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**PART 1**  
**BACKGROUND PROVISIONS**

**§ 101. Short Title. [Ord. 227, 12/18/2006]**

This chapter shall be known and may be cited as the "City of Saint Marys Official Zoning Ordinance of 2005."

**§ 102. Purpose and Authority. [Ord. 227, 12/18/2006]**

1. This chapter is adopted by virtue of the authority granted to the City under Article VI of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended by Act 170 of 1988, and as further amended.<sup>1</sup> Also, this chapter is adopted under the provisions of Act 164 of 1984, known as the "Aviation Code," codified at 74 Pa.C.S.A. § 5101 et seq., as well as to meet the requirements of Section 560.3(d) of the National Flood Insurance Program and the Pennsylvania Floodplain Management Act, Act 166 of 1978, Section 101 et seq.<sup>2</sup>
2. The provisions of this chapter are designed:
  - A. To promote, protect and facilitate one or more of the following: the public health, safety, morals and general welfare; coordinated and practical community development and proper density of population; emergency 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, sewage, schools, recreational facilities, and 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 preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.
  - B. 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.
  - C. To preserve prime agricultural and farmland considering topography, soil type and classification and present use.
  - D. 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

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<sup>1</sup>Editor's Note: See 53 P.S. § 10601 et seq.

<sup>2</sup>Editor's Note: See 32 P.S. § 679.101 et seq.

reasonable range of multifamily dwellings in various arrangements, manufactured homes and manufactured home parks.

- E. 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.

**§ 103. Scope. [Ord. 227, 12/18/2006]**

From and after the effective date of this chapter, the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height and area, added to, or relocated, and every use within a building or structure, or use accessory thereto, in the City shall be in conformity with the provisions of this chapter. Any lawfully existing use, building, or land not in conformity with the regulations on the effective date of this chapter herein prescribed shall be regarded as nonconforming but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming buildings, structures, or uses.<sup>3</sup>

**§ 104. Interpretation. [Ord. 227, 12/18/2006]**

1. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, and general welfare of the residents of the City.
2. In interpreting the language of this chapter to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

**§ 105. Conflict with Other Provisions. [Ord. 227, 12/18/2006; as amended by Ord. 279, 1/21/2013]**

It is not intended by this chapter to repeal, abrogate, annul, or interfere with any existing ordinances or resolutions, or with any rule, regulation or permit adopted or issued thereunder, except as provided, and only to the extent permitted by Section 508(4) of the Act. Where this chapter imposes greater restrictions upon the use or development of buildings or land, or upon the height and bulk of buildings, or prescribes larger open spaces than the provisions of such other ordinance, resolution, rule, regulation or permit, then the provisions of this chapter shall control. Furthermore, except as provided for in §§ 500 and 400 of this chapter, if a discrepancy exists between any regulations contained within this chapter and any other City regulations, the regulation which imposes the greater restriction shall apply.

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<sup>3</sup>Editor's Note: See Part 5, Nonconformities.

**§ 106. Validity and Severability. [Ord. 227, 12/18/2006]**

Should any section or provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this chapter as a whole or of any other part thereof.

**§ 107. Uses Not Provided For. [Ord. 227, 12/18/2006]**

Whenever, under this chapter, a use is neither specifically permitted nor denied, and an application is made by an applicant to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Zoning Hearing Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The use may be permitted if it is similar to, and compatible with, the permitted uses in the zone in which the subject property is located, is not permitted in any other zone under the terms of this chapter, and in no way is in conflict with the general purposes and intent of this chapter. The burden of proof shall be upon the applicant to demonstrate that the proposed use meets the foregoing criteria and would not be detrimental to the public health, safety and welfare of the neighborhood.

**§ 108. Establishment of Zones. [Ord. 227, 12/18/2006]**

For the purpose of this chapter, City of Saint Marys is hereby divided into zones which shall be designated as follows:

Rural Conservation Zone (RC)	Medical Institutional Zone (MI)
Residential Suburban Zone (RS)	Limited Industrial Zone (LI)
Residential Urban Zone (RU)	Industrial Zone (I)
Residential Flexible Zone (RF)	Airport Safety Overlay Zone (AS)
Central Business Zone (CB)	Floodplain Overlay Zone (FP)
Highway Commercial Zone (HC)	

**§ 109. Zoning Map. [Ord. 227, 12/18/2006]**

The areas within City of Saint Marys as assigned to each zone and the location of the zones established by this chapter are shown upon the Zoning Map, which, together with all explanatory matter thereon, is attached to and is declared to be a part of this chapter.<sup>5</sup>

**§ 110. Zone Boundary Lines. [Ord. 227, 12/18/2006]**

The zone boundary lines shall be as shown on the Zoning Map. Zone boundary lines are intended to coincide with lot lines; center lines of streets, alleys, railroad rights-of-way, and streams at the time of passage of this chapter; the corporate boundary of the City; or as dimensioned on the map, unless other considerations take precedence. In the event of dispute about the location of the boundary of any zone, the Zoning Officer shall investigate and render a decision on the location of the line. Appeals from this decision shall be made to the Zoning Hearing Board.

<sup>5</sup>Editor's Note: The Zoning Map is on file in the City offices.

**§ 111. Community Development Objectives. [Ord. 227, 12/18/2006]**

This chapter is enacted in accordance with the City of Saint Marys Comprehensive Plan and has been formulated to implement the purposes set forth in § 102 above. This chapter is enacted with regard to the following community development objectives, with reasonable consideration of, among other things, the existing character of various areas of the City and their respective suitability for particular uses:

- A. Preservation and stewardship of the City's many single-family residential neighborhoods.
- B. Provision of flexibility and affordability in housing, especially where such developments would be served by adequate public infrastructure.
- C. Recognition of the truly rural nature of many parts of the City.
- D. Protection of public health and safety through regulation of development in areas of steep slope, floodplain or watersheds that are the sources of public water supplies.
- E. Continuation of the City's downtown as its traditional retail and service center.
- F. Redevelopment of pockets of blight within the City.
- G. Nurturing of new businesses to promote job growth.
- H. Ensuring compatible development around the City's airport.
- I. Providing for group home facilities for disabled persons in a fashion that allows geographic integration into the mainstream of the community.

**§ 112. Definitions. [Ord. 227, 12/18/2006; as amended by Ord. 261, 10/18/2010, § 1]**

1. Word usage. Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined differently within this section.
2. Language interpretation. In this chapter, when not inconsistent with the context:
  - A. Words in the present tense imply also the future tense.
  - B. The singular includes the plural.
  - C. The male gender includes the female gender.

- D. The word "person" includes an individual, incorporator's association, member(s) of a partnership or the officers of a corporation, as well as any similar entity.
  - E. The term "shall" or "must" is always mandatory.
3. Specific words and phrases. The following words and phrases shall have the particular meaning assigned by this section in the appropriate sections of this chapter:

**ACCESS DRIVE** — An improved cartway designed and constructed to provide for vehicular movement between a public road and a tract of land containing any use other than one single-family dwelling unit or farm.

**ACCESSORY BUILDING** — Any building associated with an accessory use.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use or building and located on the same lot as the principal use or building.

**ACREAGE, GROSS** — The total land area contained within a property or proposed site, including lands within a public or private street right-of-way.

**ACREAGE, NET** — The total land area contained within a property or proposed site, exclusive of lands within a public or private street right-of-way.

**ACT** — The latest version of the Pennsylvania Municipalities Planning Code, as amended or reenacted.<sup>5</sup>

**ACT 13** — Act 13 of 2012, enacted on February 14, 2012, as it may from time to time be amended.<sup>6</sup> **[Added by Ord. 275, 7/2/2012]**

**ADULT-RELATED USES** — A business, club or establishment that engages in one or more of the following areas of sales, services, entertainment or activity:

- A. **ADULT BATHHOUSE** — An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, during which specified anatomical areas are displayed or specified sexual activity occurs. This definition shall not apply to hydrotherapy treatment practiced by, or under the supervision of a medical practitioner. A medical practitioner, for the purpose of this chapter, shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.

<sup>5</sup>Editor's Note: See 53 P.S. § 10101 et seq.

<sup>6</sup>Editor's Note: See Pa.C.S.A. Title 58.

- B. **ADULT BODY PAINTING STUDIO** — Any establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the human body, when specified anatomical areas are exposed.
- C. **ADULT BOOKSTORE** — Any establishment which has as a substantial or significant portion of its stock-in-trade:
- (1) Books, films, magazines or other periodicals, or other forms of audio or visual representation, which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
  - (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- D. **ADULT CABARET** — A nightclub, theater, bar, or other establishment which features live or media representations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- E. **ADULT MASSAGE ESTABLISHMENT** — Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor, professional physical therapist, or message therapist, who is both nationally certified in therapeutic massage by the National Certification Board for Therapeutic Massage and Bodywork and who is a professional member with active status in good standing of the American Massage Therapy Association. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
- F. **ADULT MINI MOTION PICTURE THEATER** — An enclosed or unenclosed building, with a capacity of more than five but less than 50 persons, used for presenting any form of audio or visual material and in which a substantial portion of the total presentation time, measured on an annual basis, is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- G. **ADULT MODEL STUDIO** — Any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the

Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.



- H. **ADULT MOTEL** — A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- I. **ADULT MOTION-PICTURE ARCADE** — Any place to which the public is permitted or invited wherein coin- or slug-operated, or electronically or mechanically controlled still- or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- J. **ADULT MOTION-PICTURE THEATER** — An enclosed or unenclosed building, with a capacity of 50 or more persons, used for presenting any form of audio or visual material and in which a substantial portion of the total presentation time, measured on an annual basis, is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.
- K. **ADULT NEWSRACK** — Any machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.
- L. **ADULT OUTCALL SERVICE ACTIVITY** — Any establishment or business which provides an outcall service, which consists of individuals leaving the premises upon request or by appointment to visit other premises for a period of time, for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.
- M. **ADULT SEXUAL ENCOUNTER CENTER** — Any business, agency, or person who, for any form of consideration or gratuity, provides a place where two or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops operated by a medical practitioner, as defined in Subsection A of this definition above, licensed by the Commonwealth to engage in sexual therapy.
- N. **ADULT THEATER** — A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
- O. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**AGRICULTURE** — The tilling of the soil, the raising of crops, forestry, horticulture and gardening, including the keeping or raising of livestock such as cattle, cows, hogs, horses, sheep, goats, poultry, rabbits, birds, fish, bees, and other similar animals. This definition also includes noncommercial greenhouses and mushroom houses.

**AIRPORT ELEVATION** — The highest point of an airport's landing area, measured in vertical feet from sea level. For the St. Marys Area Airport, this is 1,937 feet.

**ALLEY** — A minor right-of-way, privately or publicly owned, primarily for service access to the rear or sides of properties.

**ALTERATIONS** — Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, joists or rafters, or enclosing walls; any renovation to a building which would change its use, location, and/or size.

