-profit organization, society or association including any agency of the county, county institution district, or municipality and person as defined in Articles IX and X of the Pennsylvania Public Welfare Code, for which standards have been developed. Such a facility shall hold a current license under that Code.
- b. The community living facility shall be limited to five (5) individuals, not including supervisors, and who are not related to the supervisors.
- c. The facility shall have on file an inspection report indicating compliance with state and local requirements or the agencies responsible for enforcing health, sanitation, and fire and panic regulations.
- d. The use of a dwelling as a community living facility shall not include its use for offices or meetings of the organization operating the facility.

5. Day-Care Centers for Adults (R-1, R-2, R-2A, and R-3 Districts)

An adult day-care center shall provide a program of activities, within a protective, non-residential setting under the following conditions:

- a. The center shall provide for four (4) or more enrolled adults who are not capable of full-time independent living.
- b. The center shall be certified by the Pennsylvania Department of Aging, Area Agency on Aging (AAA), and shall have on file an inspection report indicating compliance with state and local requirements of the agencies responsible for enforcing adult daycare, health, sanitation, and fire and panic regulations.
- c. There shall be a minimum of fifty (50) square feet of interior space per client, measured from wall to wall; and the center itself shall be easily accessible to clients using wheelchairs and walking equipment.
- d. The tract shall provide off-street vehicular loading and unloading areas as well as for parking spaces for employees as provided for in Article 8.

e. The tract shall have an area of at least 40,000 square feet.

6. Domiciliary Care Home (R-1, R-2, R-2A, and R-3 Districts)

Domiciliary care service shall provide a supportive, homelike, community-based living arrangement for adults who cannot live independently in the community; encourage and assist such adults in developing and maintaining maximum initiative and self-determination in a homelike setting; provide an alternative to institutionalization; and help them remain in the community or return to it, and, if possible, to their own homes.

A domiciliary care home shall be permitted under the following conditions:

- a. Such a home shall be operated by a resident of the Commonwealth who is 21 years of age or older, who resides in the home, and who has been approved by the Area Agency on Aging to operate the facility.
- b. The facility shall be limited to not more than three (3) clients who are not related to the domiciliary care provider.
- c. The facility shall have on file a certification or recertification report indicating compliance with state (Pa Code, Title 6 Aging, Chapter 21 Domiciliary Care Services for Adults) and local requirements of the agencies responsible for enforcing health, sanitation, and fire and panic regulations.

7. Dwellings Directly Related to Certain Businesses (B-2 District)

Single-family dwellings may be permitted on the same lot as the following business establishments: convalescent homes, mortuaries and motels, provided that such dwellings are occupied by the owner or manager of such business establishment. Such dwellings shall also have the required residence parking spaces in addition to commercial parking spaces as required by Article 8.

8. Dwellings Over or Attached to Business Establishments (B-2 District)

Single-family dwelling may be permitted over or attached to business establishments. Such dwellings shall be designed as living quarters having adequate natural light and kitchen and bathroom facilities. Such dwellings shall also have private access and the required residence parking spaces in addition to commercial parking spaces as required by Article 8.

9. Home Occupations (R-1, R-2, R-2A, R-3 and C Districts)

A home occupation shall be an incidental use of a dwelling unit or of a building or other structure accessory to a dwelling unit and shall be conducted by a person or persons residing in the dwelling unit and not more than one (1) non-resident employee. Not more than twenty-five (25) percent of the building floor area (including the floor areas of both the principal and accessory structures) shall be used for the home occupation.

The exterior appearance of the structure or premises shall be maintained in its residential character with the home occupation conducted entirely within the enclosed structure and with no goods publicly displayed on the premises other than a permitted sign as provided for in Article 8. The home occupation shall not involve display windows, frequent truck deliveries,

or the production of offensive noise, smoke, vibration, dust, odors, heat, or glare. Off-street parking requirements for both dwelling and home occupation uses shall be fulfilled in accordance with Article 8.

Home occupations may include an office or studio of a physician, dentist, artist, photographer, architect, engineer, accountant, surveyor, lawyer, realtor, insurance salesperson, or member of some other similar occupation. Home occupations may also include service related businesses such as: beauty and barber shops, dressmaking and tailoring shops, appliance repair, and tutoring and music instruction for not more than two (2) students at a time, but shall not include animal hospitals, commercial kennels or stables, mortuaries, clothing shops, restaurants, dance studios, or business schools.

10. Medical Clinics

Health and dental clinics shall be located on a tract a minimum of twenty thousand (20,000) square feet in size and shall front on an arterial or collector street. Where the use abuts a property containing a residence, a screen and buffer shall be provided according to the requirements of Article 8. Interior access drives shall be no more than twenty-five (25) feet in width and shall be at least sixty (60) feet from any street intersection as measured from the right-of-way line. Outside lighting shall be directed away from adjacent activities.

11. Nurseries and Day Care Centers for Children (R-1, R-2, R-2A, and R-3 Districts)

Day nurseries, nursery schools, private kindergartens, and day-care centers shall provide indoor and outdoor play space complying with the standards of the Pennsylvania Department of Public Welfare for Child Day Care Centers under Articles IX and X of the Public Welfare Code. The outdoor play area shall adjoin the indoor space, be easily accessible, and be fenced with a chain-link fence and gate at least three (3) feet in height which shall be maintained in good condition.

12. Nursing or Convalescent Homes (R-1, R-2, R-2A, and R-3 Districts)

The minimum size of the tract shall be one (1) acre; it shall front on an arterial or collector street. A parking area shall accommodate all parking spaces as required by Article 8 as well as circulation and access areas. Access driveways shall be no more than twenty-five (25) feet in width, and, in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets, as measured from the right-of-way lines. Where the property abuts residences on the side or rear property lines, a solid wall, a substantial, attractive, sight-tight fence, or evergreen hedges a minimum of five (5) feet in height and maintained in good condition shall be provided. The evergreens should be of such height at the time of planting that they will attain a height of five (5) feet within three (3) years. Minimum side and rear yards shall be fifty (50) feet.

13. Outdoor Advertising Signs (B-2 District)

No outdoor advertising sign shall be permitted within five hundred (500) feet of any residence district or within one thousand (1,000) feet of another outdoor advertising sign not located on the same structure or standard. The advertising surface area of any panel shall not exceed one hundred (100) square feet, and not more than two (2) panels (or one double-faced panel) shall be permitted on the same structure or standard. The yard setback requirements of

the district in which the outdoor advertising sign is located shall apply. Other provisions for signs as found in Article 8 shall apply.

14. Personal Care Board Home for Adults (R-1, R-2, R-2A and R-3 Districts)

Personal care board homes for adults are intended to assure safe, humane, comfortable and supportive residential settings for aged, blind and disabled, and other dependent infirmed adults who require assistance beyond the basic necessities of food and shelter but who are not in need of hospitalization or skilled or intermediate nursing care. Residents will receive the encouragement and assistance they need to develop and maintain maximum independence and self-determination.

A personal care board home shall be permitted under the following conditions:

- a. Such facility may be operated by any incorporated, public or private, profit or not-for-profit organization, society or association including any agency of the county, county institution district, or municipality and person as defined in Articles IX and X of the Pennsylvania Public Welfare Code, for which standards have been developed. Such a facility shall hold a current license under that Code.
- b. The personal care board home shall be limited to twelve (12) individuals who are not related to the provider and who do not include the provider and staff.
- c. The facility shall have on file an inspection report indicating compliance with state and local requirements of the agencies responsible for enforcing health, sanitation, and fire and panic regulations.

15. Places of Religious Worship (R-1, R-2, R-2A and R-3 Districts)

The property shall be a least one (1) acre in area and front on an arterial or collector street. A parking area shall accommodate all parking spaces as required by Off-Street Parking and Loading regulations (See Article 8), as well as circulation and access areas. Access driveways shall be no more than twenty-five (25) feet in width, and, in the case of a corner lot, access driveways shall be at least sixty (60) feet from the right-of-way line. Where the property abuts existing residences on the side or rear property lines, a solid wall, a substantial, attractive, sight-tight fence, or evergreen hedges a minimum of five (5) feet in height and maintained in good condition shall be provided. The evergreens should be of such height at the time of planting that they will attain a height of five (5) feet within three (3) years. Minimum side and rear yards shall be fifty (50) feet.

16. Public and Semi-Public Uses (R-1, R-2, R-2A R-3, and B-2 Districts)

- a. Other than Municipal Owned Uses: The minimum size of a tract for any such building shall be one (1) acre; it shall front on an arterial or collector street. Where the tract abuts residences on the side or rear property lines, a solid wall, a substantial, attractive, sight-tight fence at least five (5) feet in height, evergreen hedges a minimum of five (5) feet in height, or a landscaped buffer area having a depth of not less than twenty-five (25) feet shall be provided. The wall, fence, shrubs, or buffer shall be maintained in good condition.

17. Public, Parochial, and Other Private Elementary, Middle, and High Schools and Colleges (R-1, R-2, R-2A and R-3 Districts)

The size of the tract shall be at least the minimum prescribed by the Pennsylvania Department of Education for each type of school. Access to the tract shall be from an arterial or collector street, and access driveways shall be no more than thirty-five (35) feet in width. In the case of corner lot access driveways shall be at least sixty (60) feet from the intersection of the two streets as measured along the right-of-way lines. A parking area shall accommodate all parking and loading spaces as required by Article 8 as well as circulation and access areas. Where the property abuts residences on the side or rear property lines, a solid wall, a substantial, attractive, sight-tight fence, or evergreen hedges a minimum of five (5) feet within three (3) years. Minimum side and rear yards shall be fifty (50) feet.

18. Recreation Facilities and Uses Outdoors (R-1, R-2, R-2A and R-3 Districts)

All such facilities, whether public, semi-public, private, or commercial, shall conform to the following regulations: a) no outdoor recreation activity shall be conducted closer than fifty (50) feet to any property line; b) a buffer area at least fifty (50) feet deep and planted with trees, shrubs, or other landscaping shall surround the property except for access drives and may be part of the required setback; c) access drives shall be no more than twenty five (25) feet in width; d) circulation and parking areas shall be provided as required in Article 8 and such parking shall not be located in buffer areas; e) storm drainage from the site shall be channeled to natural drainage courses a away from adjoining properties where possible; and f) outside lighting shall be directed away from adjacent activities.

- a. Golf Courses (Recreation Facilities Outdoors): The minimum size of a tract for a regulation nine-hole course shall be fifty (50) acres and for a regulation eighteen-hole course, one hundred ten (110) acres. Where the golf course adjoins residential properties along its borders, a line of trees or shrubs twenty (20) to forty (40) feet deep shall be planted along the fairways and greens, but not closer than twenty (20) yards behind the greens. Interior access roads of the course shall connect to arterial or collector streets and shall be no more than twenty-five (25) feet in width. Club houses and other golf course structures shall be located at least one hundred (100) feet from any property line.
- b. Public and Semi-Public Swimming Pools (Recreation Facilities Outdoors): Municipal pools and pools privately-owned but open to the public for a fee, as a neighborhood association pool or YMCA pool, and which are for outdoor use, shall be subject to the following regulations: a) the pool and all accessory structures and areas used by bathers shall not be located closer than one hundred (100) feet to any property line; b) a buffer strip at least fifty (50) feet wide surrounding the pool and paved areas around the pool shall be used for trees, shrubs, and grass landscaping; c) a chain link fence and gate at least six (6) feet high and maintained in good condition shall surround the pool and all areas used by bathers so as to prevent uncontrolled access by children; d) outside lighting shall be directed away from adjacent activities; e) parking spaces shall be provided as required in Article 8. Such pools shall also conform to applicable regulations of the Pennsylvania Department of Environmental Resources.

19. Rooming or Boarding Houses (R-1, R-2, R-2A and R-3 Districts)

The property shall maintain all yard areas for the district in which it is located and shall provide parking spaces as required in Article 8. In outward appearance the rooming or

boarding house shall be consistent with the character of other residences in the immediate area. There shall not be more than two persons housed in any one bedroom.

20. Temporary Structures and Buildings Including Trailers (R-1, R-2, R-2A, R-3 C, I, and B-2, Districts)

Temporary trailers or mobile homes may be permitted in any district for such uses as construction offices, classrooms, homes, industrial laboratories, banks, and other uses ordinarily permitted in the district as a permanent use. The temporary trailer lot shall meet all yard, area, parking and other requirements of the district in which it is located. The Zoning Hearing Board shall make a determination whether temporary or more permanent water and sewer facilities should serve the temporary trailer based on the proposed use and length of time the use is to be 'temporary'.

In applying to the Zoning Hearing Board for a permit the applicant shall be required to specify the length of time the structure or mobile home is expected to be in use and the reason for requesting the temporary use. The Zoning Hearing Board shall make a determination as to the acceptability of this information and shall set a date for the termination of the temporary use not to exceed one (1) year from the date the special exception use was granted, but may consider requests for a time extension provided the applicant can show a need for such extension. If the Zoning Hearing Board grants an extension, it shall set a date for the termination of the extended time period for such temporary use.

21. Bed and Breakfasts (R-3, and B-2 Districts)

Single-family dwellings used for the purpose of providing overnight accommodations for transient guests. Off-street parking shall be provided as required by Article 8. The serving of breakfast shall be only to guests and not to the public generally, as in a restaurant.

22. Welding Shops: (I District)

Welding operations, whether of major nature, such as manufacture and fabrication of machinery and structural metal or of a minor nature; such as the repair of cars, fences or small equipment, shall be allowed provided that all welding shall take place in an enclosed building in order to minimize noise and glare. Acetylene and other flammable gases shall be stored in fireproof rooms.

Adopted December 16, 2009

Article 7

CONDITIONAL USES

- 701** Purpose
- 702** General Provisions
- 703** Specific Provisions
- 704** Planned Residential Development
- 705** Community Shopping Center
- 706** Adult Entertainment Establishment
- 707** Communication Antennas, Towers, Equipment,
Transmitting and Receiving Facilities
- 708** Wind Energy Facility (Non-Personal)
- 709** Treatment Center
- 710** All Other Uses

Article 7

CONDITIONAL USES

701 Purpose: The purpose of conditional use regulations is to permit certain uses in particular zones or districts when the conditions described for each use have been fulfilled, as determined by the council upon recommendation of the Dallas Borough Planning Commission.

702 General Provisions: Decisions for granting or denying conditional use zoning permits shall be made by the council according to the following procedures.

1. Decisions: Decisions for granting or denying conditional use permits shall be made by the council after its receipt and review of the Planning Commission's recommendation and after it has held the required public hearing in order to hear evidence from involved parties for the purpose of better gauging the potential implications of the proposed use.

Hearing shall be conducted pursuant to the procedures outlined in Article 10, Zoning Hearing Board and other Administrative Proceedings.

The council shall submit the application for the proposed conditional use to the Dallas Borough Planning Commission at least thirty (30) days prior to the public hearing on the proposed use to provide the Planning Commission with an opportunity to submit a non-binding recommendation.

The council shall render a final decision on the application within forty-five (45) days after the last public hearing. Where the Council fails to make its decision within the period required, the decision shall be deemed in favor of the applicant. Decisions of the board shall be made pursuant to the standards and criteria expressed in this article, to the regulations for the respective districts in which the uses are located, and to all other requirements of this ordinance.

The council shall grant an approval for a conditional use only if it finds adequate evidence that the proposed use meets both the general and specific requirements for such use.

2. Effect of Ordinance Changes on Application: When an application for a conditional use has been filed with the council and the subject matter of such application would ultimately constitute either a land development or a subdivision as defined in Article 3, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant, and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed.

Provided, further, should such an application be approved by the council, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or such period of time as may be approved by the council following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before the council.

If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of the Pennsylvania Municipalities Planning Code (Act 247 as amended), (MPC) Section 508 (1) through (4), and specifically to the time limitations of Section 508 (4) which shall commence as of the date of filing such land development or subdivision plan.

3. Site Plan: A plan for the proposed development of a site for a conditional use shall be submitted with the application for a conditional use permit to the Zoning Officer. Such plan shall show the location of all building, open space, parking areas, traffic access and circulation, landscaping and any other information required for determining the conformance of the conditional use with the regulations for that use.
4. General Standards: Decisions for granting all conditional uses shall be guided by the following general standards:
 - a. The proposed use shall not jeopardize the objectives of the Comprehensive Plan.
 - b. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use.
 - c. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion and for providing for the safety and convenience of pedestrian and vehicular traffic.
 - d. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the site relative to the proposal operation, and the nature and intensity of the operation involved.
 - e. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that property is not impaired.
 - f. The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibration, smoke, fly ash, or lights (such as flashing, neon, flood, spot, etc) than would be the operations of any permitted use in the district.
 - g. Any other reasonable conditions and safeguards, in addition to those expressed in this ordinance, may be implemented by the council if it deems it necessary for implementing the purposes of the MPC and this ordinance.

703 Specific Provisions: Uses permitted by conditional use include the following for which additional regulations are prescribed:

1. Planned Residential Development permitted in the following districts:
 - C Conservation District
2. Community Shopping Center permitted in the following districts:
 - B-2 Highway Business District

3. Adult Entertainment Establishment permitted in the following districts
B-2 Highway Business District
4. Communication Antennas, Towers, Equipment, Transmitting and Receiving Facilities:
C Conservation District
I Industrial District
5. Wind Energy Facility (Non-Personal) permitted in the following districts:
C Conservation District
I Industrial District

704 Planned Residential Developments (C District)

1. Purposes: The purpose of this section, as stated in the MPC and as intended by the residents of Dallas Borough, is to achieve the following (see Pg. 33, Section 505, Conservation District (C), 1. Purpose):
 - a. to ensure that the provisions of the Dallas Borough Zoning Ordinance which are concerned with the uniform treatment of dwelling type, bulk, density and open space, within each zoning district, shall not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the Zoning Ordinance;
 - b. to encourage innovations in residential and non-residential development and renewal so that the growing demand for housing and other development may be met by greater variety in type, design and layout of dwelling and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses;
 - c. to provide greater opportunities for better housing and recreation for all who are or will be residents of the borough;
 - d. to encourage a more efficient use of land and public services and to reflect changes in the technology of land development so that the economics so secured may enure to the benefit of those who need homes and for other uses;
 - e. in aid of these purposes, to provide a procedure which can relate the type, design and layout of residential and non-residential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of the property values within existing residential and non-residential areas, and to assure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay.
2. Use Regulations: The uses allowed shall be single-family dwellings, two-family dwellings, and multiple-family dwellings, as well as customary accessory uses, public and semi-public uses (except storage yards), and recreational facilities for the use of residents of the Planned

Residential Development. Other uses allowed only by special exception include home occupations, model homes, and temporary structures and buildings including trailers.

3. Dimensional Regulations

- a. Minimum Tract Area: The development shall have an area of at least fifty (50) acres.
 - b. Minimum Tract Width: The development shall have a minimum mean width of five hundred (500) feet.
 - c. Front, Side, and Rear Setbacks: The minimum front, side, and rear setbacks for a Planned Residential Development tract shall each be fifty (50) feet from the corresponding tract property lines. A planting strip of at least twenty (20) feet in width shall be provided along all property lines at the periphery of the development tract where necessary to protect the privacy of neighboring residents.
 - d. Density: The density shall not exceed the number of housing units permitted in the C Conservation District.
 - e. Common Open Space: Not less than twenty (20) percent of the total area of the Planned Residential Development shall be designated as and devoted to common open space, which is a land area within a development site designed and intended for the use and enjoyment of residents of the Planned Residential Development, not including streets and off-street parking areas.
 - f. Building Height: The maximum height of any single-family or two-family residence shall be the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories. The maximum height of any multi-family building shall be the lesser of forty (40) feet or three (3) stories.
4. Development Regulations: A Planned Residential Development shall be subject to the following standards and regulations (See Article 7 - 704 - B - one (1) through five (5)):
- a. Comprehensive Plan: The proposed Planned Residential Development shall be consistent with the Comprehensive Plan of Dallas Borough.
 - b. Site Design: All housing shall be designed with regard to the topography and natural features of the site and shall be sited so as to enhance privacy and ensure natural light for all principal rooms. Variations in setbacks shall be provided where necessary to create a more pleasing layout, but no structure shall be less than thirty-five (35) feet from the street line or twenty (20) feet from any other building or structure, including its extensions or projections.
 - c. Tree Conservation and Erosion Control: Existing trees shall be preserved wherever possible. The protection of trees of four-inch caliper or over shall be a factor in determining the location of open space, buildings, underground services, walks, paved areas, playgrounds, parking areas and finished grade levels.

The development shall be designed and programmed so as to minimize earth-moving, erosion, tree clearance and the destruction of natural amenities. Seeding, sodding and other planting shall be applied to stabilize topsoil on steep slope (slopes of 25% or more).

Erosion control measures such as minimizing the area of exposed soil, mulching, building silt catchment basins, and planting temporary ground cover shall be instituted as necessary.