**AMUSEMENT ARCADE** — A commercial establishment which provides, as a principal use, amusement devices and/or games of skill or chance (e.g., pinball machines, video games, skeeball, electronic or water firing ranges and other similar devices). This definition does not include the use of two or fewer of such devices as an accessory use.

**AMUSEMENT/THEME PARK** — A principal use at which the general public is offered pleasurable diversion through a combination of attractions, eateries, booths, stands, rides, exhibits, performances, lodging, shops and/or recreational features, but specifically excluding adult-related uses, shooting ranges, and off-track betting parlors, as defined herein. In addition, "amusement parks" can include the provision of resident employee and guest services incidental to the visit or stay on the site.

**ANIMAL HOSPITAL** — Any establishment offering veterinary services. "Animal hospitals" can treat all types of animals and can include outdoor and overnight boarding of animals.

**ANIMAL SHELTER** — Any establishment that specializes in the collection, occupancy, distribution and/or euthanization of rescued animals.

**APPROACH SURFACE** — A surface, longitudinally centered on the extended runway center line, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this chapter. In plan, the perimeter of the "approach surface" coincides with the perimeter of the approach zone.

**APPROACH TRANSITIONAL, HORIZONTAL AND CONICAL ZONES** — Those zones as set forth in § 231 of this chapter.

**ATTIC** — That part of a building which is immediately below and wholly or partly within the roof framing. Within a dwelling unit, an "attic" shall not be counted as floor area unless it is constructed as or modified into a habitable room by the inclusion of dormer windows, has an average ceiling height of five feet or more, and has a permanent stationary interior access stairway to a lower building story.

**AUTOMOBILE AUCTION** — A principal use whereby automobiles are stored for wholesale inspection and/or wholesale distribution.

**AUTOMOBILE FILLING STATION** — Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any retail sales of motor vehicle accessories, which may not include major repairing, body and fender work, painting, vehicular sales, nor rental or automatic car washes.

**AUTOMOBILE PARKING COMPOUND** — A primary business where privately owned passenger vehicles may be stored for short-term, daily, or overnight periods.

**AUTOMOBILE PARKING LOT** — An accessory use in which required, and possibly additional, parking spaces are provided, subject to the requirements listed in § 312 of this chapter. [**Amended by Ord. 279, 1/21/2013**]

**AUTOMOBILE PARTS STORE** — Any building used for the retail sales and storage of automobile parts. No outdoor storage is permitted. No installation, repair or servicing of parts and vehicles shall be permitted.

**AUTOMOBILE SALES** — Any building or land devoted to the retail sales of passenger vehicles, including accessory service and repair facilities if conducted within a wholly enclosed building.

**AUTOMOBILE SERVICE** — The retail repair, servicing, maintenance and reconstruction of passenger vehicles, but not including car washes per se.

**AUTOMOBILE STORAGE YARD** — A use, either primary or accessory, where passenger vehicles are stored for periods exceeding a daily basis. Automobile storage shall not involve retail, nor wholesale, sales display areas.

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year (one-hundred-year flood).

**BASE FLOOD DISCHARGE** — The volume of water resulting from a base flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs). [**Added by Ord. 268, 11/7/2011**]

**BASE FLOOD ELEVATION (BFE)** — The projected flood height of the base flood; the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH and A1-30 that indicates the water surface elevation resulting from a flood that has a one-percent or greater chance of being equaled or exceeded in any given year. **[Amended by Ord. 268, 11/7/2011]**

**BASEMENT** — Any area of a building having its floor subgrade (below ground level) on all sides. Within a dwelling unit, a basement shall not be counted as floor area nor as a story of permissible building height. **[Amended by Ord. 268, 11/7/2011]**

**BED-AND-BREAKFAST** — A single-family detached dwelling where between one and 10 rooms are rented to overnight guests on a daily basis for periods not exceeding two weeks. Breakfast may be offered only to registered overnight guests and is the only meal served.

**BEEKEEPING** — An accessory use to a farm permitted, in which bees are raised and/or kept in compliance with § 200, Subsection 2P(4), of this chapter.

**BILLBOARD** — A sign upon which images and/or messages of any kind are printed, posted, or lettered, whether freestanding or attached to a surface of a building or other structure. A "billboard" is used to advertise products, services or businesses at a location other than the premises on which the sign is placed or to disseminate other messages.

**BOARDINGHOUSE** — A detached building arranged or used for sheltering, or sheltering and feeding, for more than three and not more than 10 individuals that do not constitute a family.

**BOULEVARD SIGN** — Any sign which is placed on the property commonly known as the "Boulevard" and more specifically described as the median area between the northbound and southbound lanes of South St. Marys Street from its intersection with Railroad Street to and including its intersection with State Street. Any permit for such a sign shall be subject to all State laws and regulations of the Pennsylvania Department of Transportation.

**BUILDING** — Any combination of materials that forms a structure, either temporary or permanent, having walls and a roof or other covering, principally above ground, and designed or used for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes stated above. For

the purposes of this section, the word "building" shall also include fuel or liquid storage tanks, manufactured homes and travel trailers without wheels, built on a chassis and affixed to a permanent foundation. See also "structure." **[Amended by Ord. 268, 11/7/2011]**

- A. DETACHED — A building which has no party wall.
- B. SEMIDETACHED — A building which has only one party wall in common.
- C. ATTACHED — A building which has two or more party walls in common.

**BUILDING AREA** — The total of areas taken on a horizontal plane at the average grade level of the principal building and all accessory buildings, exclusive of uncovered porches, awnings, terraces, and steps.

**BUILDING HEIGHT** — A building's vertical measurement from the mean level of the ground abutting the building at its corners to the highest point of the roof.

**BUILDING SETBACK LINE** — The actual line of that face of the building nearest an adjacent right-of-way or street line. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

**CAFE** — An exterior seating area associated with a restaurant or tavern which is under constant supervision by an employee of the business.

**CAMPGROUND** — A lot, tract, or parcel of land upon which two or more campsites are located or established, intended and maintained for occupation by transients in recreational vehicles or tents.

**CAMP or COTTAGE** — A seasonal detached dwelling unit with no permanent mailing address.

**CAMPSITE** — A plot of ground within a campground intended for occupation by a recreational vehicle or tent for periods not exceeding 90 continuous days.

**CARPORT** — An unenclosed structure 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 accessory.

**CARTWAY** — That portion of a street or alley right-of-way that is intended for vehicular movement.

**CELLAR** — See definition of "basement."

**CEMETERY** — Land used or intended to be used for the burial of the deceased, including columbariums, mausoleums, and mortuaries when operated in conjunction with the cemetery and within the boundaries thereof. This definition shall include crematoria.

**CERTIFICATE OF USE AND OCCUPANCY** — A statement, signed by a duly authorized City officer, setting forth that a building, structure or use legally complies with this chapter and other applicable codes and regulations and that the same may be used for the purposes stated therein.

**CHANNEL** — A natural or artificial watercourse with a definite bed and banks which confine and conduct continuously or periodically flowing water.

**CHURCH AND RELATED USES** — A building, structure, or group of buildings or structures, including accessory uses, designed or intended for public worship. This definition shall include rectories, convents, and church-related educational and/or day-care facilities.

**CITY** — The City of Saint Marys.

**CLUBHOUSE** — A building within which is housed an organization catering principally to members and their guests, except that the periodic rental of the premises to nonmembers shall be expressly permitted. "Clubhouses" shall include premises or buildings for social, recreational and administrative purposes which are not conducted for profit, provided that there are no vending stands, merchandising or commercial activities, except as required for the membership of such club. Clubs shall include but are not limited to service and political organizations, labor unions, as well as social and athletic clubs. "Clubhouses" shall not be used for adult-related uses or off-track betting parlors, as defined herein.

**COMMERCIAL KEEPING AND HANDLING** — Producing and/or maintaining with the express purpose and intent of selling the product.

**COMMERCIAL PRODUCE OPERATION** — An agricultural use whereby plant materials are principally grown within an enclosed building and where such use exceeds a lot coverage of 10%.

**COMMERCIAL RECREATION FACILITY** — An activity operated as a business, open to the public, for the purpose of public recreation or entertainment, including but not limited to bowling alleys, drive-in motion-picture facilities, swimming pools, health clubs, miniature golf courses, museums, etc. This does not include adult-related uses, shooting ranges, amusement arcades, amusement/theme parks, horse racing with related wagering facilities, automobile race courses, zoos, nor off-track betting parlors, as defined herein.

**COMMON OPEN SPACE** — Any area of land or water, or a combination of land and water, within a development site designed and intended for use by all residents of the development or the general public. Land included within the right-of-way lines of streets and stormwater detention basins with impervious surfaces shall not be classified as "common open space." "Common open spaces" shall not include required setbacks between buildings and street rights-of-way, driveways, access drives, parking areas, and property lines of the development. No dwelling unit, residential accessory buildings, or parking or loading areas may be located within "common open spaces."

**COMMUNICATION ANTENNA TOWER** — A principal use that employs a device incorporating a mast or reflective surface design that is used to transmit and/or receive radio or electromagnetic waves between land- or orbitally based uses, except that this use shall expressly exclude antennas associated with accessory uses that also comply with the height requirements of their respective zone.

**COMPLETELY DRY SPACE** — A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

**COMPREHENSIVE PLAN** — The most recently adopted version of the Official Comprehensive Plan, City of Saint Marys, Elk County, Pennsylvania, including any amendments.

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)** — An agricultural use involving the commercial keeping and handling of livestock quantities with characteristics in both of the following subsections:

- 100 horses
- 100 dairy or beef cattle
- 200 swine
- 200,000 poultry, excluding turkeys
- 200 sheep or veal
- 5,000 turkeys

Plus the keeping and handling of livestock quantities exceeding an average adult weight for horses, dairy cattle and layer chickens and/or an average market weight of all other livestock of 2,000 pounds per acre, as referenced in the following table:

<b>Livestock</b>	<b>Animal Size (pounds)</b>
Cattle:	

<b>Livestock</b>	<b>Animal Size (pounds)</b>
Dairy	150-1,500
Beef	400-1,400
Veal	100-350
Swine:	
Pigs	35-200
Gestating sow (limit fed)	275
Sow and 8 pigs	375
Boar (limit fed)	350
Sheep	100
Horse	1,000
Poultry (see following types):	
Layer; broiler; guinea	4
Layer, heavy; roaster; duck	7
Pullet; pheasant	3
Turkey	20
Chukar	1.5
Quail	0.5

Sources: PA DEP, Field Application of Manure, and Poultry Manure Management

**CONDITIONAL USE** — A use which may be appropriate to a particular zoning district only when specific conditions and criteria prescribed for such use have been complied with. "Conditional uses" are reviewed by the City Council after recommendations by the Planning Commission, in accordance with § 704 of this chapter.

**CONDOMINIUM** — A form of property ownership providing for individual ownership of a specific dwelling unit, or other space, together with an undivided interest in the land or other parts of the structure in common with other owners.

**CONSERVATION PLAN** — A plan, including a map(s) and narrative, that, at the very least, outlines an erosion and sedimentation control plan for an identified parcel of land.

**CONVENIENCE STORE** — A business which specializes in the retail sales and/or rental of household products and foods. "Convenience stores" may also include any of the following, provided that each use has obtained the necessary respective approvals and it operates as an accessory use to the convenience store:

- A. Retail sales or rental of books, magazines, videos, software, and video games, provided that adult-related uses are expressly prohibited.
- B. Restaurants, including drive-thru or fast-food operations, provided that rest rooms are made available to the public.
- C. Amusement arcades, with no more than two devices.
- D. Automatic bank teller machines.
- E. Photomats and film development drop-off sites.
- F. Laundry, dry-cleaning and tailoring drop-off sites.
- G. Lottery sales counters and machines.
- H. Propane fuel sales with no larger than twenty-pound tanks, which must be stored outside of the building but within a locked enclosure at all times.
- I. Dispensing of automobile fuels, oils, compressed air, kerosene, washer fluid, and other auto-related items, subject to the requirements of § 408 of this chapter. **[Amended by Ord. 279, 1/21/2013]**
- J. Car washes, subject to the requirements of § 415 of this chapter. **[Amended by Ord. 279, 1/21/2013]**
- K. Post offices and other parcel delivery drop-off sites.

CONVERSION APARTMENTS — The adaptation of one single-family detached dwelling to two or more dwelling units.

CUL-DE-SAC — A dead-end street equipped with a circular vehicle turnaround at its terminus.

DAY-CARE — The offering of care or supervision over minors or special-needs adults in lieu of care or supervision by family members. This definition does not include the offering of overnight accommodations.

- A. DAY-CARE, ACCESSORY — A day-care facility that is operated as an accessory use to a dwelling unit, in which care and supervision are offered to no more than three nonresidents of the site during any calendar day. These facilities are permitted by right in every zone.
- B. DAY-CARE, FAMILY — A day-care facility that is operated as an accessory use to a dwelling unit, in which care and supervision are offered to between four and six nonresidents of the site during any calendar day. Family day-care facilities must be registered by the Department of Public Welfare of the Commonwealth of Pennsylvania.
- C. DAY-CARE, COMMERCIAL — A day-care facility that offers care and supervision to more than six nonresidents of the site during any calendar day. Commercial day-care facilities can be operated as principal uses or as accessory uses associated with other uses (e.g., schools, churches, industries, residential complexes, etc.); however, in

no case shall a commercial day-care be considered an accessory use to one dwelling unit. Commercial day-care facilities shall include group child day-care homes and child day-care centers, as defined and regulated by the Department of Public Welfare of the Commonwealth of Pennsylvania. All commercial day-care centers must obtain a valid certificate of compliance from the Department of Public Welfare and the Department of Labor and Industry of the Commonwealth of Pennsylvania prior to operation.

**DENSITY, NET** — The number of dwelling units permitted in relation to the land area actually in use or proposed to be used for residential purposes, exclusive of public and/or private streets.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

**DEVELOPMENTAL DISABILITY** — A disability of a person which has continued or can be expected to continue indefinitely; a disability which is:

- A. Attributable to mental retardation, cerebral palsy, epilepsy or autism.
- B. Found to be attributable to any other condition found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons.
- C. Attributable to dyslexia resulting from a disability described in Subsections A and B of this definition.

**DEVELOPMENTALLY DISABLED PERSON** — A person with a developmental disability.

**DISABLED VEHICLE** — A vehicle intended to be self-propelled that shall not be operable under its own power for any reason, or a vehicle that does not have a valid current registration plate or that has a certificate of inspection which is more than 60 days beyond the expiration date.

**DISTRIBUTION** — A process whereby materials, goods, or products are imported, stored by one person, and then delivered to another.

**DOMESTIC PETS** — The noncommercial keeping of no more than four adult nonfarm animals that are locally available for purchase as pets, as an accessory use to a dwelling unit.

**DRIVEWAY** — An improved cartway designed and constructed to provide vehicular movement between a public road and a tract of land serving one single-family dwelling unit or a farm. (See also "joint-use driveway.")

**DWELLING** — Any building or portion thereof designed and used exclusively for residential occupancy, including those listed below, but not including hospitals, hotels, boarding-, rooming and lodging houses, institutional houses, tourists courts, and the like, offering overnight accommodations for guests or patients. All "dwellings" must be permanently affixed to a completely enclosed foundation, constructed of currently accepted materials, that shall be an entire perimeter wall and extend from below the frost line to the first floor of the building. Such foundation shall be constructed to provide sufficient structural integrity to prevent the building from heaving, shifting, or settling unevenly due to frost action. In addition, all "dwellings" shall be properly connected to approved and permanently designed sewer, water, electrical and other utility systems.

- A. **SINGLE-FAMILY DETACHED** — A freestanding building containing one dwelling unit for one family and having two side yards, one front yard, and one rear yard; in the case of a corner lot, the building will have two front and one side and one rear yard. Manufactured homes can be considered single-family detached dwellings if, in addition to the requirements listed for all dwellings, they comply with Subsection F of this definition. Travel trailers, as defined herein, shall not be construed as dwellings. Modular homes can be considered single-family detached dwellings so long as they comply with the general requirements of a dwelling. (See Figure 1.)
- B. **DUPLEX (TWO-FAMILY; SINGLE-FAMILY SEMIDETACHED)** — A freestanding building containing two dwelling units for two families, arranged in a side-by-side or over-and-under configuration. Those units placed on common grounds shall have one front and one rear yard and two side yards. Those units constructed on individual lots shall have one front, one side and one rear yard. (See Figures 2 and 3.)

- C. **MULTIFAMILY** — A building containing three or more dwelling units, at least one of which must be located above or below the remaining units. (See Figure 4.)
- D. **TOWNHOUSE** — A building containing between three and eight dwelling units arranged in a side-by-side configuration with two or more common party walls. (See Figure 5.)
- E. **QUADRAPLEX** — One detached building that contains four separate dwelling units, all of which share one or two points of exterior access.
- F. **MANUFACTURED HOME** — For the purposes of this chapter, all "manufactured homes," except those contained within manufactured home parks, shall be governed by all regulations applicable to single-family detached dwellings and the following:
- (1) All apparatuses used to tow or transport the manufactured home (including but not limited to the towing hitch) shall be removed.

- (2) All manufactured homes and additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top or frame ties to ground anchors in accordance with the American National Standards, as specified in the Standard for the Installation of Manufactured Homes Including Manufactured Home Park Requirements (NFPA No. 501A-1974 [ANSI A119.3-1975]), as amended for Manufactured Homes in Hurricane Zones, or other appropriate standards, such as the following:
  - (a) Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.
  - (b) Frame ties shall be provided at each corner of the manufactured home, with additional ties every 10 feet per side at intermediate locations for units 50 feet or more in length, and four ties per side for units less than 50 feet in length.
  - (c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

**DWELLING UNIT** — A building or portion thereof arranged or designed for occupancy by not more than one family and having separate cooking and sanitary facilities.

**EARTHMOVING ACTIVITY** — Any construction or other activity which disturbs the surface of the land, including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth, excluding the tilling of the soil.

**ECHO HOUSING (ELDERLY COTTAGE HOUSING OPPORTUNITY)** — An accessory dwelling unit placed on a property for occupancy by either:

- A. One person who is at least 50 years of age, or a handicapped and/or disabled person, who is related by blood, marriage or adoption to the occupants of the principal dwelling; or
- B. The caregiver who is related by blood, marriage or adoption to the elderly, handicapped or disabled occupant(s) of the principal dwelling.

**ESSENTIALLY DRY SPACE** — A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

FAMILY — An individual or individuals related by blood, marriage, or adoption (including persons receiving foster care) that maintain one common household and live within one dwelling unit. Additionally, up to three unrelated individuals who maintain a common household and live within one dwelling unit may be considered a "family." Finally, a "family" shall also expressly include any number of unrelated persons who reside within a licensed group home, as defined herein.

FARM — Any parcel of land with 10 or more acres which is used in the raising of agricultural products, livestock, poultry or dairy products, including necessary farm structures and the storage of equipment customarily incidental to the primary use.

FARMERS' AND/OR FLEA MARKET — A retail sales use where more than one vendor displays and sells general merchandise that is new or used. "Farmers' and/or flea markets" can include indoor and outdoor display or merchandise.

FARM OCCUPATION — An accessory use to the primary agricultural use of a property in which residents and up to two nonresidents engage in a secondary occupation conducted on the active farm.

FELLING — The act of cutting a standing tree so that it falls to the ground.

FENCE — A structure designed as a barrier to restrict the movement or view of persons, animals, property, and/or vehicles. This definition shall not include ornamental fence treatments that are located in the front yard and extend less than 1/2 the width and/or depth of the front yard.

FILL — Material placed or deposited so as to form an embankment or raise the surface elevation of the land, including but not limited to levees, bulkheads, dikes, jetties, embankments, and causeways.

FINANCIAL INSTITUTION — A bank, savings-and-loan association, credit union, finance or loan company, etc.

FLOOD — A general and temporary condition of partial or complete inundation of normally dry land areas from the overland flow of watercourses or from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION — The projected heights, in relation to the North American Vertical Datum of 1988 (NAVD 1988), reached by floods of various magnitudes and frequencies in the floodplain areas. **[Amended by Ord. 268, 11/7/2011]**

**FLOOD INSURANCE RATE MAP (FIRM)** — The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. **[Added by Ord. 268, 11/7/2011]**

**FLOOD INSURANCE STUDY (FIS)** — The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood. **[Amended by Ord. 268, 11/7/2011]**

**FLOODPLAIN** — An area of land adjacent to the channel of a watercourse which has been or is likely to be flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOODPROOF** — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. **[Amended by Ord. 268, 11/7/2011]**

**FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the base flood elevation more than a designated height. **[Amended by Ord. 268, 11/7/2011]**

**FLOOR AREA, GROSS** — The sum of the floor areas of a building, as measured to the outside surfaces of exterior walls, and including all areas intended and designed for the conduct of a business or use.

**FLOOR AREA, GROSS LEASABLE** — The total floor area designed for occupancy by an owner or tenant, as measured to the center of interior joint walls and the exterior of outside walls.

**FLOOR AREA, HABITABLE** — The sum of the floor areas of a dwelling unit, as measured to the outside surfaces of exterior walls, and including all rooms used for habitation, such as living room, dining room, kitchen, bedroom, bathroom, closets, hallways, and stairways, but not including

cellars or attics, or service rooms or areas such as utility rooms, nor unheated areas such as enclosed porches.