- d. Streets: The street system shall be designed so as to relate harmoniously with land uses and adjacent streets and to minimize through-traffic in residential areas. All streets shall be constructed and maintained according to the Dallas Borough Subdivision and Land Development Ordinance requirements. Shade trees shall be provided within the rights-of-way of all streets. All streets and areas of high pedestrian use shall be adequately lighted.
- e. Parking Areas: All parking areas and access drives shall be paved and landscaped with shrubbery along the sides. No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by approved landscaping. Access aisles shall be at least twenty (20) feet wide. Parking shall be arranged so as to prevent through-traffic to other parking areas. All off-street parking shall be adequately lighted, and all such lighting shall be arranged so as to direct light away from adjoining residences.
- f. Pedestrian Walks: Residential clusters having a density of five (5) homes per net acre shall have paved pedestrian walks on one or both sides of the street.
- g. Drainage: Storm drainage from roofs and paved areas shall be channeled to natural drainage courses and away from adjacent properties.
- h. Utilities: All utilities serving a Planned Residential Development shall be placed underground.

The development shall be served by central water supply and central sewage disposal systems. If water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the Planned Residential Development, applicants shall present evidence to the council that the Planned Residential Development is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement, or a commitment or agreement, to serve the area in question, whichever is appropriate, shall be acceptable evidence. The facilities or financial responsibility for the installation of them shall be provided prior to final approval of each development.

- i. Staging of Development: A Planned Residential Development may be constructed in phases if the following criteria are met:
 - (1) The application for tentative approval covers the entire Planned Residential Development and shows the location and approximate time of construction for each stage, in addition to other information required by this article;
 - (2) At least fifteen (15) percent of the dwelling units in the tentatively approved plan are included in the first phase;

- (3) The second and subsequent stages are completed consistent with the tentatively approved plan and in no stage contain less than fifteen (15) percent of the dwelling units receiving tentative approval; and
 - (4) At no time may the density of any phase be greater than five (5) dwelling units per net acre in the area covered by that phase.
- j. Standards for Location and Management of Open Space: The open space shall be located so as to be consistent with the objectives set forth in the application for Planned Residential Development. Where possible, it shall be designed as a contiguous area easily accessible to the residents, and preserving natural features.

There shall be provisions which ensure that the open space land shall continue as such and be properly maintained. The developer shall either: i) dedicate such land to public use if Dallas Borough or another public agency has indicated it will accept such dedication, ii) retain ownership and responsibility for maintenance of such open space land, or iii) provide for and establish one or more organizations for the ownership and maintenance of all common open space. In the case of iii) above, each organization shall be a non-profit homeowners' corporation, unless the developer demonstrates that a community open space trust is a more appropriate form of organization.

If a homeowners' association or open space trust is formed, it shall be governed according to the following regulations:

- (1) The organization is organized by the developer and operating with financial subsidization by the developer, if necessary, before the sale of any lots within the development;
- (2) Membership in the organization is mandatory for all purchasers of homes therein and their successors;
- (3) The organization shall be responsible for maintenance of and insurance and taxes on common open space,
- (4) The members of the organization shall share equitably the costs of maintaining and developing common open space, in accordance with procedures established by them;
- (5) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space; and
- (6) In the event that the organization established to own and maintain a common open space or any other successor organization, shall at any time after establishment of the Planned Residential Development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, Dallas Borough may serve written notice upon such organization or upon the residents 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 cured 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 Dallas Borough may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be corrected.

- (7) If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extensions thereof, Dallas Borough, 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 space and maintain the same for a period of one year. Said maintenance by Dallas Borough shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.
- (8) Before the expiration of said year, Dallas Borough shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the Planned Residential Development, to be held by the Borough Supervisors, at which hearing such organization or the residents of the Planned Residential Development shall show cause why such maintenance by Dallas Borough shall not, at the option of the borough, continue for a succeeding year.

If the Borough Council shall determine that such organization is ready and able to maintain said common open space in reasonable condition, Dallas Borough shall cease to maintain such common open space at the end of said year. If the Borough Council shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, Dallas Borough 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.

- (9) The decision of the Dallas Borough Council shall be subject to appeals to court in the same manner, and within the same time limitation, as is provided for Appeals to Court in Article 11.
- (10) The cost of such maintenance by the borough 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. Dallas Borough, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the Prothonotary of Luzerne County, upon the properties affected by such lien within the Planned Residential Development.

5. Supplementary Regulations (See Article 8.)

6. Subdividing and Developing: Since a Planned Residential Development is a land development according to the definition of land development as found in Article 3, it shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Dallas Borough except as otherwise exempted by this section.

7. Enforcement and Modification of Provisions of the Plan: To further the mutual interest of the residents of the Planned Residential Development and of the public in the preservation of the integrity of the development plan, as finally approved, and to ensure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise shall be subject to the following provisions:
 - a. The provisions of the development plan relating to (i) the use, bulk and location of building and structures, (ii) the quantity and location of common open space, except as otherwise provided in this article, and (iii) the intensity of use or the density of residential units, shall run in favor of Dallas Borough and shall be enforceable in law or in equity by the borough, without limitation on any powers of regulation otherwise granted the borough by law.
 - b. All provisions of the development plan shall run in favor of the residents of the Planned Residential Development but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provisions, whether recorded by plat, covenant, casement or otherwise, may be enforced at law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the Planned Residential Development except as to those portions of the development plan which have been finally approved and have been recorded.
 - c. All those provisions of the development plan authorized to be enforced by Dallas Borough under this Section may be modified, removed, or released by the borough, except grants or easements relating to the service or equipment of a public utility, subject with the following conditions: (i) no such modification, removal or release of the provisions of the development plan by the borough shall affect the rights of the residents of the Planned Residential Development to maintain and enforce those provisions, at law or equity, as provided in this section; (ii) no modification, removal or release of the provisions of the development plan by the borough shall be permitted except upon a finding by the council or its designated agency, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this Section, that the same is consistent with the efficient development and preservation of the entire Planned Residential Development, does not adversely affect either the enjoyment of land abutting upon or across the street from the Planned Residential Development or the public interest, and is not granted solely to confer a special benefit upon any person.
 - d. Residents of the Planned Residential Development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the borough to enforce the provisions of the development plan in accordance with the provisions of this section.
8. Application for Tentative Approval: Application for tentative approval of a Planned Residential Development shall be subject to the following procedures:

- a. **Application and Fee:** The application for tentative approval shall be filed by or on behalf of the landowner with the Administrative Assistant to the Planning Commission of Dallas Borough. An application fee in the amount of two hundred fifty dollars (\$250) plus seventy-five dollars (\$75.00) per housing unit planned shall be paid upon filing of the application.
- b. **Required Documentation:** The application for tentative approval shall include documentation illustrating compliance with all of the standards for Planned Residential Development, and where necessary the Dallas Borough Planning Commission shall order such documentation to aid them in their review. Required documentation shall include, but not be limited to, documents illustrating the following:
 - (1) A comprehensive Environmental Impact Study is required to access and treat both quantity and quality of 'non-profit source pollution';
 - (2) The Environmental Impact Study to include the Department of Agriculture TR55 computation of peak discharge of both 'ten year storm' and 'two year storm'. Post development peak discharge may be no greater than pre-development peak discharge;
 - (3) Treatment of both quantity and quality of urban runoff is required in accordance with 'Standard Urban Best Management Practices' criteria. For instance the 'B.M.P.' will allow for infiltration of first one-half inch runoff per Watershed acre; (includes all C. areas)
 - (4) Delineation of wetlands. To include wet ponds, dry ponds, and grass swales;
 - (5) The Environmental Impact Study to provide for adequate buffer zones using criteria of 'The Critical Area Commission of Maryland' (buffers for wetlands and reservoir);
 - (6) The location, size and topography of the area involved, and adjoining area, the nature of the landowner's interest in the Planned Residential Development, and the names and addresses of residents within two hundred (200) feet of the tract boundaries;
 - (7) The proposed use areas and the density to be allocated to parts of the site to be developed;
 - (8) The location and size of the common open space and the form of organization proposed to own and maintain of the common open space;
 - (9) The use and the approximate height, bulk, and location of buildings and other structures;
 - (10) Information showing the feasibility of proposals for water supply and sanitary sewerage and storm water deposits;
 - (11) Utility Systems;

- (12) The substance of covenants, grants of easements, or other restrictions existing or proposed to be imposed upon the use of land, building, and structures, including proposed grants and/or easements for public utilities;
 - (13) The provision for parking of vehicles and location, right-of-way and cartway widths of proposed streets and public ways;
 - (14) The required modification in the municipal land use regulations otherwise applicable to the subject property;
 - (15) The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources;
 - (16) In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the Planned Residential Development are intended to be filed, and which shall be updated annually on the anniversary of its approval until the development is completed and accepted;
 - (17) The application shall insofar as possible, indicate compliance with the provisions set forth herein, governing the requirements for final approval;
 - (18) Plan maps at a scale of one (1) inch equals one hundred (100) feet, with contour for each five (5) foot change in elevation, showing: (i) natural features of the land including topography, vegetation, drainage, and soil types; (ii) approximate locations of building, streets according to type, parking areas and walkways; (iii) locations of common open space and recreation facilities (iv) the public utility system; and (v) development phasing; and
 - (19) A plan map at a scale of one (1) inch equals three hundred (300) feet of the relationship of the total development plan to the Comprehensive Plan of Dallas Borough.
- c. Statement by Landowner: The application shall also include a written statement by the landowner setting forth the reasons why, in his opinion, the Planned Residential Development would be in the public interest and would be consistent with the Comprehensive Plan of Dallas Borough.
 - d. Application Procedures: The application for and tentative and final approval of a development plan for a Planned Residential Development prescribed in this section shall be in lieu of all other procedures or approvals otherwise required pursuant to the Dallas Borough Subdivision and Land Development Ordinance and this Zoning Ordinance.
 - e. Planning Commission Review: One copy each of every application for tentative approval received by the Administration Assistance to the Planning Commission of Dallas Borough shall be promptly forwarded to the Dallas Borough Planning Commission, to the Borough Engineer, to the Pennsylvania Department of Environmental Resources, to the Pennsylvania Department of Transportation, to the Dallas Area Municipal Authority, and to the Luzerne County Planning Commission for study and recommendation as required by the MPC. The Dallas Borough Planning Commission, the Borough Engineer, the Pennsylvania Department of Environmental Resources, the Pennsylvania Department

of Transportation, the Dallas Area Municipal Authority, and the Luzerne County Planning Commission shall review and report upon the application; the County Planning Commission and other agencies to the Dallas Borough Planning Commission, and the Dallas Borough Planning Commission to the Borough Council, within thirty (30) days of referral. One (1) copy of the report of the respective agencies shall be furnished to the landowner not less than five (5) days before the appointed time of the public hearing provided for below.

- f. Informal Consultation: The landowner, the Borough Council, the Dallas Borough Planning Commission, and the Luzerne County Planning Commission may consult informally concerning the proposed Planned Residential Development prior to the filing of an application for tentative approval, provided that no statement or representation by a member of the council or of the Planning Commission shall be binding on the borough.

9. Public Hearings

- a. Within sixty (60) days after the filing of an application for tentative approval of a Planned Residential Development pursuant to this section, a public hearing pursuant to public notice on said application shall be held by the council in the manner prescribed in Article 10 of this ordinance.
- b. The council may continue the hearing from time to time, and, where applicable, may refer the matter back to the Planning Commission for a report 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-held by the council.

10. The Findings

- a. The Dallas Borough Council, within sixty (60) days following the conclusion of the public hearing provided for in this section, shall, by official written communication, to the landowner, either:
 - (1) Grant tentative approval to 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 act within said 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 Dallas Borough Council notify such council of his refusal to accept all said conditions, in which case the Borough Council shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the council of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

- b. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set

forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:

- (1) In those respects in which the development plan is or is not consistent with the Comprehensive Plan for the development of Dallas Borough;
 - (2) 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;
 - (3) The purpose, location and amount of the common open space in the Planned Residential Development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
 - (4) The physical design of the development plan and the manner in which said design does or does not make adequate provisions for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
 - (5) The relationship, beneficial or adverse, of the proposed Planned Residential Development to the neighborhood in which it is proposed to be established; and
 - (6) In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents of the Planned Residential Development in the integrity of the development plan.
- c. In the event a development plan is granted tentative approval, with or without conditions, the council 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 applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months and, in the case of developments 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.

11. Status of Plan After Tentative Approval

- a. The official written communication provided for in this section shall be certified by the secretary of the council and shall be filed in his or her office, and 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.

- b. Tentative approval of a development plan shall not qualify a plat of the Planned Residential Development for recording nor authorize development or the issuance of any zoning (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 (and 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 borough pending an application or applications for final approval, without the consent of the landowner, provided an application for final approval is filed, or, in the case or development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.
- c. In the event that a development plan is given tentative approval, and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the council 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 times, in 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 they 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 Dallas Borough.

12. Application for Final Approval

- a. 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 application shall be made to the council and within the time or times specified by the official written communication granting tentative approval. If the application for final approval of the development plan or part thereof, is in compliance with the tentatively approved development plan and with any specified conditions attached thereto, a public hearing need not be held.
- b. The application for final approval shall show all information as required on the Final Plan Map in Article 5 of the Subdivision and Land Development Ordinance of Dallas Borough, 1991.
- c. 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 the ordinance and the official written communication of tentative approval, the council shall, within forty-five (45) days of such filing, grant such development plan final approval.
- d. In the event the development plan as submitted contains variations from the development plan given tentative approval, the council 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:
 - (1) Refile his application for final approval without the variations objected, or

- (2) File a written request with the council that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternate 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 shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance.

In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan.

Any such public hearing shall be held pursuant to public notice within thirty (30) days after 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 council 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 Subsection 704 (12), be in the form and contain the findings required for an application for tentative approval set forth in this section.

- e. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the council and shall be filed of record forthwith in the Office of Recorder of Deeds of Luzerne 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 Article 3 of the Subdivision and Land Development Ordinance of Dallas Borough, of said Planned Residential Development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part 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 plan in accordance with the provisions of the Subdivision and Land Development Ordinance and post financial security also in accordance with that ordinance.
 - f. In the event that a development plan, or a 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 council 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 Article 3 of the Subdivision and Land Development Ordinance of Dallas Borough, after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to the Dallas Borough Zoning Ordinance in the manner prescribed for such amendments in Article 12.
13. Jurisdiction: District Justices shall have initial jurisdiction over proceedings brought under the provision for Enforcement Remedies in subsection 704.14 below.

14. Enforcement Remedies

- a. Any person, partnership or corporation, who or which has violated the Planned Residential Development provisions of any land use ordinance enacted by Dallas Borough in accordance with the MPC shall, upon being found liable therefore in a civil enforcement proceeding commenced by the borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the borough as a result thereof.

No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice.

If the defendant neither pays nor timely appeals the judgment, the borough may enforce the judgment pursuant to the appropriate 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 here was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fiftieth (50) day following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation.

All judgments, costs and reasonable attorney fees collected for the violation of Planned Residential Development provisions shall be paid over to the borough.

- b. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- c. Nothing contained in this Subsection shall be construed or interpreted to grant to any person or entity other than the borough the right to commence any action for enforcement pursuant to this subsection.

705 Community Shopping Center (B-2 District)

1. Purpose: The purpose of this conditional use is to provide for a shopping center to serve the Dallas area, to have such a development based on a sound market analysis, and to encourage the use of good design standards for such a center.
2. Use Regulations: The uses permitted shall be the same as those permitted in the B-2 Highway Business Districts and subject to the same limitations, except as otherwise noted below.
3. Dimensional Regulations
 - a. Minimum Tract Area: A community shopping center shall have an area of at least ten (10) acres.
 - b. Minimum Tract Width: A community shopping center shall have a minimum mean width of three hundred (300) feet.

- c. Front Yard: The minimum front yard shall be one hundred (100) feet as measured from the street line.
 - d. Side Yards: The minimum side yard for the tract shall be fifty (50) feet for each side.
 - e. Rear Yard: The minimum rear yard for the tract shall be fifty (50) feet as measured from the rear property line.
 - f. Building Height: The maximum height of any building shall be the lesser of forty (40) feet or three (3) stories.
 - g. Tract Coverage: Not more than twenty-five (25) percent of the area of the community shopping center tract shall be covered by buildings. Total impervious cover shall not be more than seventy (70) percent.
4. Development Regulations: The plan for a community shopping center shall be subject to the following regulations:
- a. Comprehensive Plan: The proposed community shopping center shall be consistent with the Comprehensive Plan of Dallas Borough.
 - b. Arrangement of Buildings: The community shopping center shall be designed as a unit with a harmonious arrangement of building groups, open space pedestrian and vehicular circulation, and parking areas so as to make a safe, convenient, aesthetically pleasing, and functionally efficient shopping area.
 - c. Buffer Area: The community shopping center shall have a buffer area along all boundary lines. Such buffer area shall be located within the shopping center tract and shall be used for no other purpose than planting and screening. The buffer area shall have a depth of not less than twenty-five (25) feet. The buffer shall consist of either shrubbery, a masonry wall, or a solid fence a minimum of five (5) feet in height. Such a buffer shall be maintained in good condition, free of paper and rubbish, and free from all advertising and other signs. In addition, shopping center lighting shall be directed away from abutting properties.
 - d. Water and Sewerage Systems: All buildings within the shopping center shall be served by the public water supply and sewerage systems where they are available. If they are not available, a central water supply and sewerage system approved by the Pennsylvania Department of Environmental Resources shall be required.
 - e. Ingress and Egress: Access points to public streets from the community shopping center shall be located no less than two hundred and fifty (250) feet from any public street intersection. Points of ingress and egress shall be designed so that undue congestion to or interference with normal traffic flow within the borough shall be avoided.
 - f. Pedestrian and Vehicular Circulation: Adequate provision shall be made for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the shopping center.
 - g. Off-Street Parking and Loading: The requirements for off-street parking and loading shall be as described in Article 8. In addition, off-street parking and loading spaces shall be

provided as an integral part of the shopping center site; be physically separated from public streets; be paved with a bituminous or concrete material, and be physically separated into sections by traffic islands or other approved means to provide for a safe, convenient, and functionally efficient shopping area.

- h. Drainage: Storm drainage from roofs and paved areas shall be channeled to natural drainage courses and away from adjoining properties. All areas not containing buildings or paved areas for necessary parking and circulation shall be maintained in trees and shrubbery for absorption of water runoff and hence for flood protection.
 - i. Utilities: All utilities serving the community shopping center shall be placed underground.
 - j. Market Area Analysis: The developer of the proposed community shopping center shall prepare a general market area analysis showing that the population to be served, the service area, the buying power, and existing facilities warrant the establishment of a community shopping center of the size and scope of activities proposed.
5. Supplementary Regulations (See Article 8)
6. Subdividing and Developing: Since a community shopping center is a land development as defined in Article 3, it shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Dallas Borough.

706 Adult Entertainment Establishments (B-2 District)

- 1. Purpose: The purpose of this conditional use is to provide for establishments which have a sex-related nature or purpose in an appropriate environment which prevents the deleterious blighting or downgrading effects which a concentration of such uses or the inappropriate placement of such uses may have upon surrounding neighborhoods.
 - 2. Use Regulations: The conditional uses shall be adult entertainment establishments as designated herein under subsection (8) 'Uses Designated and Regulated'.
 - 3. Dimensional Regulations: The dimensional regulations shall be the same as those applicable to the B-2 Highway Business District.
 - 4. Development Regulations: Adult entertainment establishments (as defined herein) shall be subject to the following development regulations:
 - a. Comprehensive Plan: Proposed adult entertainment establishments shall be consistent with the Comprehensive Plan of Dallas Borough.
 - b. Site Location: Adult entertainment establishments shall be located only in the B-2 Highway Business District, and the proposed location of such an establishment within such district shall be at least five hundred (500) feet distant from another such adult entertainment, residential district, property lines of churches and related religious institutions, and property lines of schools, playgrounds, and parks.
5. Supplementary Regulations (See Article 8)

6. Subdividing and Developing: Since this use is a land development as defined in Article 3, it shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Dallas Borough.
7. Definitions: Definitions used in this subsection include: (See Article 3.)
 - a. Adult book store
 - b. Adult cabaret
 - c. Adult drive-in theatre
 - d. Adult massage business
 - e. Adult mini-motion picture theatre
 - f. Adult motion picture theatre
 - g. Adult video cassette rentals and sales
8. Uses Designated and Regulated: Uses designated and regulated as adult entertainment establishments include: adult book stores, adult cabarets, adult drive-in theatres, adult massage businesses, adult mini-motion picture theatres, adult motion picture theatre, and adult video cassette rentals and sales.