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

**FORESTRY OPERATOR** — An individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors and employees thereof.

**FRONTAGE** — The continuous horizontal distance shared between a public or private street and an adjoining lot.

**FRONT BUILD-TO LINE** — An area establishing the required location for all or a portion of a building's front facade, as measured from the street line.

**FUNERAL HOME** — A principal use for the preparation and viewing of the dead prior to burial or cremation. "Funeral homes" shall not include cemeteries, columbariums, crematoria, mausoleums, nor entombments but do include mortuaries.

**GARAGE, PRIVATE** — An accessory building, or part of a principal building, for the storage of one or more automobiles and/or other vehicles accessory and incidental to the primary use of the premises. No business, occupation or service shall be conducted therein, nor shall space therein for more than one vehicle be leased to a non-occupant of the premises. Where a garage is an attached integral part of a dwelling unit, the garage shall not be counted as floor area unless it is constructed or modified into a habitable room by the removal of all vehicular access doors and provided that adequate off-street parking is still available on the same lot as the dwelling unit.

**GARAGE SALE** — The display of personal possessions, and those of friends, relatives and neighbors, for sale to the general public upon the property of one's residence.

**GOLF COURSE** — A golf course with a minimum of 675 yards of play in nine holes.

**GROUP HOME** — A dwelling operated by a reasonably responsible individual, family, or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the individual served due to age or emotional, mental, or physical handicap. This definition shall expressly include facilities for the supervised care of developmentally disabled persons and those under treatment for alcohol

and/or drug abuse. "Group homes" must be licensed where required by any appropriate government agencies, and a copy of any such licenses must be delivered to the City prior to beginning the use. "Group homes" shall be subject to the same limitations and regulation by the City as single-family dwellings.

**HAZARDOUS MATERIAL** — Materials which have the potential to damage health, endanger human life or impair safety.

**HAZARDOUS WASTE** — Those wastes defined in the Code of Federal Regulations, Title 40, Chapter 1, Part 261, dated July 1, 1984, or as amended.

**HAZARDOUS WASTE FACILITY** — Any structure, group of structures, aboveground or underground storage tanks, or any other area or buildings used for the purpose of permanently housing or temporarily holding hazardous waste for storage or treatment for any time span other than the normal transportation time through the City.

**HAZARD TO AIR NAVIGATION** — An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HEALTH AND FITNESS CLUB** — A commercial business that offers active recreational and/or fitness activities. Such activities are provided only to club members and their guests. Such facilities do not include golf courses.

**HEAVY EQUIPMENT** — Machinery, vehicles and other devices that are not normally used for domestic purposes upon a residential dwelling lot. Examples include but are not limited to farm machinery, excavation equipment, commercial trucks and trailers, yachts, industrial machinery, etc.

**HEIGHT, BUILDING** — A building's vertical measurement from the average level at the corners of the building to the highest point of the roof.

**HEIGHT, STRUCTURE** — A structure's vertical measurement from the average level of the ground abutting the structure to the highest point of the structure.

**HELICOPTER PAD (PRIVATE)** — An accessory use where no more than one helicopter may land/take off and be stored.

**HELIPORT** — Any area of land or structure which is used or intended to be used for the landing and takeoff of helicopters, and any appurtenant areas which are used for heliport buildings or helicopter facilities or rights-of-way, together with all heliport buildings and facilities thereon, such as but not

limited to fueling and maintenance equipment, passenger terminals and storage hangars.

**HELIPORT PRIMARY SURFACE** — The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

**HIGHWALL** — The face of exposed overburden and mineral in an open cut of a surface mining operation or for entry to underground mining activities.

**HISTORIC STRUCTURE** — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program, as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**HOME OCCUPATION** — A business or commercial activity that is conducted as an accessory use in a detached dwelling unit, except that a limited business or commercial activity which adheres to the definition of "no-impact home-based business," as defined herein, is permitted by right in any dwelling unit within any zone.

**HORIZONTAL SURFACE** — A horizontal plane located 150 vertical feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.

**HORTICULTURE** — The growing of vegetables, fruits, flowers, and other ornamental plants.

**HOSPITAL** — An institution, licensed in the Commonwealth of Pennsylvania as a hospital, which renders inpatient and outpatient medical care on a twenty-four-hour per day basis and provides primary health services and medical/surgical care to persons suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions. A "hospital" use can also include attached and detached accessory uses, provided that all accessory uses are contained upon the hospital property.

**HOTEL** — A facility which provides lodging to boarders for compensation, which contains more than eight rooms, with less than 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and which may provide meals and other services as a part of the compensation.

**IDENTIFIED FLOODPLAIN AREA** — The floodplain area specifically identified in this chapter as being inundated by the one-hundred-year flood.

**IMPERVIOUS SURFACE** — Any material that covers the land which inhibits the percolation of stormwater directly into the soil, including but not limited to buildings, pavement, and stormwater facilities that discharge stormwater off the site.

**IMPORTANT NATURAL HABITAT** — Any land area characterized by any or all of the following:

- A. Wetlands, as defined by the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.
- B. Pennsylvania Natural Diversity Inventory (PNDI) confirmed extant plant and animal species and communities that are listed as Pennsylvania Threatened or Pennsylvania Endangered.
- C. PNDI confirmed extant plant and animal species and communities that have a State Rank of S1 or S2.
- D. Important bird areas as identified by the National Audubon Society.

**INTERIOR DRIVE** — Any on-site vehicular movement lane(s) that are associated with a use other than a single-family dwelling.

**JOINT-USE DRIVEWAY** — A common driveway that serves two to four adjoining dwelling units, as regulated in § 322.2 of this chapter. **[Amended by Ord. 279, 1/21/2013]**

**JUNK** — Discarded materials that are stored awaiting potential reuse or ultimate disposal.

**JUNKYARD** — An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded

materials, including but not limited to wastepaper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. The deposit or storage on a lot of one or more unlicensed, wrecked, or disabled vehicles, or the major part thereof, shall be deemed to constitute a "junkyard." (A "disabled vehicle" is a vehicle intended to be self-propelled that shall not be operable under its own power for any reason or a vehicle that does not have a valid current registration plate or that has a certificate of inspection which is more than 60 days beyond the expiration date.)

**KENNEL** — Any use, except for veterinary offices, as defined herein, in which two or more animals, excluding livestock, that are older than six months (except relating to a farm) are kept, boarded, raised, bred, treated, or trained for a fee, including but not limited to dog or cat kennels.

**LAND DEVELOPMENT** — Any of the following activities on a single lot:

- A. Construction of two or more residential buildings on a single lot, whether proposed initially or cumulatively.
- B. Conversion of an existing building into four or more residential housing units, whether proposed initially or cumulatively.
- C. Construction of one or more principal building(s) that are for a nonresidential use.
- D. Expansion of an existing building that is for a nonresidential use which exceeds 1,000 square feet of gross floor area, whether proposed initially or cumulatively.
- E. Construction or expansion of one or more building(s) that are for a residential or nonresidential accessory use which exceeds 1,500 square feet of gross floor area, whether proposed initially or cumulatively.
- F. Construction of off-street parking facilities for 10 or more parking spaces, whether proposed initially or cumulatively.
- G. The division or allocation of land or floor area between two or more occupants by means of streets, common areas, leaseholds, condominiums, buildings, or other physical features.

**LANDING** — A place where logs, pulpwood or firewood are assembled for transportation to processing facilities.

**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, shall be deemed to be a "landowner" for the purposes of this chapter.

**LANDSCAPE SCREEN** — A completely planted visual barrier composed of evergreen shrubs and trees arranged to form both a low-level and a high-level screen between grade and to a height of six feet.

**LANDSCAPE STRIP** — An area used for the placement of ground cover and other ornamental vegetation.

**LITTER** — Discarded materials scattered about a site that are not normally associated with its use.

**LOADING SPACE** — An off-street paved space suitable for the loading or unloading of goods and having direct usable access to a street or alley.

**LOP** — To cut tree tops and slash into smaller pieces to allow material to settle close to the ground.

**LOT** — Any parcel or tract of land intended as a single unit for purposes of ownership, transfer of ownership, use, rent, improvement or development. The word "lot" includes the word "plot," "parcel" or "tract." Contiguous nonconforming lots of record under single and separate ownership shall be considered one "lot" for the purposes of this chapter. A "lot," as herein defined, may or may not coincide with a lot of record.

- A. **LOT, CORNER** — A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than 135°. "Corner lots" shall have two front yards, one side yard, and one rear yard.
- B. **LOT, FLAG** — A lot whose frontage does not satisfy the minimum width requirements for the respective zone but that does have sufficient lot width away from the lot's frontage.
- C. **LOT, INTERIOR** — A lot, other than a corner lot, the sides of which do not abut a street.
- D. **LOT, THROUGH** — An interior lot having frontage on two parallel or approximately parallel streets.

LOT AREA — The area contained within the property lines of individual parcels of land, excluding any area within a street right-of-way, but including the area of any easement.

LOT COVERAGE — The area of a lot which is covered with an impervious surface (e.g., buildings, driveways, parking area, and sidewalks).

LOT DEPTH — The horizontal distance measured between the street right-of-way line and the closest rear property line. On corner and reverse-frontage lots, the "depth" shall be measured from the street right-of-way line of the street of address to the directly opposite property line.

LOT FRONTAGE — That property line shared with a public or private street.

LOT OF RECORD — A lot identified on a subdivision plan or on a deed or other instrument of conveyance recorded in the office of the Recorder of Deeds in and for Elk County, Pennsylvania.

LOT WIDTH — The horizontal distance measured between side property lines. On corner lots, "lot width" shall be measured between the right-of-way line for the nonaddress street and the directly opposite property line. Unless otherwise noted, "lot width" shall be measured at the building setback line and the street frontage.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished, flood-resistant, partially enclosed area, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such space is not intended and built so that the structure is in violation of the applicable nonelevation design requirements of this chapter. **[Amended by Ord. 268, 11/7/2011]**

**MANUFACTURE** — A function involving the processing, conversion or production of materials, goods, or products.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to required utilities. This definition shall expressly exclude transport trucks or vans equipped with sleeping space for a driver or drivers, and travel trailers, except that, for the purposes of § 230 (Floodplain Overlay Zone) of this chapter, any recreational vehicle, as defined herein, park trailer, travel trailer and other similar vehicle that is contained on the same parcel for more than 180 consecutive days shall be considered a manufactured home. Manufactured homes placed in parks shall meet the requirements for manufactured home parks listed in § 438 of this chapter. Manufactured homes placed on individual lots shall be considered "dwellings" and are bound by the requirements there imposed. **[Amended by Ord. 268, 11/7/2011]**

**MANUFACTURED HOME PARK** — A parcel of land under single ownership which has been planned and improved for the placement of two or more manufactured homes for nontransient use, for rent or sale. **[Amended by Ord. 268, 11/7/2011]**

**MANUFACTURED HOME SPACE** — A parcel of land in a manufactured home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single manufactured home.

**MANURE** — The fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding or litter.

**MANURE STORAGE FACILITY** — A detached structure or other improvement built to store manure for future use or disposal. Types of storage facilities are as follows: underground storage, in-ground storage, earthen bank, stacking area, and aboveground storage.

**MATURE TREES** — Trees with a caliper of six inches or more, as measured four and 1/2 feet above grade.

**MAXIMUM FLOOD ELEVATION** — The water surface elevation of a flood which would completely fill the floodplain to the boundaries of the Floodplain Overlay Zone.

**MEAN SEA LEVEL** — The average height of the sea for all stages of the tide, using the National Geodetic Vertical Datum of 1929.

**MEDICAL OR DENTAL CLINIC** — Any building or group of buildings occupied by licensed medical practitioners and related services for the purpose of providing health services to people on an outpatient basis.

**MEDICAL RESIDENTIAL CAMPUS** — A principal use whereby a comprehensive medical and residential environment primarily serves retirement-aged persons and/or those possessing some ailment or disability. "Medical residential campuses" also offer a variety of residential dwelling types determined by the occupants' respective needs for some level of nursing and/or medical care.

**METHADONE TREATMENT FACILITY** — Any use licensed by the Pennsylvania Department of Health that administers the drug methadone in the treatment, maintenance or detoxification of persons.

**MINING** — The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use; the removal of such materials through sale or exchange or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall expressly exclude the following:

- A. The extraction of minerals by a landowner for the landowner's noncommercial use from land owned or leased by the landowner.
- B. The extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes of the Department of Transportation or the extraction of minerals under construction contracts with the Department if the work is performed under a bond, contract and specifications that substantially provide for and require reclamation of the area affected in the manner provided by the Act.
- C. The handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.
- D. Dredging operations that are carried out in the rivers and streams of this Commonwealth.
- E. The removal and sale of non-coal materials from retail outlets.
- F. The extraction, handling, processing or storing of minerals from a building construction excavation on the site of the construction if the minerals removed are incidental to the building construction excavation, regardless of the commercial value of the minerals. For purposes of this section, the minerals removed are incidental if the excavator demonstrates that:
  - (1) Extraction, handling, processing, or storing are conducted concurrently with construction.

- (2) The area mined is limited to the area necessary to construction; and
- (3) The construction is reasonably related to the use proposed for the site.

**MINI-WAREHOUSE** — A building and/or series of buildings divided into separate storage units for personal property and/or property associated with some business or other organization. These units shall be used solely for dead storage, and no processing, manufacturing, sales, research and development testing, service and repair, or other non-storage activities shall be permitted. No unit shall exceed 600 square feet of gross leasable floor area.

**MINOR REPAIR** — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall "minor repairs" include addition to, alteration of, replacement of or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

**MONOPOLE** — A type of communication antenna tower that consists of a single pole or spire without guy wires or a ground anchor.

**MOTEL** — A facility which provides lodging to boarders for compensation, which contains more than eight rooms, with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and which may provide meals and other services as a part of the compensation.

**MUNICIPAL SERVICES** — Those uses and facilities designed to furnish necessary support for the general public health, safety and welfare that are typically the responsibility of local governments and other locally operated service agencies and are not operated on a commercial basis. Such uses shall include but not be limited to:

- A. City offices, meeting halls, garages, and storage yards.
- B. Police, fire and ambulance stations and prisons.
- C. Indoor community service uses and activities, including meeting rooms, classrooms, theaters, auditoriums, banquet and social halls, scout cabins, libraries, museums and galleries of materials that are not for sale, clubhouses, accessory cafeterias and kitchens, and other similar uses.

- D. Outdoor community service facilities and activities, including fairgrounds, community bulletin boards and other similar uses.
- E. Uses accessory to the above-permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers and other similar uses.

**NATURAL GAS COMPRESSOR STATION** — A facility designed and constructed to compress natural gas that originates from an oil or gas well or collection of such wells operating as a midstream facility for delivery of oil or gas to a transportation pipe line, distribution pipe line, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks, and other equipment. **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**

**NATURAL GAS PROCESSING PLANT** — A facility designed and constructed to remove materials such as ethane, propane, butane, or other constituents or similar substances from natural gas to allow the natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment designed and constructed to primarily remove water, water vapor, oil or naturally occurring liquids from natural gas. **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after August 3, 1998, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after November 20, 1995, and any subsequent improvements thereto. **[Amended by Ord. 268, 11/7/2011]**

**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, nor pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

- 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 as 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 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 shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- H. The business may not involve any illegal activity.

**NONCOMMERCIAL KEEPING OF LIVESTOCK** — An accessory use to a principal detached single-family dwelling that is not contained upon a farm, whereupon livestock are kept exclusively by the residents of the site.

**NONCONFORMING LOT** — A lot, the 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 zone in which it is located by reason of such adoption or amendment.

**NONCONFORMING STRUCTURE** — A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions 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 "nonconforming structures" include but are not limited to nonconforming signs.

**NONCONFORMING USE** — A use, whether of land or of structure, which does not comply with the applicable use provisions 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.

**NONCONFORMITY, DIMENSIONAL** — Any aspect of a land use that does not comply with any size, height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standard specified by this chapter, where such dimensional nonconformity lawfully existed prior to the adoption of this chapter or amendment thereto.

**NON-PRECISION-INSTRUMENT RUNWAY** — A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which

a straight-in non-precision-instrument approach procedure has been approved or planned.

**NURSING, REST OR RETIREMENT HOME** — Facilities designed for the housing, boarding, and dining associated with some level of nursing care.

**OBSTRUCTION** — Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone area:

- A. Which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water; or
- B. Which is placed where the flow of the water might carry the same downstream to the damage of life and property.

**OFFICE** — A place where the primary use is conducting the affairs of a business, profession, service, or government, including administration, recordkeeping, clerical work, and similar business functions. An "office" shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods or products or the sale or delivery of any materials, goods, or products which are physically located on the premises. Office supplies used in the office may be stored as an incidental use.

**OFF-PREMISES ADVERTISING SIGN** — A sign containing information or contents other than the name or insignia of the business or activity and a directional arrow or marking thereto which is placed or located on premises other than the property upon which an activity advertised is conducted and which includes any visual communication that is used to bring the subject of a business or activity to the attention of the public.

**OFF-PREMISES DIRECTIONAL SIGN** — A sign which contains only the name or insignia of the business and a directional arrow or geographical indication to said business or activity which is placed or located on premises other than the property upon which the activity or business is conducted.

**OFF-TRACK BETTING PARLOR** — A commercial use at which persons can visit to wager upon, and observe by remote television, the outcomes of events that are taking place elsewhere.

**OIL or GAS** — Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or other constituents or similar substances that are produced by drilling an oil or gas well. **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**

**OIL AND GAS OPERATIONS** — The term includes the following: **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**

- A. Well location assessment, including seismic operations, well site preparation, construction, drilling, hydraulic fracturing and site restoration associated with an oil or gas well of any depth.
- B. Water and other fluid storage or impoundment areas used exclusively for oil and gas operations.
- C. Construction, installation, use, maintenance, and repair of:
  - (1) Oil or gas pipelines.
  - (2) Natural gas compressor stations.
  - (3) Natural gas processing plants or facilities performing equivalent functions.
- D. Construction, installation, use, maintenance, and repair of all equipment directly associated with activities specified in Subsections A, B and C to the extent that:
  - (1) The equipment is necessarily located at or immediately adjacent to a well site, impoundment area, oil or gas pipeline, natural gas compressor station or natural gas processing plant; and
  - (2) The activities are authorized and permitted under the authority of a federal or Commonwealth agency.

**ONE-HUNDRED-YEAR FLOOD** — A flood which is likely to be equaled or exceeded once every 100 years (i.e., that has a one-percent chance of being equaled or exceeded in any given year). A study for the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this flood.

**ONE-HUNDRED-YEAR FLOOD BOUNDARY** — The outer boundary of an area of land that is likely to be flooded once every 100 years (i.e., that has a one-percent chance of being flooded each year). A study by the Federal Insurance Administration, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed surveyor or professional engineer registered by the Commonwealth of Pennsylvania is necessary to define this boundary.

**ONE-HUNDRED-YEAR FLOOD ELEVATION** — The water surface elevation of the one-hundred-year flood.

**ON-LOT SEWER SERVICE** — The disposal of sewage generated by one principal use with the use of safe and healthful means within the confines of

the lot on which the use is located, as approved by the Pennsylvania Department of Environmental Protection.

**ON-LOT WATER SERVICE** — The provision of a safe, adequate and healthful supply of water to a single principal use from a private well.

**OPEN-PIT MINING** — A principal mining use that involves the following excavation and related processes:

- A. The removal of topsoil and overburden to facilitate.
- B. The permanent removal, processing, sale and/or exchange of non-coal mineral resources; and
- C. The reclamation of the site in a stable condition as required by the Noncoal Surface Mine Conservation and Reclamation Act.<sup>7</sup>

**OPEN SPACE** — A space unoccupied by buildings or paved surface and open to the sky on the same lot with the building, or the complete area of an undeveloped parcel.

**OUTDOOR FURNACE** — Any equipment, device, apparatus, or any part thereof, which is installed, affixed or situated outdoors, for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for an interior space or water source.

**OVERBURDEN** — The strata or material overlapping a non-coal mineral deposit or in between non-coal mineral deposits in its natural state and material before or after its removal by surface mining.

**PA DEP** — The Pennsylvania Department of Environmental Protection.

**PARKING COMPOUND** — A primary retail sales business where passenger vehicles may be stored for short-term, daily, or overnight off-street parking and connected to a street by an access drive.

**PARKING LOT** — An accessory use in which required, and possibly additional, parking spaces are provided, subject to the requirements listed in § 312 of this chapter. **[Amended by Ord. 279, 1/21/2013]**

**PARKING SPACE** — An off-street space available for the parking of one motor vehicle and having usable access to a street or alley.

**PARKS AND PLAYGROUNDS** — Those facilities designed and used for recreation purposes by the general public that are not operated on a commercial basis. This definition is meant to include the widest range of recreational activities, excluding adult-related uses, amusement arcades,

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<sup>7</sup>Editor's Note: See 25 Pa. Code, Chapter 209.

amusement or theme parks, golf courses, off-track betting parlors, racetracks, and shooting ranges. Such uses may include:

- A. Outdoor park and recreation facilities, including athletic fields, courts, playgrounds, open play areas, stadiums, skating rinks, skateboard, stunt-bicycle or BMX-bicycle courses and other similar uses.
- B. Indoor recreation facilities, including community centers, gymnasiums, weight and fitness rooms, tennis courts, gymborees, game rooms, bowling alleys, skating rinks, locker rooms, and other similar features.
- C. Outdoor passive recreation facilities, including picnic pavilions, hiking, biking and fitness trails, park benches, fountains, statues and other



memorials, barbecue grills, ponds, natural and cultural exhibits, amphitheaters, and other similar uses.