707 Communication Antennas, Towers, Equipment, Transmitting and Receiving Facilities (I and C District)

1. Purpose: The purpose of this conditional use is to provide for communication antennas, towers, equipment, transmitting and receiving facilities to serve the Dallas area but also to site them so as to have the least impact on the health, safety and welfare humans and the environment.
 - a. Applicants are required to show compliance with the provisions of this section and other applicable provisions of this ordinance.
 - b. Applications for the construction of communication antennas, support structures, and related facilities shall include a written report containing the following:
 - (1) Information describing the tower height and design;
 - (2) A cross section of the structure;
 - (3) Engineering specifications detailing construction of tower, base, and guy wire anchorage;
 - (4) Information describing the proposed painting and lighting schemes;
 - (5) Information describing the tower's capacity, including the number and type of antennas that it can accommodate;
 - (6) All tower structure information shall be certified by a licensed professional engineer;

- (7) Certification that there is not suitable space on existing sites or structures where the intended facility can be accommodated and function as required without reasonable modification;
 - (8) Technological evidence that the facility must go where proposed in order to satisfy its function in the grid system and provide the quality of service required by law;
 - (9) Written authorization from the property owner of the proposed site;
 - (10) Inventory of existing antenna support structures within a two (2) mile radius of the proposed site, discussing the unavailability of sites and reasons therefore; and
 - (11) Evidence of the applicant's good faith efforts to locate the antenna on an existing structure.
 - (12) Applicant shall demonstrate that he/she is licensed by the Federal Communications Commission (FCC) to operate a communications tower and/or communications antenna.
- c. All other uses ancillary to the antenna, tower, and associated equipment are prohibited (except accessory equipment buildings), unless otherwise permitted in the zoning district in which the site is located. This includes, but is not limited to, business offices, maintenance depots and vehicle storage.
- d. Other standards of approval for antenna support structures and antenna-related facilities include the following:
- (1) Setbacks
 - (a) Antenna support structures shall be set back from all property lines a distance equal to the height of the antenna.
 - (b) The structure shall be self-collapsing or have a clear fall area setback equal to the height of the structure and any attached antennas.
 - (2) Antenna support structure height
 - (a) The maximum height of any single antenna support structure located at a single site for one antenna shall be at the lowest height to function at the proposed location, based upon specific engineering data pertaining to the function of the antenna support structure, to be supplied to the applicant.
 - (b) An antenna support structure may exceed the maximum allowable height to allow for the collocation of another antenna provided that the applicant shows evidence that the antenna support structure will be a shared location site.
 - (3) Landscaping and screening
 - (a) If the antenna support structure site is located in an area of existing woodlands, the existing woodlands shall be preserved to the fullest extent possible. The

existing woodlands shall be supplemented as needed to fully screen the antenna support base.

- (b) If the site is not wooded, the entire perimeter of the fence surrounding the antenna support structure compound shall be planted with evergreen trees or other planting as approved by the Borough Council, at least six (6) feet in height at the time of planting. The planting area around the antenna support structure shall have a minimum radius of ten (10) feet. The evergreens shall be planted every five (5) feet on center.
 - (c) The site shall be landscaped to a density and height sufficient enough to screen the facility base tower and buildings from abutting properties.
- (4) Equipment or accessory buildings. Accessory buildings must conform to the yard setbacks as required for the zoning district in which the tower is located.
- (5) Parking. At least two (2) off-street parking spaces shall be provided.
- (6) Security, maintenance, and fencing
- (a) The site shall be secured by a fence with a minimum height of eight (8) feet to limit accessibility by the general public.
 - (b) All guy wires shall be clearly marked so as to be visible at all times and shall be located within the fence enclosure.
 - (c) All equipment and buildings shall be constructed and maintained in accordance with the Dallas Borough Building Code.
- (7) Lighting and signs
- (a) No signs shall be mounted on a communications tower except as may be required by the FCC, Federal Aviation Administration (FAA), or other governmental agency which has jurisdiction.
 - (b) All communications towers shall have lights as may be required by the FCC, FAA, or other governmental agencies which have jurisdiction. If lighting is not required by other agencies, then lighting acceptable to the borough shall be required.
- (8) Antenna support structures shall be painted in the color that best allows it to blend into the surroundings unless otherwise required by the FAA regulations. The use of grays, blues and greens may be appropriate.
- (9) Antenna support structure design and structural integrity. The owner of the antenna or antenna support structure shall provide a registered professional engineer's report documenting that the structure meets the structural standards of the Dallas Borough Building Code in the Telecommunications Industry Association.
- (10) Other

- (a) Prior to issuance of a zoning permit for the erection of an antenna or antenna support structure, applicants must receive approval of a land development plan from the Borough Council. The land development plan must provide the information required by all applicable borough ordinances.
- (b) A formal land development plan is not required if the antenna is to be mounted on an existing structure.
- (c) Evidence shall be submitted from a registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or structure, taking into consideration winds and other loads associated with location.
- (d) The applicant, owner, or operator of the antenna shall be licensed by the FCC.
- (e) The tower shall comply with all applicable FAA, Commonwealth Bureau of Aviation, and zoning regulations.
- (f) Certification of insurance evidencing general liability in the minimum amount of one million dollars (\$1,000,000) per incident and property damage coverage in the minimum amount of one million dollars (\$1,000,000) per incident is required to cover the tower, antenna and structures.

(11) Abandonment

- (a) If an antenna support structure is unused, as evidenced by notice to the Federal Communications Commission of intent to cease operations, for a continuous period of twelve (12) months after said notice, it shall be deemed abandoned.
- (b) Any antenna support structure or antenna that is deemed to be “abandoned” must be removed within ninety (90) days.
- (c) Removal of the antenna support structure shall be the responsibility of the owner of the antenna support structure. At the time of land development plan approval, the owner and/or his successors and assigns of the antenna support structure must enter into an agreement with the borough regarding the removal of an abandoned antenna support structure, as herein defined.
- (d) In the case of multiple operators sharing the use of a single tower, this provision shall become effective when all users cease operation.

708 Wind Energy Facility (Non-Personal) (I and C District)

1. Purpose: The purpose of this conditional use is to provide for non-personal wind energy facilities to serve the Dallas area but also to site them so as to have the least impact on the health, safety and welfare to humans and the environment. These standards are not intended to apply to stand-alone Wind Energy Conversion Systems (Personal) constructed primarily for use on the property upon which it is located.
2. Standards and Criteria

- a. Any physical modification to an existing and permitted wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a conditional use permit modification under this ordinance. Like kind replacements shall not require a permit modification.
- b. The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). The applicant shall submit certificate of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations.
- c. To the extent applicable, the Wind Energy Facility shall comply with the Dallas Borough Building Code.
- d. All Wind Energy Facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Staff regulation shall not be considered a sufficient braking system for overspeed protection.
- e. All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
- f. Wind turbines shall be a non-obtrusive color such as white, off-white or gray.
- g. Wind Energy Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration (FAA) or other applicable authority that regulates air safety.
- h. Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner or operator.
- i. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- j. The design of buildings and related structures shall, to the extent reasonable, use materials, colors, textures, screening and landscaping that will blend the Wind Energy Facility into the natural setting and existing environment.
- k. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- l. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
- m. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

- n. The minimum distance between the ground and any part of the wind rotor blade shall be thirty (30) feet.
 - o. To limit climbing access, a 6 foot high fence with a locking gate shall be placed around the Wind Energy Facility, or the wind turbines' climbing apparatus shall be limited to no lower than twelve (12) feet from the ground, or the wind turbines' climbing apparatus shall be fully contained and locked within the tower structure.
 - p. Wind turbines shall be set back from the nearest occupied building or non-occupied building on the participating landowner's property a distance not less than the greatest setback requirement for the zoning district or one and one tenth (1.1) time the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building or non-occupied building.
 - q. Wind turbines shall be set back from the nearest occupied building or non-occupied building located on a non-participating landowner's property a distance of not less than two (2) times the turbine height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied or non-occupied building.
 - r. All wind turbines shall be set back from the nearest property line a distance of not less than the greatest setback requirement for that zoning district or one and one tenth (1.1) times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.
 - s. All wind turbines shall be set back from the nearest public road a distance of not less than one and one tenth (1.1) times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.
 - t. Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) dBA, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for prevision described in AWEA Standard 2.1 – 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume 1. First Tier.
 - u. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.
3. Use of Public Roads
- a. The applicant shall identify all state and borough roads to be used within Dallas Borough to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.
 - b. The Borough Engineer or a qualified third party engineer hired by the borough and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

- c. Responsibility for Road Maintenance and Repair: Road Bonding. Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the land owner and the operator shall be responsible for repairing any damage to borough roads caused by transporting equipment and parts for construction, operation or maintenance of the Wind Energy Facility to the extent the damage is in excess of that caused by normal traffic, and may be required to furnish a bond to guarantee the repair of such damages.
4. Local Emergency Services
 - a. The applicant shall provide a copy of the project summary and site plan to local emergency services, including local fire department(s).
 - b. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Wind Energy Facility.
5. Signal Interference
 - a. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Wind Energy Facility.
6. Liability Insurance
 - a. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in the aggregate. Certificates shall be made available to the borough upon request.
7. Decommissioning
 - a. The facility owner and operator shall, at its expense, complete decommissioning of the Wind Energy Facility or individual Wind Turbines, within twelve (12) months after the end of the useful life of the facility or individual wind turbines. The Wind Energy Facility or individual wind turbines will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
 - b. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
 - c. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
 - d. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). Said estimates shall be submitted to the borough after the first year of operation and every fifth year thereafter.

- e. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs; provided that at no point shall decommissioning funds be less than one hundred percent (100%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the commonwealth and is approved by the borough.
 - f. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the borough.
 - g. If the facility owner or operator fails to complete decommissioning within the period, prescribed above, then the landowner shall have six (6) months to complete decommissioning.
 - h. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed by above then the borough may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the borough shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the borough may take such action as necessary to implement the decommissioning plan.
 - i. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the borough concurs that decommissioning has been satisfactorily completed, or upon written approval of the borough in order to implement the decommissioning plan.
8. Public Inquiries and Complaints
- a. The facility owner shall maintain a phone number and identify responsible person for the public to contact with inquired and complaints throughout the life of the project.
 - b. The facility owner and operator shall make responsible efforts to respond to the public's inquired and complaints.
 - c. The facility owner and/or operator shall keep a record of all such inquires and complaints and shall submit a report thereof to the borough not less than quarterly.
9. Application for Wind Energy Facilities
- a. Among other things, the application shall contain the following:
 - (1) A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Wind Energy Facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

- (2) An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the Wind Energy Facility and setting forth the applicant's and property owner's name, address and phone number.
 - (3) Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located.
 - (4) A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
 - (5) Documents related to decommissioning.
 - (6) Other relevant studies, reports, certifications and approvals as may be reasonably requested by the borough to ensure compliance with this ordinance.
- b. Throughout the permit process, the applicant shall promptly notify the borough of any changes to the information contained in the conditional use permit application. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

709 Treatment Center

1. All uses must comply with borough building, health, housing, rental, safety, property and other applicable local, county, state, and federal code and licensing requirements. All such licenses, certificates, and permits shall have been obtained and presented to the borough, or shall be a condition of approval.
2. A treatment center shall be directly affiliated with a parent institution or organization, which shall provide full-time supervision and administration to the residents of the treatment center.
3. A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.
4. The residents of the treatment center shall reside on the premises to benefit from the services provided.
5. No portion of a treatment center shall be located within five hundred (500) feet of another treatment center or a group home, but in no case shall be located within the same block.
6. No portion of a building occupied by a treatment center use shall be located within one thousand (1,000) feet of any property which contains any one (1) or more of the following specified land uses where minors may congregate:
 - a. Library;

- b. Nurseries and Day Care Center for Children;
 - c. Place of Religious Worship;
 - d. Public, parochial, and other private elementary, middle, and high schools;
 - e. Recreation facilities and uses outdoors (public, semi-public, and private, not commercial) including parks, playgrounds, and playfields; and
 - f. Other lands, buildings, and uses where minors congregate.
7. Each application shall be accompanied by a statement describing the following:
- a. The composition of the treatment center;
 - b. The policies and goals of the treatment center and the means proposed to accomplish those goals;
 - c. The characteristics of the residents and number of residents to be served;
 - d. The operating methods and procedure to be used; and
 - e. Any other facts relevant to the proposed operation of the treatment center.
 - f. Any use permit granted for the treatment center shall be bound to the type and number of clients listed on the application. Any change in the type or number of clients being housed shall require a new review and subsequent consideration for approval.
8. The institution shall submit a copy of its emergency operations plan (EOP) to the local and county emergency management agency coordinator. The EOP shall also include detailed information regarding solid, medical and hazardous materials and waste handling, including a listing of all medical and hazardous materials and wastes used and generated on site and evidence indicating that the disposal of all materials and wastes will be accomplished in a manner that complies with borough, state, and federal regulations.

710 All Other Uses: If a use clearly is not permitted by right, as a special exception use, or as a conditional use by this ordinance within any zoning district, the use is prohibited, except that the Borough Council may permit such use as a conditional use if the applicant specifically proves to the Borough Council that all of the following terms would be met:

1. The proposed use is in general conformity with the most recent version of the Back Mountain Area Council of Governments Comprehensive Plan and harmony with the area and neighborhood in which it is proposed.
2. The proposed use would be equal to or less intensive in external impacts than uses that are permitted in the zoning district.
3. The proposed use would not endanger the public health and safety if located where proposed and that the use will not deteriorate the environment or generate nuisance conditions such as traffic congestion, noise, dust, smoke, glare or vibration.

4. All uses must comply with borough building, health, housing, rental, safety, property and other applicable local, county, state, and federal code and licensing requirements. All such licenses, certificates, and permits shall have been obtained and presented to the borough, or shall be a condition of approval.
5. The proposed use is not specifically prohibited in that zoning district where it is proposed.
6. The proposed use would meet the standards that apply under Section 1002 of this ordinance pertaining to conditional uses.
7. The applicant shall provide a detailed description of the proposed use in each of the following topics:
 - a. The nature of the on-site activities and operations, the type of products, materials, equipment and/or processes involved in the proposed use.
 - b. The number of employees. The total number of employees on each shift.
 - c. The floor area of the building or gross area of the lot devoted to the proposed use.
 - d. The magnitude of walk-in trade.
 - e. The disposal of materials will be accomplished in a manner that complies with borough, county, state, and federal regulations.
 - f. The traffic and environmental impacts that are likely to be generated (e.g. odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinance.
 - g. The hours of operation.
 - h. The extent of pervious and impervious surfaces in relationship to that currently present on adjacent lots and the overall block in which the use and development is proposed.
 - i. A schematic architectural drawing of the principal building's front façade.
 - j. Site plans required in Section 907 of this ordinance.
 - k. How the proposed use and development complies items 1-6 herein this subsection above.

Adopted December 16, 2009

Article 8

SUPPLEMENTARY REGULATIONS

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 2. Houses on Permanent Foundations
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 4. Home Gardening, Nurseries and Greenhouses
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- 804** Supplementary Height Regulations
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- 805** Nonconforming Lots, Uses, and Buildings
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Article 8

SUPPLEMENTARY REGULATIONS

801 Supplementary Use Regulations

1. Excavation and Removal of Top Soil: Excavation of top soil for the purpose of grading a site or preparing for the construction of a building shall be allowed. Excavation and removal activities shall comply with the following:
 - a. Drainage: Any excavations for the removal of top soil or other earth products must be adequately drained to prevent the formation of pools of water and shall not create drainage problems for adjacent properties or public streets.
 - b. Excavation: Unless specifically permitted, open excavations shall not be maintained, except those excavations made for the erection of a building or structure for which a permit has been issued.
 - c. Storage Piles: Excavation materials shall not be stored in piles on a property for more than one (1) year before being redistributed and graded on the property or removed from the property.
 - d. Dust: Dust problems shall be minimized during the excavation, storage, removal and hauling of excavated materials.
2. Houses on Permanent Foundations: All dwelling structures, including mobile homes other than those located in mobile home parks shall be erected on permanent foundations.
3. Flood Plains: (See the Borough Flood Plain Ordinance)
4. Home Gardening, Nurseries and Greenhouses: Home gardening and accessory structures used for nurseries or greenhouses are permitted in residential areas provided that they shall not be located in any front yard and shall not include the outdoor storage of equipment and supplies.
5. Buffering, Screening, and Landscaping
 - a. Buffering
 - (1) Where permitted non-residential uses in the B-2 and I zoning districts abut a residential zoning district (including the Traditional Downtown zoning district, Urban Residential Subarea); and where permitted non-residential and multiple-family dwelling uses in a residential zoning district (including the Traditional Downtown Urban Residential Subarea) abut a lot with an existing single family detached or two family dwelling use in a residential zoning district (including the Traditional Downtown zoning district, Urban residential Sub-area), the aforementioned non-residential and multiple family dwelling uses shall provide a twenty (20) foot wide buffer yard and screening as provided herein below with no less than eighty (80) percent opacity.

- (2) Where permitted non-residential and mixed uses in the Traditional Downtown (Downtown Commercial Subarea) zoning district abut a residential zoning district (including the Traditional Downtown Urban Residential Sub-area), the aforementioned non-residential and mixed uses shall provide a ten (10) foot wide buffer yard and screening as provided herein below with no less than eighty (80) percent opacity.
- (3) Where permitted non-residential, multiple family dwelling and/or mixed uses in the Traditional Downtown (Mixed Use Neighborhood Sub-area) zoning district abut a lot with an existing single family detached or two family dwelling in the Traditional Downtown (Mixed Use Neighborhood Subarea), the aforementioned non-residential, multiple-family dwelling, and/or mixed uses shall provide a five (5) foot wide buffer yard and screening as provided herein below with no less than ninety (90) percent opacity.
- (4) All required buffer yard and screening shall be provided on the lot proposed for development, planted and maintained with vegetative cover and material, and where required, screen plantings planted and maintained to the full length or width of the required buffer yard extending the entire length or width of the lot line abutting a residential zoning district and/or the single family detached and two family dwelling lots as required herein above.
- (5) Buffer yards may coincide within any required setback and yard requirements.
- (6) The buffer yard shall be a landscaped, and where required, screen planted area free of buildings; structures; dumpsters and refuse containers; business sales, storage and display; manufacturing or processing activity; materials; loading and unloading areas; and vehicle parking, sales and display. Signs shall be permitted in a buffer yard abutting a street right-of-way.
- (7) Buffer yards may be crossed by access drives, driveways sidewalks, or easements with a maximum width of thirty-five (35) feet, provided that the centerline of access drive, driveway or easement crosses the lot line and buffer yard at not less than seventy-five (75) degrees; however, no turning or maneuvering of vehicles shall be permitted in the buffer yard area.
- (8) No buffer yard shall be required for any non-residential, multiple-family dwelling, or mixed use separated from the applicable residential zoning district or single family detached or two family residential dwelling lots by a public street right-of-way including alleys.

b. Screening

- (1) Each required buffer yard shall include screen plantings installed and maintained in the exterior portion of the required buffer yards, extending the length or width of the lot line accordance with the following requirements:
 - (a) Plant materials used in screen planting shall be at least four (4) feet in height when planted, shall be planted no more than three (3) feet apart, and be of such species as will produce, within three (3) years, a complete year-round visual screen of at least six (6) feet in height.

- (b) The screen planting shall be maintained permanently in a healthy condition. Any landscaping that dies or is severely damaged shall be replaced by the current property owner as soon as is practical considering growing seasons, within a maximum of one hundred fifty (150) days.
 - (c) The screen planting shall be so placed that at maturity it will be not closer than two (2) feet from any street right-of-way or property line.
 - (d) A clear sight triangle shall be maintained at all street intersections and at all points where access drives and driveways intersect public streets.
 - (e) The screen plant screening shall be interrupted only at:
 - (i) approved points of approximately perpendicular [not less than seventy-five (75) degrees] vehicle or pedestrian ingress and egress to the lot;
 - (ii) locations necessary to comply with safe sight distance requirements; and
 - (iii) locations needed to meet other specific state, Dallas Borough and utility requirements.
 - (f) Trees that are used in the planting of a buffer yard and elsewhere on the lot shall be approved by the borough.
 - (i) American Arborvitae and similar weak-stem plants shall not be used to meet the buffer yard requirements. If more than twenty (20) evergreen plants are proposed, no more than fifty (50) percent shall be of one species.
 - (g) Screen plantings shall be provided between the lot line and any off-street parking or loading areas for any non-residential, multiple-family dwelling, and/or mixed uses where the parking or loading areas abutting a residential zoning district and/or the single family detached and two family dwelling lots as required herein above.
 - (h) Fencing shall be permitted to comprise no more than sixty (60) percent of any screen planting, and shall be placed in the buffer yard on the inside (towards the proposed principal use) of any required plant screening.
- c. Landscaping: Any part of a non-residential, multiple family dwelling, and/or mixed use lot which is not used for structures, loading areas, parking spaces and aisles, sidewalks and designated storage areas shall be provided with an all-season, well-maintained vegetative groundcover, and shall be landscaped with trees and shrubs. Landscaped areas shall be kept free of debris, rubbish and noxious weeds.

6. Parking and Loading

- a. Size of Off-Street Parking Space: Each off-street parking space shall have an area of not less than two hundred (200) square feet and have dimensions of ten (10) feet in width and twenty (20) feet in depth, exclusive of access drives or aisles. All such spaces shall be kept in usable shape and condition. Except in the case of dwellings, no parking area shall

contain fewer than three (3) spaces. Open parking areas shall be calculated as yard area except as otherwise provided.

- b. Garages and Carports: A garage or carport may be located wholly or partly inside the walls of the principal building, attached to the outer walls of the principal building, or completely separated from the principal building. If connected to the principal building, it shall be considered part of the principal building in calculating yard requirements. If separated from the principal building, it shall be considered an accessory building. The garage may be constructed under a yard or court, in which case the space above the underground garage shall be deemed to be part of the open space of the lot on which it is located.
- c. Location of Parking Spaces: Required parking spaces shall be located either:
 - (1) On the same lot as the use to which they are accessory;
 - (2) On a lot other than that containing the principal building or use and shall require approval as a special exception in accordance with Section 1001 by the Zoning Hearing Board. Such spaces shall be readily accessible to the building or use served, be located in the same zoning district as the principal building or use, and conform to the following requirements:
 - (a) Required parking spaces shall be located within two hundred fifty (250) feet of the principal building or use when located on the same side of the street.
 - (b) Required parking spaces shall be located within five hundred (500) feet of the principal building or use when linked to a public sidewalk when located on the same side of the street.
 - (c) The distances specified herein shall be measured from the nearest point of the parking lot to the nearest point of the principal building or use that the parking lot is required to serve.
 - (d) If parking is to be located on a lot other than that containing the principal building or use, an executed shared/cross-access easement agreement, in a form acceptable to the borough and recorded with the Luzerne County Recorder of Deeds on the same date as the recording as the Final Plan or prior to issuance of any permit, assuring use of the required parking spaces until or unless the required parking spaces are located on the same lot as the use they serve.
 - (e) All other requirements of this Article and this ordinance including screening, buffering, shall be met.
- d. Size of Off-Street Loading Space: Each off-street loading space shall be a minimum of eighty (80) feet in length, twelve (12) feet in width, and have an overhead clearance of at least fourteen (14) feet.
- e. Areas to Off-Street Parking and Loading Areas: There shall be adequate ingress and egress to all parking and loading areas. In addition to any requirements in the Luzerne County Subdivision and Land Development Ordinance, any borough street, driveway or sidewalk ordinance, and PennDOT standards regarding, access to lots via access drives,

driveways, and curb cuts in, all new driveways, access drives and curb cuts shall comply with the following provisions. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:

(1) Access

- (a) Lot access shall be provided to the street conveying the lesser amount of existing or proposed daily traffic when there is more than one (1) street classification involved, this provision specifically includes alleys.
- (b) Lot access shall generally be provided at the rear of lots for lots abutting alleys.
- (c) Lot access shall generally not be taken from the front of the lot for lots abutting alleys.
- (d) New curb cuts shall generally be prohibited along a public street (other than an alley) for lots abutting alleys. When permitted, they shall comply with driveway or access drive standards herein below.
- (e) In no case shall there be unrestricted access along the length of a street or alley.

(2) Driveways: Driveways shall comply with the following:

- (a) General: Driveways shall provide vehicular movement from a street to a parking area, garage, dwelling, building or structure to a lot or a property containing a single-family dwelling unit of occupancy or a farm.
- (b) PennDOT Approval: All driveway intersections with a state route shall be subject to the approval of PennDOT. Any driveway intersecting with a state route shall obtain a Highway Occupancy Permit approval from PennDOT prior to issuance of any permits.
- (c) Driveway Standards and Requirements: Driveways shall conform to the following:
 - (i) Number of Driveways per Lot: No more than two (2) driveway connections per lot shall be permitted and only one driveway connection per one hundred (100) feet of lot frontage is permitted. Driveway connections with a public street when located on the same lot shall be separated by a minimum of twenty-five (25) feet.
 - (ii) Driveway Setback Distances: Driveways shall not connect with a public street within forty (40) feet of the right-of-way lines of any intersecting streets, nor within five (5) feet of a fire hydrant. Driveways including related driveway flares shall be set back at least two and one half (2 ½) feet from any side lot line, unless a common or joint driveway location is proposed. Plans which propose common or joint driveways shall be accompanied by a shared/cross-access easement agreement, in a form acceptable to the borough and recorded with the Luzerne County Recorder of Deeds on the same date as the recording as the Final Plan or prior to issuance of any permit. This

agreement shall establish the conditions under which the driveways will be maintained.

- (iii) Driveway Clear Sight Triangles: Driveways shall be located and constructed so that a clear sight triangle of seventy-five (75) feet, as measured along the street centerline, and five (5) feet along the driveway centerline is maintained; Grading and/or plantings (existing through mature growth) less than three (3) feet and greater than ten (10) feet above the driveway grade shall be permitted in the clear sight triangle. Clear sight triangles shall be shown on all plans.
- (iv) Driveway Slope: A driveway shall not exceed a slope of eight (8) percent within twenty-five (25) feet of the street right-of-way lines and no segment shall exceed fifteen (15) percent.
- (v) Driveway Width: Within ten (10) feet of the right-of-way of an intersecting street, driveways shall not be less than ten (10) feet or greater than twenty (20) feet in width.
- (vi) Paving Requirement: Driveways shall be paved from the edge of a street cartway for their full width to a minimum length of fifteen (15) feet toward the lot and be constructed in a manner consistent with the design, maintenance, and drainage of the street.
- (vii) Driveway Alignment: Driveway shall be aligned with driveways on the opposite side of the street whenever possible, but shall be located in relationship to driveways on other adjacent properties to provide safe and efficient movement of vehicles.
- (viii) Driveway on Arterial and Collector Streets: Driveways which intersect arterial or collector streets shall be provided with vehicle turnaround within the lot, to prevent vehicles from backing out into the street. The minimum size of this turn around area shall be ten (10) feet by twenty (20) feet and the turn around shall be placed to the side of the main driveway so that entrance to the road can be performed in a safe manner.
- (ix) Driveway Bank Slope: Where a driveway enters a bank through a cut, unless a retaining wall is used, the shoulders of the cut may not exceed fifty (50) percent in slope within twenty-five (25) feet of the point at which the drive intersects the street right-of-way. The height of the bank must not exceed three (3) feet within twenty (20) feet of the street.
- (x) Driveway Intersection Angle: The minimum required angle between the centerline of a driveway and the centerline of the street which that driveway intersects shall be sixty-five (65) degrees.

(3) Access Drives: Access drives shall comply with the following:

- (a) General: Access drives shall provide vehicular movement from a street to a parking area, garage, building or structure with a lot or a property containing any use other than a single-family dwelling unit of occupancy or a farm.

- (b) PennDOT Approval: All intersections with a state route shall be subject to the approval of PennDOT. Any driveway intersection with a state route shall obtain a Highway Occupancy Permit approval from PennDOT prior to issuance of any permits.
- (c) Access Drive Standards and Requirements: Unless otherwise specified in the Luzerne County Subdivision and Land Development Ordinance, all access drives shall comply with the standards for minor streets and following standards:
 - (i) Access Drive Cartway Width: The required minimum cartway width shall be as follows:

Function	Minimum Required Access Cartway Width
Two (2) lanes of traffic with on-street parking on both sides	36'
Two (2) lanes of traffic without on-street parking	24'
One (1) lane of traffic with one (1) lane of on-street parking	20'
One (1) lane of traffic without on-street parking	12'

When vehicular parking is prohibited along access drives, the prohibition must be acknowledged on the land development plan and properly posted in the field with adequate signage approved by the Borough Engineer.

- (ii) Vertical and Horizontal Alignment: Subject to conform to the vertical and horizontal alignments of a minor street in the Luzerne County Subdivision and Land Development Ordinance.
- (iii) Access Drive Setback Distances: Access drives shall not connect with a public street within one hundred (100) feet from the intersection of any street right-of-way lines or any other access drive located upon the same lot (measured from the nearest cartway edge to nearest cartway edge); and set back fifteen (15) feet from any side and/or rear property lines; however this set back may be waived along one property line when a joint parking lot is shared by adjoining uses. Plans which propose joint parking shall be accompanied by a shared/cross-access easement agreement, in a form acceptable to the borough and recorded with the Luzerne County Recorder of Deeds on the same date as the recording as the Final Plan or prior to issuance of any permit. This agreement shall establish the conditions under which the parking lot and/or access drive will be maintained.
- (iv) Access Drive Alignment: Drives shall be aligned with access drives on the opposite side of the street and be located in relationship to access drives on other adjacent properties to provide safe and efficient movement of vehicles. But in no case shall the alignment of access drives be less than the required minimum separation as specified for minor or local streets.
- (v) Access Drive Intersection Angle: Designed as ninety (90) degree intersections with street rights-of-way whenever possible. No access drive

intersection shall utilize an angle less than seventy-five (75) degrees unless turning movement restrictions are imposed.

(vi) Intersection Radii for Cartway: Designed with a minimum radius for cartway edge at intersections of thirty (30) feet if no truck traffic is anticipated, otherwise if truck traffic is anticipated, the minimum radius for cartway edge at intersections of shall be fifty-five (55) feet.

(vii) Access Drive Clear Sight Triangle: Provided with a clear sight triangle and sight distance as required for a minor street.

(viii) Access Drives as Cul-de-Sacs: Access drives which form a cul-de-sac shall not exceed one thousand (1,000) feet (in length) measured from the centerline intersection with a street which is not the cul-de-sac to the center of the cul-de-sac turnaround. Access drive cul-de-sacs, which do not terminate in a parking compound, shall be provided at the terminus with a fully paved turnaround with a minimum diameter of one hundred (100) feet.

(ix) Number of Access Drives per Lot: Not to exceed two (2) per lot street frontage for both full, i.e. all movements, and partial, i.e. vehicle restriction access drives.

(x) Access Drive Traffic Control

(1) Speed Humps: Have speed hump and/or stop signs located to control speed and facilitate pedestrian traffic. Speed humps must be painted with yellow diagonal stripes. There shall be a warning sign posted at each entrance to a parking area having speed humps. In no case shall the overall height of speed humps exceed two (2) inches.

(2) Crosswalks: Have crosswalks delineated from parking areas to sidewalks along building fronts at a maximum interval of one hundred ten (110) feet along the building or sidewalk.

(xi) Landscaped Median: Access drives may propose a landscaped median that accommodates truck turning movement and emergency vehicle access.

(xii) Access Drive Improvement Specifications: Access drives shall be designed and constructed in accordance with all borough construction and materials specifications, or if none exist, then in accordance with minor streets in the Luzerne County Subdivision and Land Development Ordinance.

f. Parking Lot Screening and Landscaping: The purposes for providing such landscaping are: to protect the public safety, to allow precipitation to return to the underground aquifers, to provide for natural drainage and hence, for flood protection, to reduce the level of carbon dioxide and to return oxygen to the air, to provide shade and reduce the blighting effects of parking lots, to preserve property values of adjacent properties, and to improve the appearance of the community.

(1) For all non-residential, multiple family dwelling, and mixed uses, a planting strip at least five (5) feet wide shall be provided between the edge of the street right-of-

way (including alleys) and any off-street parking area authorized in all applicable yards which are adjacent to a public street and alley. Planting strips between the right-of-way and the parking area shall be landscaped and maintained with ground cover, shrubbery, trees or other landscape or decorative materials, which may include a low masonry wall or other decorative fencing across the entire lot in order to prohibit vehicular and pedestrian access, except at approved ingress and egress points. Landscaping species at their mature heights shall not obstruct visibility for traffic entering or leaving the lot or traveling on the public street/alley.

(2) Surface parking area

- (a) In parking areas containing more than ten (10) new spaces, at least twenty (20) percent of the interior parking area shall be landscaped with plantings including one (1) shade tree, two and one-half (2.5) inches minimum diameter at breast height, for each five (5) spaces.
- (b) Interior landscaping shall be required for new parking areas or expansion of existing parking areas containing more than four thousand (4,000) square feet or ten (10) parking spaces, which ever is lesser. Where a pre-existing parking area is altered or expanded to increase the size to four thousand (4,000) or more square feet of area or ten (10) or more parking spaces, interior landscaping for the new parking area shall be provided.
- (c) One (1) internal landscape island shall be provided for every ten (10) parking spaces.
- (d) No more than ten (10) parking spaces shall be provided in an unbroken row without the provision of interior landscape islands.
- (e) At least one (1) shade tree, two and one-half (2.5) inches minimum diameter (caliper) at breast height, shall be provided in each interior landscape island. The remaining area of the required interior landscape islands and/or interior landscape area shall be landscaped with shrubs or perennials, either of which should not exceed two (2) feet in height, or with turf grass. Acceptable shade trees include:

Deciduous Shade Trees
Acer rubrum – American red maple
Acer saccharum – Sugar maple
Celtis occidentalis – Common hackberry
Fagus sylvatica – European beech
Fraxinus Americana – White ash
Fraxinus Pennsylvania – Green ash
Ginko biloba fastigiata – Maiden hair tree (male only; female has noxious odor)
Gleditsia triacanthos – Thornless locust
Liriodendron tulipifera – Tulip poplar
Quercus alba – White oak

Quercus acutissima – Sawtooth oak
Quercus borealis – Red oak
Quercus coccinea – Scarlet oak
Quercus macrocarpa –Bur oak
Quercus imbricaria – Shingle oak
Quercus montana – Chestnut oak
Quercus velutina – Black oak
Quercus phellos – Willow oak
Sophora japonica – Chinese scholar tree
Tilia Americana – American linden
Tilia cordata – Little leaf European linden
Tilia euchlora – Crimean linden
Tilia petiolaris – Silver linden
Zelkova serrata – Zelkova

- (f) Unless otherwise approved by the Borough Engineer for promoting sustainable stormwater management practices, all landscape islands shall be enclosed by appropriate curbing or a similar device at least six (6) inches wide and six (6) inches in height above the paving surface.
- (3) Additionally, parking lot landscaping, trees, and plantings shall be:
 - (a) Planted with adequate unpaved surface around each for water and air;
 - (b) Free of insect pests and diseases; and
 - (c) Perpetually maintained in a healthy condition by the property owner. Any required planting that dies, is removed, or is severely damaged shall be replaced by the current property owner as soon as is practical considering growing seasons, within a maximum of one hundred fifty (150) days.
- g. Parking Lot Surfacing: Surfacing shall consist of any asphaltic or Portland cement binder pavement graded and drained to dispose of all surface water and designed to provide for orderly and safe loading and parking. Improved gravel surfaces may also be used for parking and loading areas, except for commercial and industrial establishments.
- h. Parking Lot Lighting: Any lighting used to illuminate off-street parking and loading areas shall be arranged so as to reflect the light away from adjoining premises and public rights-of-way.
- i. Parking Spaces Required: Any structure or building hereafter erected or converted or enlarged for any of the following uses, or any open area hereafter used for commercial or industrial purposes, shall be provided with not less than the minimum spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

Parking for Residential Uses

- (1) Single-family houses and mobile homes shall be provided with two (2) parking spaces per dwelling unit. An attached or unattached garage or carport on the premises, or that portion of the driveway not included in the public right-of-way, may be considered as parking space.
- (2) Two-family houses (duplexes and flats) shall be provided with a minimum of two (2) parking spaces per dwelling unit.
- (3) Townhouses and multi-family houses shall be provided with minimum of (2) parking spaces per dwelling unit.
- (4) Dwellings above or in combination with commercial establishments shall be provided with a minimum of one (1) parking space per dwelling unit in addition to all spaces required for the business.
- (5) Rooming or boarding homes shall be provided with a minimum of one (1) parking space for each guest room and two (2) for the resident manager.
- (6) Community living/group homes, personal care boarding homes shall be provided with minimum of two (2) parking spaces per dwelling unit and one (1) space for any staff.

Parking for Public and Semi-Public Uses

- (1) Places of religious worship, school auditoriums, other public auditoriums, stadiums, assembly or meeting rooms, or other similar places of public or private assembly shall be provided with one (1) parking space for every three (3) seats provided for assembly. Cemetery chapels shall have a minimum of twenty (20) spaces.
- (2) Elementary and secondary public or parochial schools shall be a school also has an auditorium or stadium, the total number of parking spaces required shall be provided according to the highest requirements.
- (3) Nursing and convalescent homes, and domiciliary care home shall be provided with one (1) parking space for every three (3) beds plus one (1) space for each employee on the largest shift.
- (4) Clinic and medical, osteopathic, chiropractic, or dental offices shall be provided with five (5) patient spaces per doctor and one (1) space for each staff member.
- (5) Commercial schools such as art, music, dancing, photography, business, and technical trade schools shall be provided with one (1) parking space for every two (2) classroom seats.
- (6) Nursery and day care centers for children or adults shall be provided with one (1) space for each employee and an off-street loading and unloading area to accommodate one (1) space for each six (6) children cared for in the center.

- (7) Community centers, municipal administration buildings, libraries, gallery/museum (including commercial) and similar places shall be provided with one (1) space for every three hundred (300) square feet of gross floor area.
- (8) Public utility buildings and structures, such as telephone exchanges, electric stations and substations, and gas, water and sewage pumping stations, water tanks and reservoirs, sewage treatment plants, and radio and television transmission or receiving towers, shall be provided with at least two (2) parking spaces per facility.
- (9) Public and public utility maintenance garages and storage yards shall be provided with one (1) parking space per employee assigned to work at such facility.
- (10) Parks and playgrounds which include spectator seating for baseball fields, tennis courts and similar facilities shall be provided with parking spaces relative to spectator seating accommodations for stadiums, as described above. Where no spectator seating accommodations are involved, the facility shall be provided with two (2) parking spaces per swimming lane when a pool is present, two (2) parking spaces per playing court when such facilities are provided, and one (1) parking space for each two thousand (2,000) square feet of area or fraction thereof in the recreation site.
- (11) University/college shall be provided with one (1) space per five (5) students enrolled, and one (1) space per employee, and one (1) space per fifteen (15) seats in an auditorium and/or gymnasium, and, one (1) space per two (2) occupants in a dormitory.

Parking for Business Uses

- (1) Retail stores or shops, farmers/flea market shall be provided with one (1) parking space for every two hundred (200) square feet of floor space used for sales purposes and one (1) space for each employee.
- (2) Supermarkets, grocery stores, mini-markets with gas pumps and dairy stores shall be provided with one (1) parking space for every two hundred (200) square feet of floor space used for sales purposes and one (1) space for each employee.
- (3) Eating and drinking establishments, social halls, clubs, including country clubs, lodges, restaurants (sit down) and food service facility, tavern/bar, and other places serving food and beverages shall be provided with one (1) parking space for every two and one-half (2 1/2) seats for patron use and one (1) space for each employee.
- (4) Drive-in and fast-food restaurants shall be provided with one (1) space for every fifty (50) square feet of floor area and one (1) space for each employee.
- (5) Bowling alleys shall be provided with five (5) parking spaces for each pair of lanes and one (1) space for each employee on the largest shift.
- (6) Skating rinks shall be provided with one (1) space for every one hundred (100) square feet of skating area and one (1) space for each employee.

- (7) Billiard and pool rooms shall be provided with two (2) spaces per billiard or pool table and one (1) space for each employee.
- (8) Golf driving ranges shall be provided with one (1) parking space per tee and one (1) space for each employee.
- (9) Miniature golf ranges shall be provided with one (1) space per hole and one (1) space for each employee.
- (10) Golf courses shall be provided with six (6) spaces per hole and one (1) space for each employee.
- (11) Other open space areas used for commercial purposes shall be provided with one (1) parking space for each two thousand (2,000) square feet of area or fraction thereof.
- (12) Animal kennels shall be provided with one (1) parking space for every three (3) kennel runs and one (1) space for each employee.
- (13) Animal hospitals shall be provided with five (5) client/patron spaces per veterinarian and one (1) space for each employee.
- (14) Office buildings shall be provided with one (1) parking space for each two hundred (200) square feet of floor area or fraction thereof.
- (15) Professional offices and banks, and financial institutions shall be provided with one (1) space for each two hundred (200) square feet of floor area or fraction thereof.
- (16) Funeral homes and crematories shall be provided with a minimum of one (1) space for each three (3) seats for public use. Such spaces shall be in addition to one (1) space for each employee and service areas for mobile equipment such as hearses and ambulances.
- (17) Motels, hotels and bed and breakfasts shall be provided with one (1) parking space for each unit for overnight accommodations and one (1) space for each employee on the largest shift plus all spaces required for restaurants or other uses accommodated.
- (18) Barber and beauty shops and hair styling shops shall be provided with two (2) parking spaces per shop plus one and one-half (1 1/2) per chair and one (1) for each employee.
- (19) Personal service and repair establishments, and business services shall be provided with one (1) space for each two hundred (200) square feet of floor area or fraction thereof. Establishments with less than two hundred (200) square feet shall provide at least one (1) parking spot per establishment.
- (20) Self-service dry cleaning establishments and laundromats shall be provided with one (1) parking space for each two (2) washing, drying, and cleaning machines.

- (21) Shopping centers shall be provided with at least one (1) parking space for each three hundred fifty (350) square feet of gross floor area or fraction thereof.
- (22) Home occupations shall be provided with two (2) parking spaces for each dwelling unit, one (1) space for each non-resident employee, and one (1) space per patron.
- (23) Model homes and apartments shall be provided with a minimum of five (5) parking spaces for patron use and one (1) space for each employee.
- (24) Vehicular sales and body repair and service garages shall be provided with one (1) exterior parking space for each two hundred (200) square feet of interior floor space plus one (1) space for each employee on the largest shift.
- (25) Home center sales and building sales establishments and contractors yards shall be provided with one (1) client parking space for each one thousand five hundred (1,500) square feet of sales area, whether indoor or outdoor, and one (1) space for each employee.
- (26) Furniture or appliance stores shall be provided with one (1) space for each three hundred (300) square feet of floor area and one (1) space for each employee.
- (27) Gasoline service stations and car washes shall be provided with one (1) parking space for each employee on the largest shift.
- (28) Other commercial building shall be provided with one (1) space for every three hundred (300) square feet of floor area or fraction thereof.
- (29) Theatres shall be provided with one (1) parking space for every three (3) seats provided for assembly.