- D. Indoor community service uses and activities, including meeting rooms, classrooms, theaters, auditoriums, banquet and social halls, scout cabins, libraries, museums and galleries of materials that are not for sale, clubhouses, accessory cafeterias and kitchens, and other similar uses.
- E. Outdoor community service facilities and activities, including fairgrounds, community bulletin boards and other similar uses.
- F. Indoor and outdoor swimming pools, including related amenities, like bathhouses, wading pools, spas, snack bars, and other similar uses.
- G. Uses accessory to the above-permitted uses, including parking and loading spaces, signs, offices, rest rooms, maintenance equipment storage areas and buildings, lights, waste receptacles and dumpsters, bleachers, and other similar uses.

PennDOT — The Pennsylvania Department of Transportation.

PERSON — An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

PESTICIDE — Any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.

PETROLEUM PRODUCT — Oil petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

PLANNED CENTER — A group of uses planned and designed as an integrated unit, with controlled ingress and egress and shared off-street parking provided on the property as an integral part of the unit. Such centers also may include planned center sign, as regulated herein.

PLANNING COMMISSION — The Planning Commission of City of Saint Marys.

PRECISION-INSTRUMENT RUNWAY — A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**PRE-COMMERCIAL TIMBER STAND IMPROVEMENT** — A forest practice, such as thinning or pruning, which results in better growth, structure, species composition, or health for the residual stand but which does not yield a net income to the landowner, usually because any trees cut are of poor quality, too small or otherwise of limited marketability or value.

**PREMISES** — The property upon which an activity is conducted, as determined by physical facts rather than property lines. It is the land occupied by the buildings or other physical uses that are necessary or customarily incident to the activity, including such open spaces as are arranged and designed to be used in connection with such buildings or uses. The following are not considered to be a part of the "premises" on which the activity is conducted, and any signs located on such land are to be considered off-premises advertising:

- A. Any land which is not used as an integral part of the principal activity, including land which is separated from the activity by a roadway, highway, or other obstruction and not used by the activity; and extensive undeveloped highway frontage contiguous to the land actually used by a commercial facility, even though it might be under the same ownership.
- B. Any land which is used for, or devoted to, a separate purpose unrelated to the advertised activity.
- C. Any land which is in closer proximity to the highway than to the principal activity, and developed or used only in the area of the sign site or between the sign site and the principal activity, and whose purpose is for advertising purposes only. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if the site is located on a narrow strip of land which is non-buildable land or is a common or private roadway or is held by easement or other lesser interest than the premises where the activity is located.

**PRIMARY SURFACE** — A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the "primary surface" extends 200 feet beyond each end of that runway; for military runways or when the runway has no specifically prepared hard surface, or planned hard surface, the "primary surface" is as set forth in this chapter. The elevation of any point on the "primary surface" is the same as the elevation of the nearest point on the runway center line.

**PRINCIPAL WASTE-HANDLING FACILITY** — A principal use whereby waste is brought to the site for storage, processing, treatment, transfer, or disposal.

**PROCESSING** — A function which involves only the cleaning, sorting, sizing and/or packaging of products and materials.

**PROFESSIONAL BIOLOGIST** — An individual with at least a graduate degree in aquatic and/or terrestrial biology and/or ecology and with a depth of knowledge in organisms and the processes of ecological systems.

**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 on zoning-related matters.

**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, and subsequent amendments.<sup>8</sup>

**PUBLIC NOTICE** — Notice published once each week for two 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 30 days, and the second publication shall not be less than seven days, from the date of the hearing. "Public notice" for rezoning, special exception and/or variance requests shall also include the posting of a sign(s) at a conspicuous location(s) upon the subject property to notify potentially interested citizens; this sign(s) shall be posted at least one-week prior to the hearing and will exhibit the nature, date, time and location of the hearing.

**PUBLIC SEWER** — A municipal sanitary sewer or a comparable community or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

**PUBLIC UTILITIES** — Use or extension thereof which is operated, owned or maintained by a public utility corporation, municipality or municipal authority or which is privately owned and approved by the Pennsylvania Public Utility Commission for the purpose of providing public sewage disposal and/or treatment; public water supply, storage and/or treatment; or for the purpose of providing the transmission of energy, cable television or land-based telecommunications. This definition expressly excludes antennas or towers devoted to cellular telecommunications.

**PUBLIC WATER** — A municipal water supply system or a comparable community water facility approved and permitted by the Pennsylvania Department of Environmental Protection. Such systems are capable of serving multiple users.

**QUALIFIED** — With reference to oil and gas operations, those activities which meet the specific requirements set forth in § 459.1 of this Chapter. **[Added by Ord. 275, 7/2/2012]**

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<sup>8</sup>Editor's Note: See 5 U.S.C. § 522b.

**RADIOACTIVE MATERIAL** — Any natural or artificially produced substance which emits radiation spontaneously.

**RECREATIONAL VEHICLE** — A vehicle that is: **[Amended by Ord. 268, 11/7/2011]**

- A. Built on a single chassis;
- B. For the purposes of § 230 (Floodplain Overlay Zone), not more than 400 square feet as measured at the largest horizontal projections, is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, has no permanent additions, is fully licensed and highway-ready, and is designed to be self-propelled or permanently towable by a light-duty truck; and
- C. Not designed for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

**RECYCLABLES** — Discarded materials that have entered a reasonably continuous process whereby their reuse is imminent.

**REDI-MIX CONCRETE OPERATION** — A principal use at which materials are imported, stored and mixed to create concrete that is dispatched by vehicle to job sites.

**REGULATORY FLOOD ELEVATION** — The one-hundred-year flood elevation plus a freeboard safety factor of 1 1/2 feet.

**RENTAL** — A procedure by which services or personal property are temporarily transferred to another person for a specific time period for compensation.

**REPAIR** — A function involved in correcting deficiencies of products that affect their performance and/or appearance.

**RESTAURANT** — An establishment that serves prepared food primarily on non-disposable tableware but can provide for incidental carry-out service so long as the area used for carry-out service does not exceed 5% of the total patron seating area nor 80 square feet, whichever is less. Caterers shall be included in this definition.

**RESTAURANT, DRIVE-THRU OR FAST-FOOD** — An establishment that serves prepared food generally packaged in paper wrappers and/or disposable plates and containers. Such food can be consumed either on or off the site.

**RETAIL SALES** — Those businesses whose primary activities involve the display and sales of goods and products to the general public. This term shall not include adult-related uses, as defined herein.

RETAIL SERVICES — Those businesses whose primary activities involve the delivery of intellectual or manual labor by the server to the general



public. This term shall expressly include but not be limited to personal services but will not include adult-related uses and automobile service, as defined herein.

**RETAINING WALL** — A man-made structure used to stably contain land at a location of substantial elevation change.

**RIDING STABLE** — A principal use whereby equestrian instruction is offered and horses are kept, bred, trained and/or exercised upon land not occupied by the owner of the horse(s).

**RIGHT-OF-WAY** — A corridor of publicly owned or leased land for purposes of maintaining primary vehicular and pedestrian access to abutting properties, including but not limited to roads, streets, highways, utilities and sidewalks. Abutting property owners are prohibited from encroaching across the right-of-way line. (See also "street line.")

**RURAL OCCUPATION** — A business or commercial activity that is conducted as an accessory use to a principal single-family detached residence and is located within an outbuilding of such residence.

**SAINT MARYS AIRPORT** — The airport owned and operated by St. Marys Airport Authority.

**SATELLITE DISH ANTENNA** — A device incorporating a reflective surface which is solid, open-mesh or bar-configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between land- and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as "satellite earth stations," "TVRO's," and "satellite microwave antennas."

**SCHOOL** — A principal use in which supervised education or instruction is offered according to the following categories:

- A. **COMMERCIAL SCHOOL** — A school that may offer a wide range of educational or instructional activities (excluding vocational-mechanical trade schools as defined below) that may, or may not, be operated as a gainful business by some person or organization other than the school district.
- B. **PRIVATE SCHOOL** — A school that offers elementary, secondary, postsecondary and/or postgraduate education that may, or may not, be operated as a gainful business.
- C. **PUBLIC SCHOOL** — A school licensed by the Department of Education for the purpose of providing elementary, secondary, and adult education and operated by the school district.

- D. VOCATIONAL-MECHANICAL TRADE SCHOOL — A school that may, or may not, be operated as a gainful business that principally offers training in any of the following occupations:
- (1) Truck driving.
  - (2) Engine repairs.
  - (3) Building construction and general contracting.
  - (4) Woodworking.
  - (5) Masonry.
  - (6) Plumbing.
  - (7) Electrical contracting.
  - (8) Nursing and health care.
  - (9) Cosmetology.
  - (10) Horticulture.
  - (11) Machine, tool and die shops.
  - (12) Metal fabrication.
  - (13) Other similar trades, as determined by the Zoning Hearing Board pursuant to §§ 107 and 604, Subsection 5, of this chapter.

SEASONAL RESIDENCE — A dwelling, cabin, camp, cottage, lodge or summer house which is intended for occupancy less than 182 days of the year.

SETBACK — The required horizontal distance between a setback line and a property or street right-of-way line.

- A. SETBACK, FRONT — The distance between the street line and the front setback line projected the full width of the lot; commonly called "required front yard."
- B. SETBACK, REAR — The distance between the rear lot line and the rear setback line projected the full width of the lot; commonly called "required rear yard."
- C. SETBACK, SIDE — The distance between the side lot line and the side setback line projected from the front yard to the rear yard; commonly called "required side yard."

SETBACK LINE — A line within a property and parallel to a property or street line which delineates the required minimum distance between some particular use of property and that property or street line.

SHADE TREE — A deciduous tree that shall have a clear trunk at least five feet above the finished grade.

**SHOOTING RANGE** — A place where members of the public, for a fee or by invitation, can discharge firearms for recreation, competition, skill development, and training. For the purpose of this chapter, a "firearm" shall include any instrument that uses a propelling charge to move a projectile (e.g., rifle, gun, shotgun, pistol, air gun, or archery). A "shooting range" does not include hunting when conducted in accordance with the rules and regulations of the Commonwealth of Pennsylvania. This definition does not include the legal discharge of firearms on private property.

**SHOPPING CENTER** — Any single store with greater than 30,000 square feet of gross floor area and any group of stores planned and designed for the site on which it is built, functioning as a unit, with shared off-street parking provided on the property as an integral part of the unit.

**SIGN** — A device for visual communication that is used to bring the subject to the attention of the public, but not including lettering or symbols that are an integral part of another structure or flags or other insignia of any government, fraternal, or similar organization.

**SINGLE AND SEPARATE OWNERSHIP** — The ownership of a lot by one or more persons, which ownership is separate and distinct from that of any abutting or adjoining lot. Ownership shall be considered separate and distinct where lots have been separately described as such, by metes and bounds, in a recorded deed or conveyance prior to the enactment of this chapter, or an amendment thereto, and have continued since that date to be so separately described in all subsequent recorded deeds of conveyance.

**SKIDDING** — Dragging trees on the ground from the stump to the landing by any means.

**SLASH** — Woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

**SLDO** — The latest version of the City of Saint Marys Subdivision and Land Development Ordinance, as may be amended from time to time.<sup>13</sup>

**SOIL SURVEY** — The latest published version of the United States Department of Agriculture's Soil Survey for Elk County, Pennsylvania.

**SPECIAL EXCEPTION** — A use that is generally compatible with a particular zone once specified criteria have been met. Special exception uses are listed by zone and approved by the Zoning Hearing Board in accordance with § 604, Subsection 3, of this chapter.

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<sup>13</sup>**Editor's Note: See Ch. 22, Subdivision and Land Development.**

**SPECIAL FLOOD HAZARD AREA** — An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or AH. **[Added by Ord. 268, 11/7/2011]**

**SPONSORSHIP SIGN** — Any sign or part thereof which indicates or recognizes a business or other entity which donated time, money, materials or services to the City, its various departments, any governmental entity or department thereof, or a nonprofit organization for erection of the sign or for the service or activity for which the sign is erected.

**STAND** — Any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

**START OF CONSTRUCTION** — Includes substantial improvement and other proposed new development and means the date the permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days from the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation of accessory structures on the property such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. **[Added by Ord. 268, 11/7/2011]**

**STORAGE** — A function involving the deposition of materials, goods and/or products for safekeeping.

**STORY** — That part of a building located between a floor and the floor or roof next above. The first story of a building is the lowest story, having 75% or more of its wall area above grade level. A "half-story" is a story under a gable, hip or gambrel roof, the wall plate of which on at least two opposite exterior walls is not more than two feet above such story.

**STREAM** — Any natural or artificial channel or conveyance for surface water with an annual or intermittent flow within a defined bed and bank.

**STREET** — Includes street, avenue, boulevard, road, highway, freeway, lane, viaduct and any other dedicated and adopted public right-of-way, or private right-of-way, used or intended to be used by vehicular traffic and/or pedestrians.

**STREET CENTER LINE** — The horizontal line paralleling the street that bisects the street right-of-way into two equal widths. In those instances where the street right-of-way cannot be determined, the "street center line" shall correspond to the center of the cartway.

**STREET LINE (RIGHT-OF-WAY LINE)** — A line defining the edge of a street right-of-way and separating the street from abutting property or lots. The "street line" shall be the same as the legal right-of-way line currently in existence.

**STRIP-AND-BORROW MINING** — A principal mining use that involves the following excavation and related processes:

- A. The temporary removal and nearby storage of topsoil and overburden to facilities.
- B. The permanent removal, processing, sale and/or exchange of non-coal mineral resources; and
- C. The redepositing of topsoil and overburden in a reclaimed and stable condition, as required by the Noncoal Surface Mine Conservation and Reclamation Act.<sup>10</sup>

**STRUCTURE** — A walled and roofed building, including a gas or liquid storage tank that is principally above ground; anything constructed or erected on the ground or attached to the ground. This term includes any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. Structures include but are not limited to buildings, sheds, cabins, and manufactured homes and travel trailers, fences, dams, culverts, roads, railroads, bridges, storage tanks, and signs. Structures shall not include such things as sandboxes, decorative fountains, swingsets, birdhouses, birdfeeders, mailboxes, and any similar nonpermanent improvements. **[Amended by Ord. 268, 11/7/2011; and by Ord. 279, 1/21/2013]**

- A. **STRUCTURE, ACCESSORY** — A structure associated with an accessory use (e.g., swimming pools, patios, antennas, tennis courts, garages, utility sheds, etc.).
- B. **STRUCTURE, PRINCIPAL** — A structure associated with a primary use.
- C. **STRUCTURE, UNDERGROUND** — A structure designed to be built with the majority of its finished space for human occupancy located

<sup>10</sup>Editor's Note: See 25 Pa. Code, Chapter 209.

partially or wholly underground. The location of the exterior walls of an "underground structure" must conform to all setback requirements applicable to aboveground structures in the same zoning classification. A completed structure not designed or intended to serve as a substructure foundation for a building.

**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 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% or more of the market value of the structure before the damage occurred. **[Amended by Ord. 268, 11/7/2011]**

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**SWIMMING POOL** — Any pool, not located within a completely enclosed building, containing, or normally capable of containing, water to a depth at any point greater than 1 1/2 feet. Farm ponds and/or lakes are not included, provided that swimming was not the primary purpose for their construction.

**TAVERN** — 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.

**TESTING** — A function involving the examination and assessment of qualities, performances and/or capabilities of a product, good or material.

**TIMBER HARVESTING, TREE HARVESTING or LOGGING** — That part of forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

**TRANSITIONAL SURFACES** — These surfaces extend outward at 90° angles to the runway center line and the runway center line extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. "Transitional surfaces" for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface extend a distance of 5,000 feet, measured horizontally from the edge of the approach surface and at 90° angles to the extended runway center line.

**TRASH, GARBAGE AND REFUSE** — Any material that, because of its age or condition, is of little value and usefulness. Some common examples include but are not limited to:

- A. Inoperable machinery and appliances.
- B. Rusted or bent metals, tools, and barrels.
- C. Used automobile tires and batteries.
- D. Empty beverage, food and other containers.
- E. Weathered, broken or used building materials.
- F. Spoiled or discarded food products.
- G. Used, torn or discarded garments, rags and other fabric products.
- H. Worn or broken furniture.
- I. Used or discarded newspaper, magazines and other paper products.

**TREETOP** — The upper portion of a felled tree that is not marketable because of small size, taper or defect.

**TWO-FAMILY CONVERSION** — The conversion of an existing single-family detached dwelling unit to contain two separate dwelling units.

**USE** — The specific purpose for which land or a structure is designed, arranged, intended, occupied or maintained.

- A. **USE, ACCESSORY** — A use customarily incidental and subordinate to the principal use or building and located on the same lot with this principal use or building.
- B. **USE, PRINCIPAL** — The main or primary use of property or structures.

UTILITY RUNWAY — A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds' maximum gross weight and less.

VARIANCE — A modification of any provision of this chapter granted by the Zoning Hearing Board, subject to findings specified by the Act.

VETERINARIAN — A practitioner licensed by the Commonwealth of Pennsylvania who is qualified and authorized to treat diseases and injuries of animals.

VETERINARY OFFICE — Any building or group of buildings which is used primarily for the treatment of animals by a veterinarian. The facilities must include a veterinarian's office and may include indoor areas and outdoor areas used for the purpose of treatment, care, breeding, raising and/or boarding of animals.

VIOLATION — The failure of a structure or other development to be fully compliant with any and all provisions of this chapter. For floodplain management purposes, a structure or other development without the elevation certificate or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to violate this chapter until such time as that documentation is provided. **[Added by Ord. 268, 11/7/2011]**

VISUAL RUNWAY — A runway intended solely for aircraft using visual approach procedures.

WASTE — Garbage, refuse and other discarded materials, including but not limited to solid, semisolid, contained gaseous and liquid materials resulting from municipal, industrial, institutional, commercial, agricultural, residential, and other activities. Such wastes shall also include biological excrement and hazardous waste materials, as defined in the Code of Federal Regulations, Title 40, Chapter 1, Part 261, dated July 1, 1984, or as amended. "Waste" shall expressly include those materials defined, at any given time, as "waste" by the Pennsylvania Department of Environmental Protection and the U. S. Environmental Protection Agency. For the purposes of this chapter, the difference between "waste" and "junk" or "recyclables" is that "waste" shall include materials that have entered a reasonably continuous process by which their ultimate disposal is imminent; whereas "junk" includes materials that may be stored for longer periods of time awaiting potential reuse or ultimate disposal; and whereas "recyclables" include materials that have entered a reasonably continuous process whereby their reuse is imminent.

**WATERCOURSE** — A permanent or intermittent stream, river, brook, run, creek, channel, swale, pond, lake, or other body of surface water carrying or holding surface water, whether natural or artificial.

**WATERSHED** — All the land from which water drains into a particular watercourse.

**WECS UNIT (WIND ENERGY CONSERVATION SYSTEM)** — Any device which converts wind energy to mechanical or electrical energy, and shall include blades, hubs to which blades are attached, and any device, such as a tower, used to support the hub and/or rotary blades, etc.

**WETLAND MARGINS** — The transitional area extending from the outer limit of a delineated wetland. For the purpose of this chapter, the "wetland margin" shall extend 50 feet from the wetland boundary or to limit of the hydric soils outside the boundary, whichever is less.

**WETLANDS** — Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas, and which may be identified as jurisdictional wetlands using methods described in the 1989 edition of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Government Printing Document No. 024-010-00-683-8).

**WHOLESALE** — Any distribution procedure involving persons who, in the normal course of business, do not engage in sales to the general public.

**WIND FARMS** — An assemblage of wind energy devices whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures, including but not limited to substations, towers, electrical infrastructure, transmission lines and other appurtenant facilities.

**WINDOW** — An opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a "window" in regard to provision of natural light.

**WIND TURBINE** — A wind energy device 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.

**YARD** — An area between the permitted structures and the property lines.

- A. **YARD, FRONT** — The area extending the full width of the lot contained between the principal structure and the street right-of-way line, except that where a portion of the site has a front property line

that is located away from the street right-of-way and runs generally parallel to the street, the "front yard" shall also include that area that is located between the principal structure and the front property line that generally parallels the street. (See diagram.)

- B. YARD, REAR — The area contained between the principal structure and the property line directly opposite the street of address. For flag lots, the "rear yard" shall be that area between the principal structure and that lot line which is directly opposite the above-described front yard.
- C. YARD, SIDE — The area(s) between a principal structure and any side lot line(s). On corner lots, the "side yard" shall be considered those areas between the principal structure and the property lines directly opposite the nonaddress street(s). For flag lots, the "side yards" shall be the area between the principal structure and that one outermost lot line which forms the flag and pole, plus the area on the opposite side of the principal structure.

**YARD SALE** — The display of personal possessions, and those of friends, relatives and neighbors, for sale to the general public upon the property of one's residence.

**ZONING** — The designation of specified districts within the City, reserving them for certain uses, together with limitations on lot size, heights of structures and other stipulated requirements.

**ZONING OFFICER** — The duly constituted municipal official designated to administer and enforce this chapter in accordance with its literal terms.

**ZOO** — A facility in which animals are kept for public display. In addition, this use can also include the conduct of other occasional special events. In addition, this use also includes accessory uses (e.g., eateries, exhibits, and shops). In addition, this use can also include for the provision of resident employee and guest lodging services for both humans and animals incidental to the visit or stay on the site. Finally this use may also include veterinary care for animals kept at or visiting the site.