Parking for Industrial Uses

- (1) Industrial, wholesale and warehouse establishments, truck terminals, manufacturing plants, and research and testing laboratories, etc., shall be provided with one (1) parking space for each one and one half (1 1/2) employees on the largest shift. Space shall also be provided for company vehicles and for visitors and sales representatives in addition to the above parking requirements according to specific needs.
- j. Parking Prohibitions: Except as otherwise provided elsewhere, required parking spaces shall not be met by spaces on any street right-of-way.
- k. Loading/Unloading Facilities:
- (1) An off-street loading/unloading space shall be an area of land, open or enclosed, other than a public street right-of-way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of street.

- (2) Access to the loading/unloading space on any lot shall be via a street at least twelve (12) feet in width for one-way traffic or twenty-two (22) feet wide for two (2) way use, with a clearance of at least fourteen (14) feet six (6) inches its entire length.
- (3) The off-street loading/unloading space shall be not less than ten (10) feet wide, and thirty-five (35) feet in length, and fourteen (14) feet six (6) inches in height, when covered. For warehouse buildings or buildings accommodating tractor-trailers, the minimum off-street loading/unloading space size shall be increased to twelve (12) feet wide and seventy (70) feet long.
- (4) Off-street loading/unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
- (5) Off-street loading/unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, sidewalk, designated fire lane, or adjacent property.
- (6) Off-street loading/unloading spaces shall not be located so that vehicles entering or leaving the spaces would conflict with parking spaces and require backing maneuvers in areas of customer or public circulation.
- (7) The following off-street loading/unloading space requirements for specific uses shall be provided as listed below:

Type of Use	Gross Floor Area	Number of Spaces
Commercial (Retail/Service)	< 8,000	1
Wholesale	8,000 - 40,000	2
Industrial / Manufacturing	> 40,000 – 100,000	3
Hospitals	> 1000,000 – 250,000	P
Laundry	Each additional 200,000	1
Institutional and Similar Uses		
Office Buildings	< 100,000	1
	100,000 – 300,000	2
	> 300,000	3

- (8) When determination of the number of required off-street loading/unloading spaces results in a requirement of a fractional space, any fraction up to and including one-half (½) may be disregarded, and fractions over one-half (½) shall be interpreted as one (1) off-street loading/unloading space.
- (9) Where there are multiple uses within a development or on the same lot, shared loading/unloading spaces shall be used among as many uses as practical. Loading/unloading spaces shall be adjacent to the use or building served except that in a group of buildings in the same use on the same lot, one (1) building may be designated to receive and dispatch goods, provided the total applicable floor area in all buildings on the lot is aggregated in determining the total required loading spaces.

- (10) No off-street loading/unloading spaces shall be within any required building setback or yard area, and/or buffer yard area.
 - (11) When the off-street loading/unloading space abuts a residential zoning district, abuts a residential zoning district in addition to the required setback, shall provide a five (5) foot wide buffer yard and screening with no less than ninety (90) percent opacity, including a solid fence or wall at least six and one-half (6 ½) feet in height may be constructed in lieu of hedging as required by the buffer yard requirements provided such fence or wall is maintained in good condition.
 - (12) Surfacing: All open off-street loading/unloading spaces shall be improved with a compacted base, surfaced with bituminous concrete or cement concrete pavement of adequate placed over at least six (6) inches of well compacted base course, capable of bearing the weight of vehicles ordinarily traveling over or parking upon the surface, and shall be sloped to assure positive drainage to an approved stormwater management facility.
 - (13) All on-site, outdoor lighting of off-street loading/unloading areas shall be designed to prevent glare to adjoining properties and public right-of-way by employing hooded, shielded, or screened fixtures that confine glare to the site, rather than the area around it.
7. Principal Buildings and Uses: In any district in which dwellings are a principal permitted use, no lot intended for a residential purpose shall contain more than one principal building or use except as otherwise permitted.
 8. Signs: Signs may be erected and maintained only when in compliance with the provisions of this article and any and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices. Signs shall comply with both the regulations for the district in which they are located and the regulations generally pertaining to signs.
 - a. General Regulations
 - (1) Signs must be constructed of durable material, maintained in good condition, and not be allowed to become dilapidated.
 - (2) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the sight distance or by causing confusion with traffic signs or signals.
 - (3) No sign, other than an official traffic sign, shall be erected within the right-of-way lines of any street, unless authorized by municipal officials for a special purpose.
 - (4) Mail boxes and newspaper pigeon holes shall be exempt from all sign regulations.
 - (5) No sign, including outdoor advertising signs, at its highest point shall exceed the height of the primary structure on the property on which it is located.
 - (6) Permits shall be required for all signs in all the districts.

- (7) Advertising painted upon or displayed upon a building, structure, wall or rock surface shall be regarded as an outdoor advertising sign, and the regulations pertaining thereto shall apply unless the sign applies to services or products sold on the premises.
 - (8) Each sign shall be removed when within thirty (30) days after the circumstances leading to its erection no longer apply, except as otherwise provided below.
 - (9) In all districts, only those residential signs and commercial and industrial identification signs referring directly to services provided or materials or products made, sold, or displayed on the premises shall be permitted, except as otherwise noted. Such signs shall comply with all other requirements, as stated herein, for the district in which they are erected.
 - (10) No animated, sequential, flashing, or oscillating signs shall be permitted in any district. Any sign by reason of its intensity, color, location, or movement that may interfere with traffic lights, signals or other controls, or abrogate public safety shall not be permitted in any district.
 - (11) Signs for which illumination is permitted shall have the light confined to the surface of the sign and directed so as to avoid glare or reflection which could endanger highway or street traffic and which could create a nuisance for adjacent residences.
 - (12) Signs which emit objectionable or excessive noise created by electric current or air movement shall not be permitted.
 - (13) Sign surfaces shall include the entire face or faces and, if composed of individual letters, figures, or designs, the space between and around such letters, figures, or designs, but shall not include the supports.
 - (14) A temporary sign made of paper, cardboard or similar material and intended to attract public attention shall not be attached to any lamp post, utility pole, shade tree, or public structure or building except as authorized by permit from the Zoning Officer. Such signs shall include political posters and notices of bazaars, picnics, and other such functions conducted by charitable and non-profit groups. When such signs are permitted, they shall not be posted sooner than forty-five (45) days before the date of the event advertised and they shall not remain posted for more than thirty (30) days after the date of the event advertised. A permit fee of thirty (\$30) dollars shall be required, which fee shall be returned if and when the signs are taken down in the time period allowed. Such signs shall not include any trespassing, any fishing or hunting, and public reward notices.
- b. Signs in Residential, Agricultural and Conservation Districts
- (1) Signs advertising the sale or rental of the premises upon which they are erected, when erected by the owner or broker or any other person interested in the sale or rental of such premises, may be erected and maintained, provided: (i) the size of any such sign is not in excess of six (6) square feet; and (ii) not more than one (1) such sign is placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which case one (1) such sign may be

erected on each frontage. The signs shall be set back at least ten (10) feet from any public right-of-way line. The signs shall be removed from the premises within thirty (30) days after the sale or rental of the property.

- (2) Signs indicating the location and direction of land available for or in the process of development and of model homes available for inspection, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder, or agent, may be erected and maintained, provided: (i) the size of any such sign shall not be in excess of six (6) square feet, and not in excess of four (4) feet in length; and (ii) not more than one (1) such sign shall be erected on each five hundred (500) feet of street frontage. The signs shall be set back at least ten (10) feet from any public right-of-way line. The signs shall be removed from the premises within thirty (30) days after the last lot or home is sold.
- (3) Signs advertising the sale of lots in a subdivision in which the sign is to be located may be erected and maintained, provided: (i) the size of the sign shall not be in excess of sixty (60) square feet in area; and (ii) not more than one (1) such sign shall be erected in any subdivision. The signs shall be set back at least thirty-five (35) feet from my public right-of-way line. The signs shall be removed from the premises within thirty (30) days after the last lot is sold.
- (4) Signs bearing the word 'sold' or the word 'rented' with the name of the persons effecting the sale or rental may be erected and maintained provided the conditions in paragraph (1) above are complied with.
- (5) Signs of contractors, mechanics, painters, and artisans may be erected and maintained on the premises where the work is being performed during the period in which such work is being performed, provided: (i) the size thereof shall not be in excess of twelve (12) square feet; and (ii) not more than one (1) such sign per trade or contractor shall be allowed on any property. Such a sign shall be removed upon completion of the work.
- (6) Trespassing signs and signs indicating private ownership of a driveway or property may be erected on the premises to which they refer, provided (i) the size of any such sign shall not exceed two (2) square feet and (ii) signs shall be spaced at intervals of not less than one hundred (100) feet of street frontage.
- (7) Signs of schools, places of religious worship, clinics, day-care centers, or other institutions of a similar nature may be erected and maintained provided: (i) the size of any such sign shall not be in excess of forty (40) square feet; and (ii) not more than one (1) such sign shall be placed on a property in single and separate ownership, unless such property fronts upon more than one street, in which case one (1) such sign may be erected on each frontage. Such sign shall be set back at least three (3) feet from any public right-of-way line.
- (8) A sign showing the name of a residential development shall not exceed six (6) square feet.
- (9) Signs indicating professional offices or home occupations of the occupants of dwellings shall not exceed four (4) square feet and shall be limited to one (1) sign per dwelling. Such sign may include the name, occupation, address, logo-type and

trade mark. Such sign shall be set back at least three (3) feet from any public right-of-way line.

- (10) Official traffic or street name signs may be erected only by or with the written approval of municipal official.
 - (11) Signs necessary for the identification, operation or protection of public utility facilities and municipal uses shall be permitted provided: (i) the size of the sign shall not be in excess of twelve (12) square feet; and (ii) the sign shall be located on the same premises as the use to which it refers. Such sign shall be set back at least three (3) feet from any public right-of-way line.
 - (12) Signs indicating the name of the owner or number of the premises, or the name of the premises itself shall be permitted provided: (i) such sign shall not exceed two (2) square feet; and (ii) not more than one (1) such sign shall be erected on any premises. Such sign shall be set back at least three (3) feet from any public right-of-way line.
 - (13) Temporary signs shall be permitted as provided in (a) (14) above.
- c. Signs in Business and Industrial Districts

- (1) Any sign permitted in any Residential or Agricultural District shall also be permitted in any Business and Industrial District.
- (2) Signs in Business and Industrial Districts may be erected and maintained provided: (i) the sign shall be on the same premises to which it refers; (ii) such sign shall not exceed sixty (60) square feet for each lot, but may maintain identification signs of all the businesses or industries on that lot; and (iii) not more than one (1) such sign shall be erected on any one street frontage with a setback of at least twenty (20) feet from any public right-of-way line. In addition, each business located on one lot or in one building may have its own identification sign, provided such sign is attached to the building in which the activity is located and is no larger than eight (8) square feet.
- (3) In shopping centers or office complexes or parks one (1) sign shall be permitted in each such center indicating the name of the shopping center or office complex or park and establishments located therein. Such sign shall not exceed two hundred (200) square feet and shall not be located within one hundred (100) feet of any existing principal building on an adjoining residential premise. The sign shall be set back at least twenty (20) feet from any public right-of-way line. In addition, each establishment located in the shopping center or office complex or park may have its own identification sign, provided such sign is attached to the building in which the activity is located and is no larger than thirty-five (35) square feet.
- (4) Signs within display windows shall not be considered a part of the permitted sign area unless such signs are self-illuminating, in which case the area shall be considered part of the permitted sign area.
- (5) Outdoor advertising signs or billboards may be erected and maintained only in the B-2 District even though not referring to the activity produced or conducted on the

premises. Such signs shall be permitted only as special exception uses approved by the Zoning Hearing Board. (See Article 6)

- (6). Portable signs not exceeding thirty-two (32) square feet shall be permitted provided they are set back at least twenty (20) feet from the street right-of-way line. The sign may be self-illuminating, but shall not have flashing or oscillating light. Not more than one (1) such sign shall be permitted on any property.
 - (7) Temporary signs shall be permitted as provided in (a) (14) above.
 - (8) Directly illuminated signs, designed to give forth artificial light directly or through transparent or translucent material from a source of light within such sign, including, but not limited to neon, shall be permitted, provided that all such lighting emitted from the sign shall not cause a glare, nor emit direct light transmitted to other properties or public rights-of-way.
 - (9) Flashing, blinking, strobe, twinkling, animated, streaming or moving signs of any type shall be permitted in the B-2 and 1 zoning districts, provided that all such lighting emitted from the sign shall not cause a glare, nor emit direct light transmitted to other properties or public rights-of-way. Otherwise, signs may only change from one message to another message provided the message does not change more than once every hour, except that displays of time and temperature may change more frequently. In addition, flashing lights visible from the public right-of-way shall not be used to attract attention to a business. This restriction specifically includes window signs, but does not prohibit seasonal Christmas lighting or displays that comply with this Part.
9. Swimming Pools (Private): Private swimming pools in districts where residences are permitted shall comply with the following conditions and requirements;
- a. The pool shall be intended and shall be use solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
 - b. The pool shall be located in either the rear or side yard of the property on which it is an accessory use.
 - c. The pool shall be set back a minimum of ten (10) feet from the lot line to waters edge and seven (7) feet from impervious surface or support structure such as walks or paved areas or accessory structures adjacent thereto to the lot line.
 - d. For all pools, the pool area or entire property on which the pool is located shall be so walled or fenced or otherwise protected so as to prevent uncontrolled areas by children from the street or from adjacent properties. Said barrier shall not be less than four (4) feet in height, and it shall be maintained in good condition. Said barrier shall be so constructed as not to have openings, holes, or gaps larger than two (2) inches in any dimension. All gates or doors opening onto the pool area shall be securely closed at all times when the pool is not in actual use, except that the door of any dwelling which forms a park of the enclosure need not be so equipped. Such fence or wall shall be erected before any pool is filled with water.

- e. Water may not be discharged from a swimming pool directly onto or within twenty (20) feet of any public right-of-way or adjacent property without the applicable owner's consent.
 - f. Pools shall not be located over a drainage, utility, or access easement.
 - g. No permanent pool structure shall be permitted without an operable filtration system, bromine or some other antibacterial agent.
 - h. All on-site, outdoor lighting shall be designed to prevent glare to adjoining properties by employing hooded, shielded, or screened fixtures that confine glare to the site.
 - i. Otherwise, all swimming pools shall comply with the requirements of the applicable building code, regulating buildings permits in Dallas Borough.
10. No-Impact Home-Based Business: No-Impact Home-Based Business shall be permitted in all districts and shall comply with the following conditions and requirements except that such accessory use shall not supersede any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common-interest-ownership community.
- a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.
 - b. The business shall employ no employees other than family members residing in the dwelling.
 - c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
 - d. There shall be no outside appearance of a business use, including but not limited to parking, signs or lights.
 - e. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
 - f. The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.
 - g. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable floor area.
 - h. The business may not involve any illegal activity.
11. Keeping of Domestic Pets: The keeping of domesticated pets shall be permitted in all districts and shall comply with the following conditions and requirements:
- a. In residential districts, not more than three (3) adult domestic pets shall be kept, unless there is at least three hundred (300) feet distance from the where the animals are being kept (inside or outside) to the nearest residential dwelling.

- b. No use shall involve the keeping of domestic pet or fowl in such a manner or of such types of animals that it creates a serious nuisance (including noise or order), a health hazard or a public safety hazard. The owner of the animals shall be responsible for collecting and properly disposing of all fecal matter from domestic pets.
 - c. The keeping pets outdoors shall not be permitted in the front of the principal building or front yard area for lots in all districts, except that it shall be permitted in the Conservation District.
 - d. The keeping of domestic pets shall comply with all applicable borough codes and ordinances relating to animal, health and safety codes, as well as any applicable state regulations.
 - e. It shall be unlawful on a residential lot to maintain any “exotic wildlife” as defined by the Pennsylvania Game and Wildlife Code, whether or not an exotic wildlife possession permit has been issued.
 - f. For purposes of this ordinance, this use shall not include the keeping of livestock and related animal husbandry, or animal kennels, or keeping more than three (3) domestic animals less than six (6) months in age.
12. Wind Energy Conversion Systems (Personal): Windmills, windwheels, or wind energy conversion systems (WECS) shall be permitted in all districts and shall comply with the following conditions and requirements:
- a. No said systems or equipment shall be erected in a front yard or within the area between a front lot line and the front building façade of the principal building on the lot.
 - b. The structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied structure and located a minimum distance of the tower height plus ten (10) feet from any occupied dwelling, and shall not be more than seventy-five (75) feet in height.
 - c. The minimum distance between the tower and any property line shall be not less than twice (2x) the height of the tower.
 - d. The minimum distance between grade and the lowest point of the rotor blade shall be twenty (20) feet.
 - e. All electric lines/utility wire shall be buried underground.
 - f. Any mechanical equipment associated and necessary for operation, including a building for batteries and storage cells, shall be enclosed by a six (6) foot fence with screening planting in accordance with this ordinance. The supporting structure shall also be enclosed by a six (6) foot fence, unless the base of the tower is not climbable for a distance of twelve (12) feet.
 - g. When a building is necessary for storage cells or related mechanical equipment, the building shall not exceed one hundred forty (140) square feet.

- h. One (1) windmill, windwheel or WECS shall be permitted per lot.
 - i. The resultant energy harnessed from the wind shall not be used on property other than that on which located, unless all applicable cogeneration requirements are met.
 - j. The supporting structure and generating unit shall be kept in good repair and sound condition. Upon abandonment of use, the supporting structure and related structures shall be dismantled and removed from the property within sixty (60) days.
 - k. The applicant shall demonstrate that any noise from the wind generating unit shall not exceed forty-five (45) dBA measured at the property line.
 - (1) A “decibel” shall mean a unit for measuring the relative intensity of sounds. More specifically, a unit for expressing the ratio of two (2) amounts of acoustic signal power equal to ten (10) times the common logarithm of this ratio.
 - (2) A “weighted” sound level shall mean the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micro-pascals using the “A” weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).
13. Satellite Dish Antennas. Satellite dish antennas shall be permitted in all districts and shall comply with all accessory use and structure standards except as provided herein this section.
- a. Satellite dish antennas shall comply with the following:
 - (1) In the Residential Zoning Districts, the maximum diameter of any satellite dish antenna installed on any lot, building or structure shall be two and one-half (2 ½) feet.
 - (2) Satellite dish antennas shall not be located between the principal building and the public street (excluding alleys) or within any required front setback areas or on front facades of buildings.
 - (3) A satellite dish antenna shall not project above the peak of a roof, and if said satellite dish antenna is roof-mounted, no point of the satellite dish antenna shall be greater than three (3) feet from the roof’s surface. A satellite dish antenna shall be permitted to be mounted on a flat roof so long as the satellite dish projects less than three (3) feet from the roof surface and is mounted in an inconspicuous location.
 - b. In the Residential Zoning Districts, ground-mounted satellite dish antennas shall not be permitted to be located between the principal building and the public street (excluding alleys) or within any required front setback area.
 - c. All ground-mounted satellite dishes located within the B-2 and I Zoning Districts shall be completely enclosed by an eight (8) foot high, non-climbable fence that includes signage warning of dangerous radiation levels. Screening shall be provided in accordance with this ordinance. Any gates within the fence shall be locked when unattended.

14. Forestry

- a. Purpose: To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land and forestry activities, including, but not limited to timber harvesting and to be in compliance with the Pennsylvania Municipalities Planning Code, as amended, (MPC) forestry shall be a permitted use by right in all zoning districts. The following standards apply to all timber harvesting within the borough where the value of trees, logs, or other timber products removed exceeds one thousand (\$1,000) dollars. These provisions do not apply to the cutting of trees for the personal uses of the landowner or for pre-commercial timber stand improvement.

- (1) Policy and Purpose. In order to conserve forested open space and the environmental and economic benefits they provide, it is the policy of Dallas Borough to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining property owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry.

- (2) Notification and Preparation of a Logging Plan.

- (a) For all timber harvesting operations, the landowner shall notify the Zoning Officer at least ten (10) business days before the operation commences and within ten (10) business days before the operation is complete. No timber harvesting shall occur until the notice has been provided. Notification shall be in writing and shall specify the land on which harvesting will occur, the expected size of the harvest area, and, as applicable, the anticipated starting or completion date of the operation.

- (b) Every landowner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified by this ordinance. No timber harvesting shall occur until the plan has been prepared. The provisions of the plan shall be followed throughout the operation. The plan shall be available at the harvest site at all times during the operation and shall be provided to the Zoning Officer upon request.

- (c) The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

- (d) An erosion and sedimentation pollution control plan must be approved by the Conservation District. Documentation of such approval is required prior to the beginning of any timber harvest activities.

- (3) Contents of the Logging Plan. As a minimum, the logging plan shall include the following:

- (a) The design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails and landings.

- (b) The design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars.
 - (c) The design, construction, and maintenance of stream and wetland crossings.
 - (d) The general location of the proposed operation in relation to borough and state highways, including any accesses to those highways.
 - (e) A sketch map or drawing containing the site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within the property; significant topographic features related to potential environmental problems; location of all earth disturbance activities such as roads, landings, and water control measures and structure; location of all crossings of water of the commonwealth; and the general location of the proposed operation to borough and state highways, including any accesses to those highways.
 - (f) Documentation of compliance with the requirements of all applicable state regulations including, but not limited to, the following: erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. 691.1 et seq; and Stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. 693.1 et seq.)
 - (g) Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified above provided all information required is included or attached.
- (4) Forest Practices. The following requirements shall apply to all timber harvesting operations in Dallas Borough:
- (a) Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the borough or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.
 - (b) No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare or private roadway providing access to adjoining residential property.
 - (c) All tops and slash between twenty-five (25) and fifty (50) feet of any public roadway or private roadway providing access to adjoining residential property or within fifty (50) feet of adjoining residential property shall be lopped to a maximum height of four (4) feet above ground.
 - (d) No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.

- (e) No tops or slash shall be left within fifty (50) feet of any stream or the designated floodplain of any stream, whichever is greater.
 - (f) No harvest of trees shall occur within fifty (50) feet of any stream.
 - (g) Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.
- (5) Use of Public Roads
- (a) The applicant shall identify all state and borough roads to be used within Dallas Borough associated with the timber harvesting operation.
 - (b) The Borough Engineer or a qualified third party engineer hired by the borough and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.
 - (c) Responsibility for Road Maintenance and Repair: Road Bonding. Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the land owner and the operator shall be responsible for repairing any damage to borough roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic, and may be required to furnish a bond to guarantee the repair of such damages.
- (6) Inspections. The Zoning Officer may go upon the site of any timber harvesting operation before, during, or after active logging to review the logging plan or any other required documents for compliance with the standards and inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.
- (7) Violations Notices; Suspensions. Upon finding that a timber harvesting operation is in violation of any provision of these standards and regulations, the Zoning Officer shall issue the operator and the landowner a written notice of violation describing each violation and specifying a date by which corrective action must be taken. The Zoning Officer may order the immediate suspension of any operation upon finding that corrective action has not been taken by the date specified in a notice violation; the operation is proceeding without a logging plan; or the operation is causing immediate harm to the environment. Suspension orders shall be in writing, shall be issued to the operator and the owner, and shall remain in effect until, as determined by the Zoning Officer, the operation is brought into compliance with the regulations herein or other applicable states or regulations. The land owner or the operator may appeal an order or decision of an enforcement officer within thirty (30) days of issuance to the Borough Council.
- (8) Penalties. Any landowner or operator who violates any provision of these regulations, refuses to allow the Zoning Officer access to a harvest site or who fails to comply with a notice of violation or suspension order is guilty of a summary offense and upon conviction shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), plus costs, for each separate

offense. Each day of continued violation of any provisions shall constitute a separate offense.

15. Single-Family Detached and Two Family Residential Air Conditional Units, Heat Pumps and other Accessory Mechanical Equipment: Central air conditioning units (excluding portable window units), heat pumps and other similar mechanical components that could or are likely to produce noise, odors, or other nuisances shall be located to the rear of or on the top of the principal structure (on the roof). In no case shall these units or components be located in a required side yard when abutting a residential lot where the windows and/or doors on the abutting residential lot would be exposed to the nuisance. In no case shall such units or components be located closer than five (5) feet from a lot line.
16. Non-Residential, Multiple Family, and Mixed Use Service Structures Screening and Location
 - a. Service structures and areas such as solid waste dumpsters, refuse and recycling containers, propane tanks, air conditioning units (excluding portable window units) and condensers, electrical transformers and other equipment or elements providing essential services to a building or lot shall not be located:
 - (1) between the principal building and the public street (excluding alleys) or within any required front yard or setback area:
 - (2) in any required yard or setback area (excluding those lot lines abutting any alley) or a required buffer yard.
 - (3) in any area of a parking lot that causes obstructed access to designated parking spaces; or
 - (4) within fifteen (15) feet of a residential zoning district or an existing single family detached or two family residential use permitted in the zoning district, on an abutting lot.
 - b. All service structures and areas shall be fully screened on all sides with a minimum of eighty (80) percent opacity.
 - (1) A continuous planting, hedge, fence, wall or earthen mounting shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one (1) side is required.
 - (2) Fencing, if erected, shall be constructed of the same color and material as the principal building of a lot, but may be a decorative masonry wall (excluding exposed "cinder block"). If solid weather-resistant wood or material of similar appearance (such as white vinyl vertical planks) is used, vegetative screen planting shall also be provided. The fence or wall shall include a self-latching door or gate. In no case shall "chain link" material or pattern fencing be used for screening.
 - (3) The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height unless specified otherwise by this ordinance.

- (4) When a service structure is located adjacent to a building wall, perimeter landscaping material may fulfill the screening requirements for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section.
 - (5) Although service structures are screened by plant material, such material may not count towards the fulfillment of any required landscaping.
 - (6) Whenever screening material is placed around any solid waste or trash disposal unit that is emptied or removed mechanically on a regular basis, a fixed barrier (e.g. mounted metal brackets) to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the screening material and shall be of sufficient strength to prevent possible damage to the screening material shall be twelve (12) feet to allow service vehicles access to the container.
- c. The locations of all service structures and screening shall be shown on all site plans and land development plans submitted to Luzerne County and Dallas Borough.
 - d. This section shall not apply to dumpsters temporarily placed during actual construction or demolition on the premises, or for recycling containers that do not involve garbage.
17. Outdoor Lighting: Where on-site outdoor light fixtures are installed to provide exterior illumination of buildings, parking areas, and other on-site facilities for non-residential, multiple family dwelling, and mixed uses, at a minimum all on-site, outdoor lighting shall be designed to prevent glare to adjacent properties by employing hooded, shielded, or screened fixtures that confine glare to the site, and security lighting should be directed toward the building, rather than the area around it. Otherwise the standards of Luzerne County Subdivision and Land Development Ordinance shall apply. Outdoor lighting provisions herein do not include overhead street lighting and warning, emergency, or traffic signals.

18. Gas and Oil Production

- a. In addition to all other provisions of this ordinance relating to permits, applications for gas and oil well production must be accompanied by:
 - (1) a plan and related information in accordance with Section 907.4 of this ordinance; and
 - (2) Documentation of compliance with the requirements of all applicable state regulations including, but not limited to, the following: erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to The Clean Streams Law (35 P.S. 691.1 et seq; and Stream crossing and wetlands, protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. 693.1. et seq.).
 - (3) Any permits required by state laws and regulations shall be attached to and become part of the permit application. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also

satisfy the requirements for the application provided all information required is included or attached.

- b. Gas and oil well production must be located a sufficient distance from:
 - (1) occupied structures so as to not disturb neighboring properties and in no event shall be located within two hundred (200) feet of any occupied structure.
 - (2) public streets, roadways, and lot lines and in no event shall be located within one hundred (100) feet of any public street, roadway or lot line.
 - (3) streams, springs, wetlands of greater than one acre in size, and in no event shall be located within one hundred (100) feet of any stream, spring, wetland of greater than one acre in size.
- c. Screening and buffering shall be provided in accordance with Section 801.5 and in no event shall the buffer yard be less than twenty (20) feet nor have less than eighty (80) percent opacity. As part of the required screening, a six (6) foot high fence shall enclose all oil and gas operations and individual drilling sites.
- d. Outdoor lighting shall comply with Section 801.17 of this ordinance.
- e. Vehicular access shall be so arranged as to minimize danger and congestion along adjoining roads and to avoid the creation of nuisances to nearby properties. Access drives used by trucks shall only intersect with collector or arterial roads, as identified in the Back Mountain Area Council of Governments Comprehensive Plan.
 - (1) All access drives shall be designed and located in accordance with Section 801.6 of this ordinance and the Luzerne County Subdivision and Land Development Ordinance, but also:
 - (a) All access drives serving the site shall have a paved minimum thirty-five (35) foot wide cartway for a distance of at least two hundred (200) feet from the intersecting street right-of-way line. In addition, a fifty (50) foot-long gravel section of access drive should be placed just beyond the preceding two hundred (200) foot paved section to help collect any mud that may have attached to a vehicle's wheel.
 - (b) In general, access drives shall intersect public streets at ninety (90) degrees as site conditions permit, however in no case shall access drives intersect public streets at less than seventy (70) degrees. Said angle shall be measured from the centerline of the street to the centerline of the access drive.
 - (2) Use of Public Roads
 - (a) The applicant shall identify all state and borough roads to be used within Dallas Borough associated with the gas and oil well production.
 - (b) The Borough Engineer or a qualified third party engineer hired by the borough and paid for by the applicant, shall document road conditions prior to

construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

- (c) Responsibility for Road Maintenance and Repair: Road Bonding. Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49; and Title 67 Pennsylvania Code, Chapter 189, the land owner and the operator shall be responsible for repairing any damage to borough roads caused by traffic associated with the gas and oil well production operation to the extent the damage is in excess of that caused by normal traffic, and may be required to furnish a bond to guarantee the repair of such damages.
- f. Protection of water and land resources regarding gas and oil production.
 - (1) In no case shall any oil and gas operation impede the flow of natural watercourses.
 - (2) All uses of land or processes which pollute natural watercourses shall be prohibited.
 - (3) Direct discharge of untreated brine, other waste water, or other liquid by-products onto the land shall be prohibited.
- g. As applicable, the applicant shall demonstrate compliance with Section 7.(c) of the Pennsylvania Act No. 1984-219, as may be amended. The applicant shall provide a detailed description of the proposed use of the site, once reclamation has been completed, including a description of any zoning and/or subdivisions approvals or remedies that would be necessary to accommodate the proposed use. Finally, the applicant shall provide written notification to the borough within thirty (30) days, whenever a change in the reclamation plan is proposed to the PA DEP.

802 Supplementary Area Regulations

- 1. Reserved for Future Use
- 2. Reduced Lot Area: No lot shall be so reduced in area so that any yard or area requirements will be smaller than that prescribed in the regulations for the district in which the lot is located.
- 3. Residential Habitable Floor Area: All dwelling units hereafter created shall have the following minimum floor areas:

efficiency unit	500 square feet
one-bedroom unit	655 square feet
two-bedroom unit	900 square feet
three-bedroom unit	1,125 square feet
four-bedroom unit	1,330 square feet
five or more bedroom unit	1,330 sq. ft. plus 200 sq. ft. for every additional bedroom

803 Supplementary Yard Regulations

1. Fences and Walls: A fence or wall a maximum of six (6) feet in height or higher if a retaining wall may be erected within the limits of any yard not extending beyond the front setback line. Within the front yard a fence or wall a maximum of thirty-six (36) inches in height shall be permitted, except as provided in Section 803.10 below. The height shall be measured from the average grade level. A fence intended to mark a boundary shall be located either on the boundary line or within six (6) inches thereof.
2. Fire Escapes: Open fire escapes shall not extend into any required yard more than four and one-half (4 ½) feet.
3. Frontage, Front Yards, Orientation, and Access for 'Through' Lots: In any district a lot which runs through a block from street to street, the required frontage, front yard, building and development orientation, and lot access for the lot shall be consistent with and follow the frontage, front yard, building and development orientation, and lot access location of the existing development patterns of adjacent and nearby lots along the same side of the street. Therefore, the frontage, front and rear yard, building and development orientation, and access to the lot shall follow the majority of the existing adjacent or nearby through lots along the same side of the street. Where no other through lots exist nearby, such through lots shall have two (2) required front yards, one front yard on each street. Building and development orientation shall face the street conveying the higher amount of daily traffic, while access to the lot shall be from the street conveying the lesser amount of existing or proposed daily traffic. For purposes of siting related accessory uses and structures, the yard abutting the street conveying the lesser amount of daily traffic shall be considered the "rear".
4. Frontage, Front Yard, Orientation, and Access for 'Corner' Lots: In any district a lot which abuts on and is at the intersection of two (2) or more streets or upon two (2) parts of the same street shall have the required front yard for the district in which it is located for the frontage on both streets one front yard on each street. Access to the lot shall be from the street conveying the lesser amount of existing or proposed daily traffic.
5. Patios and Terraces: A paved terrace or patio shall not be considered in the determination of yard sizes or building coverage if such patio or terrace is unroofed and without walls, parapets, or other form of enclosure, except that in no event shall such patio or terrace be located closer than the minimum distance required for unattached accessory structures as provided for in Section 803.9; however, such patio or terrace may have a fence or railing a maximum of three (3) feet in height.
6. Porches and Decks: Any porch or deck of more than four and one-half (4 ½) feet in depth shall be considered a part of the building in the determination of the size of yards or lot coverage.
7. Projecting Architectural Features: Chimneys, cornices, eaves, gutters, and bay windows and similar architectural features may extend not more than two (2) feet into any required yard.
8. Structures. Attached Accessory: Accessory structures such as garages or carports, which are attached to the principal building, shall be considered a part of the building in the determination of the size or the yards or lot coverage.
9. Structures. Unattached Accessory: Unattached accessory structures (excluding private swimming pools) may be erected within the rear or side yards provided that:

a. For residential lots:

(1) Unattached accessory structures not more than one hundred forty-four (144) square feet in ground floor area and not greater than ten (10) feet in height may be located no closer than two and one-half (2 ½) feet from the rear and side property lines;

(2) Otherwise, unattached accessory structures shall comply with the following:

(a) the maximum height of such structure shall be limited to the lesser of one and one-half (1 ½) stories or fifteen (15) feet, and that the minimum distance of such structure from the rear and side property lines shall be five (5) feet, except in the Agricultural and Open Space Districts, in which the maximum height of such structures shall not exceed any equal distance from the lot line.

b. For non-residential lots, unless otherwise specified elsewhere in this ordinance, unattached accessory structures shall comply with the principal structure and lot dimensional requirements for the zoning district in which it is located.

10. Visibility at Intersections: On any corner lot in any district no fence, wall, hedge, or other structure or planting more than thirty-six (36) inches higher than the road surface shall be erected or maintained within fifty (50) feet of the 'corner' so as not to interfere with traffic visibility across the corner.

804 Supplementary Height Regulations

1. Height Exceptions: The height limitation of this ordinance shall not apply to church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, fire towers, bulk heads, and similar features; nor to silos, barns and other farm buildings and structures; nor to any accessory mechanical appurtenances usually carried above the roof level.

2. Ornamental Features: The provisions of this ordinance shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five (5) feet.

805 Nonconforming Lots, Uses, and Buildings

1. Continuation of Nonconformities

a. All lawful uses of land, buildings, signs, or other structures existing on the effective date of this ordinance may be continued, altered, restored, reconstructed, sold, or maintained in accordance with the provisions of this ordinance.

2. Registration

a. Nonconformities may be reported to the Zoning Officer by the owner, user, lessor, or lessee, and be registered by the Zoning Officer within one (1) year of the effective date of this ordinance. The Zoning Officer, upon proof of a legal nonconformity, may certify the existence of the nonconformity and issue a 'certificate of non-conformance' along with documentation and information relating to the identified nonconformity. The Zoning Officer shall maintain a map and register showing the registration, identity, and location

of nonconformities for which ‘certificates of nonconformance’ have been issued. The Zoning Officer shall also examine such nonconformities periodically to determine that they do not expand beyond the limitations prescribed in this ordinance.

- b. Should a nonconformity not be reported or identified within one (1) year, the owner of the nonconformity shall have the right to show by a preponderance of the evidence to the Zoning Officer that the use or building was nonconforming upon the effective date of this ordinance.
3. Existing Nonconforming Lots of Record
- a. Any nonconforming lot, due to its lot area or dimensions, existing as of the effective date of this ordinance or created by an amendment to this ordinance may be continued although such lot does not conform to the lot requirements for the district in which it is located.
 - b. The following requirements apply to the development and use of a nonconforming lot.
 - (1) All the requirements of this ordinance shall be met with the exception of lot area and lot width.
 - (2) The following requirements shall apply to the development and use of the nonconforming lot:
 - (a) All the requirements of this article shall be met with the exception of lot area and lot width. No lot shall be developed unless the following requirements are met:
 - (i) Each lot shall have an approved on-lot water and wastewater system or access to public water and public sewer. Additionally, for those lots utilizing on-lot water, the minimum required isolation distance between well and on-lot wastewater system shall be provided.
 - (ii) In residential districts, only one single-family dwelling may be erected, and the following minimum side yards shall be provided:
 - (aa) Interior lots with a width of forty (40) feet or more, two (2) side yards shall be provided as required by the district regulations.
 - (bb) Corner lots with a width of fifty-five (55) feet or more, two (2) front yards shall be provided. The front yard opposite the interior side yard may be reduced by the number of feet the lot width is less than the district regulations, but may not be reduced to less than the minimum side yard. The side yard shall be provided as required by the district regulations.
 - (cc) On a lot less than forty (40) feet in width, the required side yards shall be determined by the Zoning Hearing Board, upon application for a variance based on the same criteria as above for residential structures.

(b) On a lot in a commercial or industrial district, the required side yards shall be determined by the Zoning Hearing Board, upon application for a variance based on the same criteria as above for residential structures.

(3) Where two (2) or more adjacent lots of record with less than the required area and/or width are held by one (1) owner on or before the date of enactment of this ordinance, the request for a permit shall be referred to the Zoning Hearing Board which may require replatting to fewer lots which would comply with the minimum requirements of this ordinance.

4. Existing Nonconforming Uses and Buildings

a. Alterations and Reconstruction.

(1) Repairs and structural alterations not constituting extensions, expansions or enlargements may be made to a nonconforming building or to a building occupied by a nonconforming use.

(2) Restoration of Structure or Use

(a) A non-conforming building or other structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar active cause to the extent of more than sixty (60) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulation of the district in which it is located.

(b) When damage is less than sixty (60) percent of its reproduction value, a non-conforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided that:

(i) such repairs or reconstruction are commenced within one (1) year of the date of such damage; and

(ii) the reconstructed building does not exceed in height, area, and volume, the building destroyed.

(c) The determination of the extent of damage in terms of percent replacement value due to damage or destruction shall be made by averaging three (3) estimates made by two (2) certified appraisers appointed by the borough and one (1) insurance adjuster. The cost of such appraisals shall be borne by the property owner of the affected property.

b. Extensions, Expansions, and Enlargements.

(1) Nonconforming uses or buildings occupied or used for residential or non-residential purposes which are nonconforming and otherwise not permitted in the district in which they are located shall be allowed to expand, extend or enlarge. All extensions, expansions and enlargements of lawful nonconforming uses and buildings shall require approval as a special exception in accordance with Section 1001 by the Zoning Hearing Board determining compliance with the following standards:

- (a) Any extension, expansion or enlargement of a nonconforming building or use shall be permitted as long as the maximum building coverage is not exceeded.
- (b) Any expansion or enlargement of a nonconforming building shall not exceed thirty-five (35) percent of the total gross floor area of the nonconforming building from the time it became nonconforming.
- (c) Any extension, expansion, or enlargement shall conform to the height, area, yard and coverage regulations of the district in which it is located.
 - (i) Extension Along a Nonconforming Setback. If an existing building has a lawfully nonconforming building setback, additions may occur to increase the height above such setback or to extend other portions of the building out to the nonconforming side or rear setback line, provided that:
 - (aa) The structure shall not be extended beyond the existing nonconforming setback line.
 - (bb) No additional nonconformity shall be created.
 - (cc) The new nonconforming extension shall not be greater than twenty five (25) percent of the existing floor area.
 - (dd) All other requirements of this article are met.
 - (ee) Such addition shall not be permitted for a non-residential building that abuts an existing primarily residential use.
- (d) All required loading and/or parking spaces for any expansion or enlargement shall comply with all applicable requirements of this ordinance.
- (e) Any extension, expansion or enlargement of a nonconforming building or use shall not be permitted to extend into vacant parcels of land adjacent to the parcel containing the nonconforming building or use, where such vacant parcels have been separately recorded or acquired prior to the effective date of this ordinance.
- (f) Any expansions or extensions of a nonconforming sign shall comply with all provisions of this ordinance.
- (g) The intensity of a nonconforming use (resulting nuisances such as air pollution, noise, glare, vibrations, delivery traffic, hazards, etc) shall not be increased.

5. Change of Use

- a. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- b. Whenever a nonconforming use has been changed to a more restricted classification or to a conforming use, such use shall not hereafter be changed to a use of less restricted classification unless in compliance with the rules for such change as outlined by this article.

- c. A nonconforming use may be changed to another nonconforming use only by the granting of a Special Exception by the Zoning Hearing Board in compliance with this ordinance. Where a Special Exception approval is required, the Zoning Hearing Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the pre-existing nonconforming use with regard to:
 - (1) Traffic safety and generation (especially truck traffic).
 - (2) Noise, dust, fumes, vapors, gases, odors, glare, vibration, fire, hazardous substances and explosive hazards.
 - (3) Amount and character of outdoor storage.
 - (4) Late night and early morning hours of operation if the new use would be close to dwellings.
 - (5) Compatibility with the character of surrounding uses.
6. Abandonment and Discontinuance
- a. A nonconforming use shall be presumed abandoned when operations associated with the nonconforming use have ceased by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within one (1) year from the date the activity stopped and the use is not actively advertised for sale or lease. Such nonconforming use shall not thereafter be reinstated except in conformance with this ordinance. A nonconforming building or land, which is actively marketed, but has not been sold or leased, shall not be considered abandoned. The applicant shall be responsible to provide evidence that the nonconformity was not abandoned.

Article 9

ADMINISTRATION AND ENFORCEMENT

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Article 9

ADMINISTRATION AND ENFORCEMENT

901 Applicability of this Ordinance

1. This ordinance shall apply throughout Dallas Borough. Any activity regulated by this ordinance shall only occur in such a way that conforms to the regulations of this ordinance.

902 Administration

1. The provisions of this ordinance shall be enforced by an agent, to be appointed by the Borough Council of the Borough of Dallas who shall be known as the Zoning Officer. The Zoning Officer may have designated an employee of the Borough of Dallas as his assistant, who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.
2. The duties of the Zoning Officer shall be:
 - a. Administer this ordinance in accordance with its literal terms;
 - b. To receive, examine and process all applications and permits as provided by the terms of this ordinance. The Zoning Officer shall also issue zoning permits for special exception and conditional uses, or for variances after the same have been approved;
 - c. To record and file all applications for zoning permits or certificates of use and compliance, and accompanying plans and documents, and keep them for public record;
 - d. To inspect properties to determine compliance with all provisions of this ordinance as well as conditions attached to the approval of variances, special exceptions, conditional uses and curative amendments;
 - e. Determine the date before which steps for compliance must be commenced and the date before which the steps must be completed. The Zoning Officer shall determine an appropriate duration of time for compliance of the specified activity, not to exceed thirty (30) days. Extensions up to a total of ninety (90) days from the date of receipt of the enforcement notice may be granted at the discretion of the Zoning Officer if applied for in writing;
 - f. Upon the request of the Borough Council of the Borough of Dallas or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests, to assist such bodies in reaching their decisions;
 - g. To be responsible for keeping this ordinance and the Official Zoning Map up-to-date, including any amendments thereto;
 - h. To revoke a permit or approval issued under the provisions of this ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this ordinance, or otherwise permitted by law;

- i. To review proposed subdivisions and land developments for compliance with this ordinance; and
- j. To take enforcement actions as provided by the Pennsylvania Municipalities Planning Code (MPC) as amended.

903 Permits & Certificates

1. A Zoning Permit indicates that a zoning application complies with this ordinance to the best knowledge of the Zoning Officer or his/her designee. No zoning permit or certificate of Use and Compliance shall be granted by him/her for any purpose except in compliance with the literal provisions of this ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment.
 - a. A Zoning Permit is required to be issued prior to the start of any of the following activities:
 - (1) Erection, construction, movement, placement, razing, demolition, removal, alteration or expansion (vertical or horizontal) of a structure, building or sign;
 - (2) Change of the type of use or expansion of the use of a structure or area of land;
 - (3) Creation of a new use;
 - (4) Demolition of a building;
 - (5) Other activities required to have a permit by this ordinance;
 - (6) The alteration or development of any improvement or unimproved real estate, including, but not limited to, mining, dredging, filling, grading, paving, excavation or drilling operations for underground utilities provided the final grade is not altered;
 - (7) The erection or alteration of any signs specified in Part 8 of this ordinance; or
 - (8) The construction or installation of lakes, ponds, dams, or other water retention basins.
 - (9) No zoning permit shall be required for repairs or routine maintenance of any structure or land provided such repairs or maintenance do not change the use or the exterior dimensions of the structure, or otherwise violate the provisions of this ordinance.
 - b. The Borough of Dallas may, at its option, issue combined or separate Building Permits and/or may utilize a single or separate application for the permits.
 - c. The only determination by the Zoning Officer that shall be official shall be a written determination after the Zoning Officer receives a duly submitted written official application.
 - d. Such zoning permits shall be granted or refused within ninety (90) days from date of application.

- e. No zoning permit shall be issued except in conformity with:
 - (1) All applicable regulations of this ordinance;
 - (2) Any conditions imposed upon the site by the Zoning Hearing Board or the Borough Council of the Borough of Dallas; and
 - (3) Any recorded subdivision or Land Development plan.
- f. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all of the above-described requirements, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the zoning permit will be denied.
- g. Application for a zoning permit shall be made by the owner or lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization of the owner or the qualified person making the application, that the proposed work is authorized by this owner. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
- h. The Zoning Officer may call upon other Borough of Dallas staff and/or Borough of Dallas appointed consultants in the review of submitted materials for applications.
- i. The Zoning Officer may revoke a permit or approval issued under the provisions of this ordinance in case of any false statement or misrepresentation of fact in the application or on the plans which the permit or approval was based or for any other cause set forth in this ordinance.
- j. Where a zoning permit is required by this ordinance, but the work is commenced or changed prior to obtaining such permit, and after notice by the Borough of Dallas, the fees set by ordinance or resolution of the Borough Council of the Borough of Dallas for such permit shall be doubled. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Borough of Dallas resulting from the need to inspect the property, respond to any complaints, issue any enforcement notices and/or process the application as soon as it is received. The payment of such increased permit fee shall not relieve any person from complying with all requirements of this ordinance or any other applicable Borough of Dallas ordinances or from any penalties or enforcement actions authorized by this ordinance.
- k. Issuance of Permits. Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons therefore. He shall inform the applicant of his right of appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of this ordinance and all laws and ordinances applicable thereto, and that the Certificate of Use and Compliance as required herein has been applied for, he shall issue a permit therefore as soon as practical but not later than ninety (90) days from receipt of the application.

- l. **Reconsideration of Application.** An applicant whose request for a permit has been denied by the Zoning Officer may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. Additional fees may apply as set by the Borough Council of the Borough of Dallas.
- m. **Expiration of Zoning Permit.** The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended one time for one (1) additional year, upon written request by the applicant at least 30 days prior to the permit expiration date, and upon subsequent approval by the Zoning Officer, on a form provided by the Borough of Dallas.
- n. **Compliance with this Ordinance.** The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions this ordinance, except as stipulated by the Zoning Hearing Board.
- o. **Compliance with Permit and Plot Plan.** All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan.
- p. **Display of Zoning Permit.** All approved zoning permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be continuous until the site receives its Certificate of Use and Compliance.
- q. **Inspections.** Inspections of the property in question by the Zoning Officer or other duly appointed official may be required at various intervals during the construction process. By submitting an application for a zoning permit, the landowner authorizes the Borough of Dallas to perform such inspections as required.

904 Certificate of Use and Compliance

1. It shall be unlawful to use and/or occupy any structure, sign, land area or portion thereof for which a zoning permit is required until a Certificate of Use and Compliance for such activity has been issued by the Zoning Officer.
2. The Borough of Dallas staff may permit the zoning permit application to serve as the application for the Certificate of Use and Compliance.
3. The Certificate of Use and Compliance shall only be issued by the Zoning Officer if the Zoning Officer determines that the activity complies with this ordinance, to the best knowledge of the Zoning Officer.
4. The applicant shall keep a copy of the Certificate of Use and Compliance available for inspection.
5. Upon request of the applicant, the Zoning Officer may issue a temporary Certificate of Use and Compliance. Such temporary certificate may permit as activity to occur in all or part of a structure before the entire work covered by the zoning permit has been completed.

- a. However, such temporary certificate shall only be issued if the applicant proves to the Zoning Officer that the activity or occupancy can occur safely without endangering public health or safety.
 - b. The temporary certificate shall establish in writing a maximum time period under which it is valid. A six (6) month maximum time period shall apply if not otherwise specified.
 - c. Failure to receive a permanent Certificate of Use and Compliance within such time period shall be a violation of this ordinance.
 - d. The temporary certificate may be conditioned upon compliance with certain specific requirements within certain time periods.
6. The Zoning Officer shall inspect any structure, building, or sign within ten (10) days upon notification that the proposed work that was listed under a zoning permit has been completed and if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, he shall issue a Certificate of Use and Compliance for the intended use listed in the original application. Where a building permit is required under the Borough Building Code, a Certificate of Use and Compliance shall not be issued until a final inspection by the Building Code Official is complete and found to be satisfactory.

905 Zoning Permit for Temporary Uses and Structures

1. A Zoning Permit for a temporary use or structure may be issued by the Zoning Officer for any of the following:
 - a. Customary, routine and accessory short-term special events, provided that only a well-established nonprofit organization or a permitted place of worship proposing a temporary use demonstrates clearly that the proposed use will primarily serve a charitable, public service or religious purpose in order to be eligible to receive approval for commercial-type activities in a zoning district where a commercial use would not otherwise be permitted;
 - b. Temporary storage and office trailers that are necessary to serve on-site construction while such construction is actively underway;
 - c. Such other activities that the applicant proves are routine, customary and temporary.
2. Time Period. The Zoning Officer shall state a reasonable maximum time period on the temporary permit. If no time limit is stated, then a six (6) month maximum period shall apply. A temporary permit may be renewed for just cause.

906 Types of Uses

1. Permitted By Right Uses. The Zoning Officer shall issue a zoning permit under this ordinance in response to an application for a use that is "permitted by right" if it meets all of the requirements of this ordinance.
2. Special Exception Use. A zoning permit under this ordinance for a use requiring a special exception shall be issued by the Zoning Officer only in response to a written approval by the

- Zoning Hearing Board, following a hearing, and compliance with any conditions by the Zoning Hearing Board and any conditions required by this ordinance.
3. Conditional Use. A zoning permit under this ordinance for a use requiring a conditional use shall be issued by the Zoning Officer only in response to a written approval by the Borough Council of the Borough of Dallas, following a hearing, and compliance with any conditions by the Borough Council of the Borough of Dallas and any conditions required by this ordinance.
 4. Application Requiring a Variance. A permit under this ordinance for a use requiring a variance shall be issued by the Zoning Officer only in response to a written approval by the Zoning Hearing Board, following a hearing, and compliance with any conditions by the Zoning Hearing Board.

907 Applications for Zoning Permits

1. Submittal. All applications for a Zoning Permit shall be made in writing on a form provided by the Borough of Dallas. Such completed application, with required fees, shall be submitted to a designated Borough of Dallas employee.
2. Site Plan. The applicant shall submit a minimum of two (2) copies of a site plan with the application. The site plan shall be drawn to scale and show the following:
 - a. Locations, dimensions and uses of existing and proposed structures, parking and loading areas, and location of existing and proposed uses of areas of land, with existing features clearly distinguished from proposed features;
 - b. Notes showing the dimensions of all buildings from lot lines and street rights-of-way;
 - c. Location of any watercourses and any one hundred (100) year floodplain;
 - d. Proposed lot areas, lot widths and other applicable dimensional requirements; and
 - e. Locations and widths of existing and proposed sidewalks.
3. Additional Information. Any application under this ordinance shall include the following information, unless the Zoning Officer determines such information is unnecessary to determine compliance with this ordinance.
 - a. Address of the lot;
 - b. Name and address of the applicant, and of the owner of the property if different from the applicant;
 - c. Description of the proposed use of the property;
 - d. All other applicable information listed on the official Borough of Dallas application form; and
 - e. Such additional information that the Zoning Officer may determine is reasonably necessary to determine compliance with this ordinance.

4. Application for Zoning Permits for Non-Residential Uses and Uses in any commercial or industrial zoning district shall include the following:
 - a. A location plan showing the tract to be developed, zoning district boundaries, adjoining tracts, significant natural features (such as wetlands, stands of trees, streams, etc.) and streets for a distance of two hundred (200) feet from all tract boundaries;
 - b. A plot plan certified by a professional surveyor or engineer of the lot showing the location of all existing and proposed buildings, driveways, parking lots showing access drives, circulation patterns, curb cut accesses, parking stalls, access from streets, screening fences and walls, waste disposal or other methods of sewage disposal, other construction features on the lot, and the location of all topographical features;
 - c. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation;
 - d. Evidence that the disposal of materials and wastes will be accomplished in a manner that complies with state and federal regulations. If not provided by any applicable borough contracted solid waste disposal provider, such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate within Luzerne County which have been contracted to dispose of the materials used and wastes generated on-site. The zoning permit shall remain valid only so long as such contracts remain in effect and all materials and wastes are properly disposed of on a regular basis. Should the nature of the use change in the future such that the materials used or wastes generated change significantly, either in type or amount, the owner shall so inform the Zoning Officer, and shall provide additional evidence demonstrating continued compliance with the requirements of this section;
 - e. Plans and/or other information indicating the methods of handling traffic, noise, glare, air pollution, water pollution, vibration, fire hazards, or safety hazards, smoke, or emission of any potentially harmful or obnoxious matter or radiation, as applicable;
 - f. Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained;
 - g. The proposed number of shifts to be worked and the maximum number of employees on each shift;
 - h. Where use by more than one firm is anticipated, a list of firms which are likely to be located in the center, their floor area, and estimated number of employees; and
 - i. Submission, approval and recordation of a subdivision and/or land development plan in accordance with the Luzerne County Subdivision and Land Development ordinance as required.
 - j. In addition to the information, required in this Section 907 above, permit applications in the Traditional Downtown Area District shall also contain data and information required in Section 507.2.g of this ordinance.

5. Areas Subject to Flooding. If the proposed development, excavation or construction is located within an area subject to regulation by the borough floodplain regulations, and if otherwise not provided for under those regulations or Borough Building Code, the following information is specifically required to accompany all applications, as prepared by a licensed professional:
 - a. The accurate location and elevation of the floodplain and floodway;
 - b. The elevation, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), of the lowest floor, including basements;
 - c. The elevation, in relation to the NGVD, to which all structures and utilities will be flood-proofed or elevated; and
 - d. Where floodproofing is proposed to be utilized for a particular structure, the zoning permit application shall be accompanied by a document certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania, or a licensed professional architect registered by the Commonwealth of Pennsylvania certifying that the floodproofing methods used meet all applicable codes and ordinances.
6. Borough of Dallas Building Code. Where the proposed use is regulated under the Borough of Dallas Building Code, the applicant shall submit an application of building permit concurrently with the zoning permit. A zoning permit will not be issued until satisfactorily meeting the requirements of the Borough of Dallas Building Code.
7. Submittals for Special Exception or Conditional Uses. In addition to the information listed above, an application for a special exception or conditional use requiring a site plan and action by the Zoning Hearing Board or Borough Council of the Borough of Dallas shall also include the information required in Article 10 of this ordinance, unless the Zoning Officer determines that such information is not necessary to determine compliance with this ordinance.

908 Issuance of Permits

1. At least one (1) copy of each zoning permit application and any other zoning approvals shall be retained in the Borough of Dallas files.
2. PennDOT Permit. Where necessary for access onto a state road, a Borough of Dallas zoning or building permit shall be automatically conditioned upon issuance of a PennDOT Highway Occupancy Permit.

909 Revocation of Permits; Appeal of Permit or Approval

1. Revocation. The Zoning Officer shall revoke, withhold or suspend a permit or approval issued under the provisions of this ordinance in the case of one or more of the following:
 - a. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. (Note: The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties);

- b. Upon violation of any condition lawfully imposed by the Zoning Hearing Board for a special exception use or a variance;
 - c. Upon violation of any condition lawfully imposed by the Borough Council of the Borough of Dallas for a conditional use;
 - d. Any work being accomplished or use of land or structures in such a way that does not comply with this ordinance or an approved site plan or approved permit application;
 - e. Any other just cause set forth in this ordinance.
2. Appeals. A party with legitimate standing, or as otherwise provided by state law, may appeal decisions made under this ordinance within the provisions of the MPC. Such appeal shall occur within the time period established by the MPC.

910 Compliance with the Luzerne County Subdivision and Land Development Ordinance

1. If an application under this ordinance would also be regulated by the Luzerne County Subdivision and Land Development Ordinance, then any permit or approval under this ordinance shall automatically be conditioned upon compliance with the Luzerne County Subdivision and Land Development Ordinance.
 - a. For example, if an applicant applies for a permit for a single-family detached dwelling on a proposed new lot, the building permit for such dwelling shall not be valid until after the lot is granted final subdivision and land development approval and the lot is officially recorded by the Luzerne County Recorder of Deeds.

911 General Procedure for Permits

1. After receiving a proper application, the Zoning Officer shall either (1) issue the applicable permit(s); or (2) deny the application(s) as submitted, indicating one or more reasons in writing to the applicant.
2. After the permit under this ordinance has been issued, the applicant may undertake the action specified in the permit, in compliance with other Borough of Dallas codes and ordinances. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this thirty (30) day appeal period shall be at the risk of the applicant.

912 Interpretation

1. Minimum Requirements. Where more than one provision of this ordinance controls a particular matter, the provision that is more restrictive upon uses and structures shall apply. The provisions of this ordinance are in addition to any other applicable Borough of Dallas code or ordinance.
2. Interpretation of Ordinance Text and Boundaries
 - a. The Zoning Officer shall literally apply the wording of this ordinance and the location of all Zoning District boundaries to applications. In any case, the Zoning Officer may also

request an advisory opinion from the Borough of Dallas Planning Commission, Borough of Dallas Solicitor, or the Zoning Hearing Board Solicitor to aid in the Zoning Officer's determination.

- b. If an applicant disagrees with the Zoning Officer's determination and believes that the ordinance should be interpreted in the applicant's favor, the applicant may appeal to the Zoning Hearing Board.

913 Enforcement, Violations and Penalties

All of the enforcement, violations and penalty provisions of the MPC, as amended, are hereby incorporated into this ordinance by reference.

1. Violations. Any person who shall commit or who shall permit any of the following actions violates this ordinance:

- a. Failure to secure a zoning permit prior to a change in use of land or structure, or the erection, construction or alteration of any structure or portion thereof, or the excavation of land to prepare for the erection, construction or alteration of any structure or portion thereof;
- b. Placement of false statements on or omitting relevant information from an application for a zoning permit;
- c. Undertaking any action in a manner which does not comply with an approved zoning permit;
- d. Violation of any conditions imposed by a decision of the Zoning Hearing Board in granting a variance, special exception or other approval;
- e. Violation of any condition imposed by a decision of the Borough Council of the Borough of Dallas in granting a conditional use.

2. Causes of Action: Enforcement; Remedies

- a. Enforcement. If it appears to the Borough of Dallas that a violation of this ordinance has occurred, the Borough of Dallas shall initiate enforcement proceedings by sending an enforcement notice. Prior to sending an official enforcement notice, the Zoning Officer may at his/her option informally request compliance.
- b. Enforcement Notice. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. An enforcement notice shall state the following, at minimum:
 - (1) The name of the owner of record and any other person against whom the borough intends to take action;
 - (2) The location of the property in violation;

- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this ordinance;
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed;
 - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this ordinance; and
 - (6) 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.
- c. Evidence & Fees. In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough of Dallas shall have the responsibility of presenting its evidence first. Any filing fees paid by a party to an appeal to an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough of Dallas if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
- d. Cause of Action. If the enforcement notice is not complied with, within the specified time period, the Zoning Officer shall notify the Borough Council of the Borough of Dallas. With the consent of the Borough Council of the Borough of Dallas, the Borough of Dallas Solicitor or other officer of the Borough of Dallas may institute any appropriate action or proceeding 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.
- e. Violations and Penalties. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Borough of Dallas, pay a judgment of not more than five hundred (500) dollars plus all court costs, including the reasonable attorney's fees incurred by the Borough of Dallas as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Borough of Dallas may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless a District Justice determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this ordinance shall be paid over to the Borough of Dallas. Imprisonment shall not be authorized by this ordinance.

914 Fees

1. Determination. The Borough Council may, by resolution, establish fees for the administration of this ordinance. All fees shall be determined by a schedule that is made available to the

general public. The Borough Council may reevaluate the fees schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this ordinance and may be adopted at any public meeting of the Borough Council.

915 Amendments

1. Power of Amendment. The Borough Council may from time to time, amend, supplement, change or repeal this ordinance including the Official Zoning Map. Any amendment, supplement, change or repeal may be initiated by the Borough Planning Commission, the Borough Council or by a petition to the Borough Council by an interested party.
2. Hearing and Enactment Procedures for Zoning Amendments:
 - a. Public Hearing. Before hearing and enacting zoning ordinance and/or zoning map amendments, the Borough Council shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comment. Such public hearing shall be conducted after public notice (as defined herein and listed below) has been given.
 - b. Public Notice. Before conducting a public hearing, the Borough Council shall provide public notice as follows:
 - (1) Notice shall be published once each week for two successive weeks in a newspaper of general circulation in Dallas Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven (7) days from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail.
 - (2a) For Zoning Map amendments, public notice shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property; these sign(s) shall be posted at least one (1) week prior to the hearing and will exhibit the nature, date, time, municipality and location of the hearing.
 - (2b) In addition to the requirement, that notice be posted on the subject property, where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the borough at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the borough. The notice shall include the location, date and time of the public hearing. The provisions of this section shall not apply when the rezoning constitutes a comprehensive rezoning.
 - (3) For curative amendments, public notice shall also indicate that the validity of the ordinance and/or map is in question, and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.

4. Amendment Initiated by the Borough Council. When an amendment, supplement, change or repeal is initiated by the Borough Council, such amendment, supplement, change or repeal shall follow the procedure prescribed for a petition under Section 315 above.
5. Amendment Initiated by a Petition from an Interested Party. A petition for amendment, supplement, change or repeal for a portion of this ordinance shall include an accurate legal description and surveyed plan of any land to be rezoned, and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting the truth and correctness of all the facts and information presented in the petition. A fee to be established by Borough Council shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Borough Council may require duplicate sets of petition materials.
6. Curative Amendment by a Landowner. A landowner, who desires to challenge on substantive grounds the validity of this ordinance or the Official Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council, including all of the reasons supporting the request to be considered, with a written request that his challenge and proposed amendment be heard and decided as provided in the MPC, as amended. The Borough Council shall commence a hearing thereon within sixty (60) days of the request. The curative amendment shall be referred to the County Planning Commission as provided for in Section 315 and public notice of the hearing shall be provided as defined herein.
 - a. In reviewing the curative amendment, the Borough Council may deny the request, accept the request as submitted, or may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider the curative amendments, plans, and explanatory material submitted by the landowner and shall also consider:
 - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
 - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features;
 - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environment impacts; and,
 - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

- b. The Borough Council shall render its decision within forty-five (45) days after the conclusion of the last hearing;
- c. If the Borough Council fails to act on the landowner's request within the time limits referred to above, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing;
- d. Public notice of the hearing shall include notice that the validity of the ordinance or Zoning Map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public;
- e. The challenge shall be deemed denied when:
 - (1) The Borough Council fails to commence the hearing within sixty (60) days;
 - (2) The Borough Council notified the landowner that it will not adopt the curative amendment;
 - (3) The Borough Council adopts another curative amendment which is unacceptable to the landowner; or
 - (4) The Borough Council fails to act on the request forty-five (45) days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and the borough.
- f. Where curative amendment proposal is approved by the grant of a curative amendment application by the Borough Council pursuant to this section or a validity challenge is sustained by the Zoning Hearing Board or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two (2) years from the date of such approval for a subdivision, land development or planned residential development. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of the MPC shall apply; and,
- g. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development ordinance, the developer shall have one (1) year within which to file for a zoning permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purposes of awarding such supplemental relief as may be necessary.

7. Curative Amendment by the Borough Council

- a. The Borough Council, by formal action, may declare this ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration proposal, the Borough Council shall:
 - (1) By resolution, make specific findings setting forth the declared invalidity of the ordinance or portions thereof which may include;
 - (a) references to specific uses which are either not permitted or not permitted in sufficient quantity;
 - (b) references to a class of use or uses which require revision; or
 - (c) references to the entire ordinance which requires revision.
 - (2) Begin to prepare and consider a curative amendment to the ordinance to correct the declared invalidity.
 - b. Within one hundred eighty (180) days from the date of the declaration and proposal, the Borough Council shall enact a curative amendment to validate or reaffirm the validity of this ordinance pursuant to the provisions required by the MPC in order to cure the declared invalidity of the ordinance;
 - c. Upon the date of the declaration and proposal, the Borough Council shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the Zoning Hearing Board be required to give a report, upon request, for a challenge to the validity of the ordinance subsequent to the declaration and proposal, based upon the grounds identical to or substantially similar to those specified in the resolution required by this section. Upon the enactment of a curative amendment to, or the reaffirmation of the validity of this ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended zoning ordinance for which the Borough Council propose to prepare a curative amendment; and,
 - d. The Borough Council, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the ordinance; provided however, that if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the borough by virtue of a decision by any court of competent jurisdiction, the Borough Council may utilize the provisions of this section to prepare a curative amendment to the ordinance to fulfill this duty or obligation.
8. Authentication of Official Zoning Map. Whenever there has been a change in the boundary of a zoning district or a reclassification of the zoning district adopted in accordance with the above, the change on the Official Zoning Map shall be made, and shall be duly certified by the Borough Secretary and shall thereafter be refilled as part of the permanent records of the borough.

Adopted December 16, 2009

Article 10

**ZONING HEARING BOARD, BOROUGH COUNCIL, HEARINGS, AND OTHER
ADMINSTRATIVE PROCEEDINGS**

- 1001** Zoning Hearing Board
- 1002** Conditional Uses

Article 10

ZONING HEARING BOARD, BOROUGH COUNCIL, HEARINGS AND OTHER
ADMINISTRATIVE PROCEEDINGS

1001 Zoning Hearing Board

1. Establishment and Membership

- a. There shall be a Zoning Hearing Board which shall consist of three (3) members who shall be appointed by resolution by the Borough Council. The membership of the Zoning Hearing Board shall consist of residents of Dallas Borough. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other elected or appointed office in the borough nor shall any member be an employee of the borough.
- b. The Borough Council may appoint by resolution at least one (1) but no more than three (3) residents of the Dallas Borough to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of this section, an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same and full extent as provided by law for Zoning Hearing Board member, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this ordinance and as otherwise provided by law. Alternates shall hold no other office in the Borough of Dallas, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated, unless designated as a voting alternate member pursuant to this article.
- c. Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority 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 member shall request it in writing.

2. Organization of Zoning Hearing Board

- a. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing any the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board, but the Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Hearing Board as provided in Section 1001.4.
- b. If, by reason of absence or disqualification of a member a quorum is not reached, the Chairman of the Zoning Hearing Board shall designate as many alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a

quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

- c. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Borough of Dallas and laws of the commonwealth. The Zoning Hearing Board shall keep full public records of its business which records shall be the property of the Borough of Dallas, and shall submit a report of its activities to the Borough Council upon request.

3. Expenditures for Services

Within the limits of funds appropriated by the Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Member of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council. Alternate members of the Zoning Hearing Board may receive compensation, as may be fixed by the Borough Council, for the performance of their duties when designated as alternate members pursuant to Section 1001.1, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the Borough Council.

4. Hearings

- a. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:
 - (1) Public notice (as defined herein) shall be provided. In addition, the Zoning Hearing Board shall notify in writing by mail the applicant, Zoning Officer, and other such persons whether owners or tenants of property located within two hundred (200) feet of the subject property for which the application was submitted, and every other person or organization who shall have registered with the Zoning Hearing Board for the purposes of receiving such notices. Such mailed notices shall state the location of the site and the nature of the request. It shall also state the time, date, and location of the proposed hearing. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing;
 - (2) The Borough Council may prescribe reasonable fees with respect to hearing before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs;
 - (3) The first hearing before the Zoning Hearing Board or hearing officer shall be commenced with sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Zoning Hearing Board or hearing officer shall be held

within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of its case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or hearing officer shall assure that the applicant receives at least seven (7) hours of hearing within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete its case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

- b. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where not decision is called for, the findings shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the borough, may prior to the decision of the hearing, waive decisions or findings by the Zoning Hearing Board and accept the decisions or findings of the hearing officer as final.
- c. The parties to the hearing shall be the borough, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Zoning Hearing Board for that purpose.
- d. The Chairman or Acting Chairman of the Zoning Hearing Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- e. The parties shall have the right to be represented by council and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- f. Formal rules of evidence shall not apply, but irrelevant, immaterial, and unduly repetitious evidence may be excluded.
- g. The Zoning Hearing Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer; or shall be paid by the person appealing the decision of the Zoning Hearing Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- h. The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of

any communication, reports, staff memoranda, or other materials, except advice from their legal counsel, unless the parties are afforded an opportunity to contest the materials so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

- i. The Zoning Hearing 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 last hearing before the Zoning Hearing Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by the findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in 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 Zoning hearing Board shall make his report and recommendations available to the parties within forty-five (45) days and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of finds, and the Zoning hearing Board's decision shall be entered no later than thirty (30) days after the report of the hearing officer. Except for challenges filed under Article IX of the Pennsylvania Municipalities Planning Code (MPC), where the Zoning Hearing Board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in Section 1001.4 of this ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision with ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section 1001.4 of this ordinance. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal.
- j. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the next business day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined; and,
- k. Effect of Zoning Hearing Board's Decision
 - (1) If the variance or special exception is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the variance or special exception is finally granted, or the issuance of a permit is finally approved, or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Zoning Hearing Board may, at any time, upon application in writing, extend either of these deadlines;

- (2) Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit, should he fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Zoning Hearing Board;
- (3) Should the appellant or applicant commence construction or alteration within said two (2) year period, but should he fail to complete such construction or alteration within said three (3) year period, the Zoning Hearing Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Zoning Hearing Board finds that no good cause appears for the failure to complete within such three (3) year period, and if the Zoning Hearing Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified; and,
- (4) As an alternative to the proceeding, an applicant can request, as part of the original application before the Zoning Hearing Board, the granting of a timetable associated with the request which would supersede the deadlines imposed. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Zoning Hearing Board must establish and bind a definite time frame for (1) issuance of a zoning permit, and (2) completion of construction of the project.

5. Zoning Hearing Board's Functions

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decisions in the following matters:

- a. Substantive Challenges to the Validity of the Zoning Ordinance, except those brought before the Borough Council pursuant to Section 916.1(a) (2) of the MPC;
 - (1) If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
 - (a) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (b) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or zoning map;

- (c) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features;
 - (d) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and nature features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and,
 - (e) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- (2) Public notice of the hearing shall be provided as specified in Section 1001.4 of this ordinance;
 - (3) The Zoning Hearing Board shall commence its hearings within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time; and,
 - (4) The Zoning Hearing Board shall render its decision with forty-five (45) days after the conclusion of the last hearing. If the Board fails to act on the landowner's request within this time limit a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
- b. Challenges to the Validity of the Zoning Ordinance, raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of the ordinance;
 - c. Special Exceptions as provided for in this ordinance and subject to all applicable requirements, including, but not limited to:
 - (1) Filing Requirements. In addition to the required zoning permit information, each special exception application shall include the following:
 - (a) Ground floor plans and elevations or proposed structures;
 - (b) Names and addresses of adjoining property owners including properties directly across a public right-of-way;
 - (c) A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this ordinance; and,
 - (d) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this ordinance.
 - (2) General Criteria. Each applicant must demonstrate compliance with the following:
 - (a) The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;

- (b) The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
 - (c) The proposed use will not substantially change the character of the subject property's neighborhood;
 - (d) Adequate public facilities are available to serve the proposed use (e.g. schools, fire, police and ambulance protection, sewer, water and other utilities vehicular access, etc.);
 - (e) The proposed use complies with the borough's floodplain regulations;
 - (f) The proposed use shall comply with those criteria specifically listed in Article 6 of this ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this ordinance; and,
 - (g) The proposed use will not substantially impair the integrity of the Back Mountain Area Council of Governments Comprehensive Plan and where applicable, the Dallas Borough Downtown Master Plan.
- (3) Conditions. The Zoning Hearing Board in approving special exception applications may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zoning district. The conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this ordinance; and,
- (4) Site Plan Approval. Any site plan presented in support of the special exception pursuant to Section 1001.5.c (1) (c) shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another special exception approval.
- d. Variances. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this ordinance inflict unnecessary hardship upon the applicant. The Zoning Hearing Board may, by rule, prescribe the form of application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this ordinance in the neighborhood or zoning district in which the property is located;
 - (2) That because of such physical circumstances or conditions, there is not a possibility that the property can be developed in strict conformity with the provisions of this

ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property;

- (3) That such unnecessary hardship has not been created by the appellant;
 - (4) That the variance, if authorized, will not alter the essential character of the zoning district or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;
 - (6) The proposed use complied with the borough's floodplain regulations;
 - (7) In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this ordinance. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this ordinance;
 - (8) Filing Requirements. In addition to the required zoning permit each variance application shall include the following:
 - (a) Ground floor plans and elevations of existing and/or proposed structures;
 - (b) Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
 - (c) A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this ordinance; and,
 - (d) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this ordinance.
 - (9) Conditions. The Zoning Hearing Board in approving variance applications may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zoning district. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions will constitute a violation of this ordinance; and
 - (10) Site Plan Approval. Any site plan presented in support of a variance shall become an official part of the record for said variance. Approval of any variance will also bind the use in accordance with the submitted site plan.
- e. 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 therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot;

- f. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance;
 - g. Appeals from the Zoning Officer's determination under Section 916.2 (and any subsequent amendments) of the MPC; and
 - h. Appeals from the determination of the Zoning Officer or Borough Engineer in the administration of any land use ordinance with reference or sedimentation and erosion control, and/or stormwater management for applications not involving a subdivision/land development, or a planned residential development as regulated in Article V and VII of the MPC.
6. Parties Appellant before the Zoning Hearing Board

Appeals under Sections 1001.5.e – g and proceedings to challenge this ordinance under Section 1001.5 may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough of Dallas, or any person aggrieved. Requests for a variance or a special exception may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner. Any appeal shall state:

- a. The name and address of the appellant and applicant;
 - b. The name and address of the landowner of the real estate to be affected;
 - c. A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request;
 - d. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof; and,
 - e. A statement of the section of this ordinance under which the request may be allowed, and reasons why it should, or should not be granted.
7. Time Limitations

No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Zoning Officer or the agency responsible for granting such approval if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice or knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer a challenge to the validity of this ordinance or the Official Zoning Map pursuant to Section 916.2 of the MPC, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative preliminary approval.

8. Stay of Proceeding

- a. Upon filing of any proceeding referred to in Section 1001.F above and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Office or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by person other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such person to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellate but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- b. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellant court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

9. Appeal

Any person, taxpayer, or the borough aggrieved by any decision of the Zoning Hearing Board may within thirty (30) days after such decision of the Zoning Hearing Board seek review by the Court of Common Pleas of such decision in the manner provided by the laws of the Commonwealth of Pennsylvania and the MPC as amended.

1002 Conditional Uses

1. Conditional uses as provided for in this ordinance and subject to all applicable requirements, including, but not limited to:
 - a. Filing Requirements. In addition to the required zoning permit information, each conditional use application shall include the following:
 - (1) Ground floor plans and elevations or proposed structures;

- (2) Names and addresses of adjoining property owners, including properties directly across a public right-of-way;
 - (3) A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this ordinance; and,
 - (4) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this ordinance.
- b. General Criteria. Each applicant must demonstrate compliance with the following:
- (1) The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
 - (2) The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
 - (3) The proposed use will not substantially change the character of the subject property's neighborhood;
 - (4) Adequate public facilities are available to serve the proposed use (e.g. schools, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);
 - (5) The proposed use complies with the borough's floodplain regulations;
 - (6) The proposed use shall comply with those criteria specifically listed in Article 7 of this ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this ordinance; and,
 - (7) The proposed use will not substantially impair the integrity of the Back Mountain Area Council of Governments Comprehensive Plan and where applicable, the Dallas Borough Downtown Master Plans.
2. Conditions. The Borough Council in approving conditional use applications may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zoning district. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this ordinance.
3. Site Plan Approval. Any site plan presented in support of the conditional use shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a zoning permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan shall require the obtainment of another conditional use approval.

4. Hearing Procedures:

- a. Before voting on the approval of a conditional use, the Borough Council shall hold a public hearing thereon, pursuant to public notice. The Borough Council shall submit each such application to the Borough Planning Commission at least thirty (30) days prior to the hearing held upon an application to provide the Borough Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application.
- b. Public notice as defined herein shall be provided. In addition, the Borough Council shall notify in writing by mail the applicant, Zoning Officer, and every other person or organization who shall have registered with the borough for the purposes of receiving such notices, and other persons as the Borough Council shall designate by ordinance, and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provisions, by rules of the Borough Council of the Borough of Dallas. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- c. The Borough Council may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural, or other technical consultants, or expert witness costs.
- d. The parties to the hearing shall be the borough, any person affected by the application who has made timely appearance of record before the Borough Council, and any other person, including civic or community organizations permitted to appear by the Borough Council. The Borough Council shall have power to require that all persons who wish to be considered parties enter appearance in writing on forms provided by the Borough Council for that purpose.
- e. The Chairman or Acting Chairman of the Borough Council shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and paper, including witnesses and documents requested by the parties.
- f. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- g. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- h. The Borough Council may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Borough Council. The cost of the original transcript shall be paid by the Borough Council if the transcript is ordered by the Borough Council; or shall be paid by the person appealing the decision of the Borough Council if such appeal is made, and in either event,

the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

- i. The Borough Council shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their legal counsel, unless parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- j. The hearing shall be conducted by the Borough Council or the Borough Council may appoint any member or an independent attorney as a hearing officer. The decision or, where there is no decision, the findings shall be made by the Borough Council. However, the appellant or the applicant, as the case may be, in addition to the borough, may, prior to the decision of the hearing, waive decision or findings by the Borough Council and accept the decision or findings of the hearing officer as final.
- k. The Borough Council shall render a written decision or, when no decision is called for, make written finds on the conditional use application within forty-five (45) days after the last hearing before the Borough Council. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based on any provisions of this ordinance or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- l. Where the Borough Council fails to render the decision within the period required by this article or fails to commence, conduct or complete the required hearing as provided in Section 1002.5 of this ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record of an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Borough Council to meet or render a decision as hereinabove provided, the Borough Council shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this article. If the Borough Council shall fail to provide such notice, the applicant may do so.

5. Time Limitation

- a. If a conditional use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the conditional use is finally granted, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Borough Council may at any time, upon application in writing, extend either of these deadlines.
- b. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit should he fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the Borough Council.

- c. Should the appellant commence construction or alteration within said two (2) year period, but should he fail to complete such construction or alteration within said three (3) year period, the Borough Council may, upon ten (10) days notice in writing, rescind or revoke the granted conditional use, if the Borough Council finds that no good cause appears for the failure to complete within such three (3) year period, and if the Borough Council further finds that conditions have altered or changed in the interval since the granting of the conditional use that revocation or rescission of the action is justified.
- d. As an alternative to the preceding, an applicant can request, as part of the original application before the Borough Council the granting of a timetable associated with the request which would supersede the deadlines imposed in this article. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Borough Council must establish and bind a definite time frame for (1) issuance of a zoning permit, and (2) completion of construction of the project.

Adopted December 16, 2009

Article 11

APPEALS TO COURT

- 1101** Land Use Appeals
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Article 11

APPEALS TO COURT

1101 Land Use Appeals

The procedures set forth in this article shall constitute the exclusive mode for securing review of any decision rendered pursuant to Article 10 or deemed to have been made under this ordinance.

1102 Jurisdiction and Venue on Appeal: Time for Appeal

All appeals from all land use decisions rendered Pursuant lo Article 10 shall be taken to the Court of Common Pleas of the Judicial District wherein the land is located and shall be filed within thirty (30) days after entry of the decision as provided by 42 Pa. C. S. Section 5572 (relating to the time of entry of order) or, in the case or a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given as set forth in Subsection 1002.11 of this ordinance.

1103 Appeals to Court Commencement: Stay of Proceedings

1. Land Use Appeal Notice: Land use appeals shall be entered as of course by the prothonotary or clerk upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.
2. Writ of Certiorari: Upon filing of a land use appeal, the prothonotary or clerk shall forthwith, as of course, send to the Borough Council, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said Borough Council, board or agency, within twenty (20) days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the Borough Council, board or agency at the time it received the writ of certiorari. The appellant shall be required to pay for the cost of preparing the original transcript and copy as allowed by PA ACT 247, as amended.
3. Appellant Other than Landowner: If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven (7) days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the borough and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.
4. Stay of Proceedings
 - a. Petition for Stay by Appellants: The filing of an appeal in court under this section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay.
 - b. Landowner's Petition for Appellant to Post Bond: If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is

sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal.

- c. Hearing to Determine if Filing of Appeal is Frivolous: After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- d. Petition for Granting Bond if Petition is Frivolous: The question of the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory.
- e. Appeal by Respondent to Petition for Granting Bond: If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

1104 Intervention

Within the thirty (30) days first following the filing of a land use appeal, if the appeal is from a board or agency of the borough, the borough and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

1105 Hearing and Argument of Land Use Appeal

If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence provided that appeals brought before the court pursuant to Section 1012 Validity of Ordinance: Substantive Questions shall not be remanded for further hearings before any body, agency or officer of the borough.

If the record below includes findings of fact made by the Borough Council, board or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the finding of the Borough Council, board or agency shall not be disturbed by the court if supported by substantial evidence.

If the record does not include findings of fact or if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

1106 Judicial Relief

1. Powers of the Court in Land Use Appeals: In a land use appeal, the court shall have the power to declare any ordinance or map invalid and set aside or modify any action, decision or order of the Borough Council, agency or officer of the borough brought up on appeal
2. Order of Approval of Development or Use: If the court finds that an ordinance or map, or a decision or order thereunder, which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the Borough Council, agency or officer of the borough whose action or failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the Borough Council, agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order.
3. Additional Court Hearings: Upon a motion by any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court employs an expert, the report or evidence of such expert shall be available to any party and he shall be subject to examination or cross-examination by any party. He shall be paid reasonable compensation for his services which may be assessed against any or all of the parties as determined by the court.

The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

4. Definitive Relief for Development or Use: The fact that the plans and other materials are not in a form or are not accompanied by other submissions which are required for final approval of the development or use in question or for the issuance of permits shall not prevent the court from granting the definitive relief authorized. The court may act upon preliminary or sketch plans by framing its decree to take into account the need for further submissions before final approval is granted.