**PART 2**  
**ZONE REGULATIONS**

**§ 200. Rural Conservation Zone (RC). [Ord. 227, 12/18/2006]**

1. Purpose. The primary purpose of this zone is to blend farmlands with rural residences in outlying areas of the City. Within this zone, a wide variety of agricultural, mining, forestry and rural activities are permitted, some of which require special exception approval due to their potential for impact to adjoining rural residences. Residential development is permitted at low densities due to a general lack of public utilities; however, higher densities are permitted where public utility systems are utilized.
2. Permitted uses:
  - A. Agriculture and horticulture, including one single-family detached dwelling contained on the site, excluding concentrated animal feeding operations and/or commercial produce operations, as defined herein.
  - B. Forestry uses, subject to the requirements of § 326 of this chapter.
  - C. Uses devoted to the conservation of natural resources.
  - D. Municipal services, parks and playgrounds.
  - E. Public and private schools.
  - F. Churches, cemeteries and related uses.
  - G. Public utility structures.
  - H. Single-family detached dwellings, camps and cottages.
  - I. Animal shelters and veterinary offices, subject to the following:
    - (1) All animal care and boarding shall be within a completely enclosed building.
    - (2) The applicant shall furnish evidence of an effective means of animal waste collection and disposal, which shall be continuously implemented.
    - (3) All animal shelters must maintain proper licensure from Elk County.
    - (4) Any sign used for a kennel shall not exceed 12 square feet in size.
  - J. Bed-and-breakfasts, as defined herein, subject to the following:

- (1) The proposed use must be located within a detached dwelling unit that is located upon its own parcel or upon the parcel of a farm.
- (2) The dwelling may be enlarged, provided that all modifications to the external appearance of the building (except fire escapes) would not alter its residential character.
- (3) All floors above or below grade shall have a permanently affixed, direct means of escape to ground level and working smoke and carbon-monoxide detectors on each floor.
- (4) The owner of the use, or the owner's agent, must reside within the building containing the bed-and-breakfast use.
- (5) One off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit, and such parking spaces shall be set back a minimum of 10 feet from all property lines and screened from adjoining roads and properties.
- (6) A bed-and-breakfast may erect one sign no larger than 12 square feet in size, which must be set back 10 feet from all lot lines.
- (7) Breakfast shall be offered only to registered overnight guests and must be served in family-style dining facilities.
- (8) The applicant shall furnish evidence that an approved means of sewage disposal shall be used. If the proposed use is to be served by an on-lot sewage disposal system, the applicant must obtain a report from the City of Saint Marys Sewage Enforcement Officer that either the existing or the proposed on-lot sewage disposal system has sufficient capacity and is of sound condition to adequately serve the proposed use.
- (9) The applicant shall furnish, upon application for the proposed use and annually thereafter, evidence that an approved means of potable water supply shall be used.
- (10) The applicant shall furnish proof of approval from the Pennsylvania Department of Labor and Industry.

K. Kennels, as defined herein, subject to the following:

- (1) All animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stalls, or runways, shall be located within the rear yard.

- (2) All animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stalls, or runways, shall be a minimum of 100 feet from all property lines.
- (3) The applicant shall furnish evidence of an effective means of animal waste collection and disposal, which shall be continuously implemented.
- (4) The minimum lot area shall be 10 acres.
- (5) All kennels must maintain proper licensure from Elk County.
- (6) Any sign used for a kennel shall not exceed 12 square feet in size.

L. Riding stables, as defined herein, subject to the following:

- (1) The minimum lot area shall be 10 acres.
- (2) Any structure used for the boarding of horses shall be set back at least 50 feet from any property line.
- (3) All stables shall be maintained so to minimize odors perceptible at the property line.
- (4) All parking compounds and unimproved overflow parking areas shall be set back at least 10 feet from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking and/or movement of vehicles across neighboring properties.
- (5) Any sign used for a riding stable shall not exceed 12 square feet in size.

M. Two-family conversions. A detached single-family dwelling that existed on the effective date of this chapter and contained (at that time) at least 3,000 square feet may be converted into two dwelling units, subject to the following:

- (1) The applicant shall furnish evidence that an approved system of water supply and sewage disposal will be utilized.
- (2) No extensions or modifications to the external appearance of the building (except fire escapes) which would alter its residential character shall be permitted.
- (3) All floors above grade shall have a direct means of escape to ground level.
- (4) Four off-street parking spaces shall be provided.

- (5) The applicant shall obtain any required land development approvals.
- N. Communication antennas that are co-located upon existing structures (e.g., utility transmission towers, observation towers, communication towers, silos, steeples, smokestacks, water towers, flagpoles, and other similar structures), provided that:
- (1) The applicant submits a copy of the written agreement with the landowner upon whose structure the antenna is to be located.
  - (2) The applicant shall be required to demonstrate that it is licensed by the Federal Communications Commission to operate the proposed use.
  - (3) The applicant shall demonstrate that the proposed use will comply with the applicable standards governing human exposure to electromagnetic radiation by the Federal Communications Commission.
  - (4) The applicant shall demonstrate that the proposed use will comply with all regulations of the Federal Aviation Administration, Commonwealth Bureau of Aviation, and § 231 of this chapter.
  - (5) The applicant shall furnish a sealed statement from a registered engineer that the construction methods or other measures used will prevent the toppling of any communication tower onto adjoining properties and/or roads and prevent the wind-borne scattering of ice onto adjoining properties and/or roads.
- O. Clubhouses, as defined herein, subject to the following:
- (1) All clubhouses shall front on and have access to an arterial or collector road.
  - (2) All off-street parking shall be screened and set back 30 feet from any adjoining property lines.
  - (3) Outdoor recreation/activity areas shall be set back at least 50 feet from any property line.
  - (4) The applicant shall furnish evidence that approved systems for sewage disposal and water supply will be utilized.
  - (5) The applicant must furnish written evidence as to how the use will be controlled so as not to constitute a nuisance due to noise or loitering outside of the clubhouse or glare of lighting on adjoining properties and streets.

- P. Accessory uses customarily incidental to the above permitted uses, including but not limited to the following:
- (1) Roadside stands for the seasonal sale of agricultural products shall be permitted, subject to the following:
    - (a) Roadside stands shall not exceed 300 square feet of total display area.
    - (b) Roadside stands must be located at least 10 feet from the right-of-way line and must have at least three off-street parking spaces.
    - (c) A maximum of two signs will be permitted, and they shall not exceed 12 square feet in total area nor exceed a maximum height of 15 feet.
  - (2) Accessory day-care and family day-care facilities, as defined herein, subject to the following:
    - (a) An outdoor play area shall be provided, at a rate of 65 square feet per individual enrolled. Off-street parking spaces shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard. Additionally, outdoor play areas shall be located and designed so as not to disrupt normal activities of adjoining uses permitted within the zone and/or neighborhood. Outdoor play areas shall be completely enclosed by a minimum four-foot-high fence and screened from adjoining residentially zoned properties. Any vegetative materials located within the outdoor play areas shall be of a non-harmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade, such as a shade tree(s) or pavilion(s).
    - (b) Enrollment shall be defined as the largest number of persons and/or children under day-care supervision at any one time during a seven-day period.
    - (c) Passenger drop-off and pickup areas shall be provided on site and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site.
    - (d) One off-street parking space, in addition to those required for the dwelling unit, shall be provided.
    - (e) Family day-care facilities shall be properly registered with the Commonwealth of Pennsylvania.

- (f) Upon the establishment of the day-care operation, the Zoning Officer shall issue a temporary use and occupancy permit. Such permit shall be reviewed every 12 months until such time as the use is removed. A fee, in the amount to be set by the City Council, shall be paid by the landowner upon each renewal of the temporary permit. Such fee shall be based upon the cost of the annual review of the permit.
- (3) Manure-storage facilities, if contained upon a farm, and subject to the following regulations:
    - (a) All manure-storage facilities shall be designed in compliance with the guidelines outlined in the publication Manure Management for Environmental Protection, Bureau of Water Quality Management Publication No. 43, and any revisions, supplements, and replacements thereof, published by the Pennsylvania Department of Environmental Protection, copies of which are available from Water Quality Management in the Department of Environmental Protection regional offices located at 1 Ararat Boulevard, Harrisburg, PA, 17110, telephone (717) 657-4585.
    - (b) All waste-storage facilities' designs shall be reviewed by the USDA Soil Conservation Service. The applicant shall furnish a letter from the USDA Soil Conservation Service attesting to approval of the design of the proposed facility.
    - (c) Construction and subsequent operation of the waste-storage facility shall be in accordance with the permit and the approved design. Any design changes during construction or subsequent operation will require the obtainment of another review by the USDA Soil Conservation Service.
  - (4) Beekeeping, subject to the following:
    - (a) It shall be the duty of the applicant to maintain each colony so as to not create a public nuisance.
    - (b) Colonies shall be maintained in movable hives.
    - (c) Hives shall be situated to maximize sunshine exposure and/or natural wind protection.
    - (d) In no case shall hives be located within 25 feet of any property line.

- (e) All beehives must be registered in accordance with the Pennsylvania Department of Agriculture, Entomology Section.
  - (f) Hives shall not be oriented to children's play areas.
- (5) ECHO housing, as defined herein, subject to the following:
- (a) The elder cottage shall be of portable construction and may not exceed 900 square feet of floor area, or it shall be provided as a separate unit within a dwelling or accessory building existing on the effective date of this chapter.
  - (b) The total building coverage for the principal dwelling, any existing accessory structures and the elder cottage together shall not exceed the maximum lot coverage requirement for the respective zone.
  - (c) The elder cottage shall be occupied by:
    - [1] One person who is at least 50 years of age or a handicapped and/or disabled person, who is related by blood, marriage or adoption to the occupants of the principal dwelling; or
    - [2] The caregiver who is related by blood, marriage or adoption to the elderly, handicapped or disabled occupant(s) of the principal dwelling.
  - (d) The elder cottage shall be occupied by a maximum of two people.
  - (e) Utilities:
    - [1] For sewage disposal and water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling; no separate utility systems or connections shall be constructed or used, unless required by the PA DEP. All connections shall meet the applicable utility company standards.
    - [2] If on-site sewer or water systems are to be used, the applicant shall submit evidence that the total number of occupants in both the principal dwelling and the elder cottage will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expanded, in which case the expansion

approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the Sewage Enforcement Officer.

- (f) A minimum of one all-weather, off-street parking space, with unrestricted ingress and egress to the street, shall be provided for the elder cottage, in addition to that required for the principal dwelling.
  - (g) Unless provided within an existing building, the elder cottage shall be installed and located only in the side or rear yard and shall adhere to all side and rear yard setback requirements for principal uses.
  - (h) The elder cottage shall be removed from the property within three months after it is no longer occupied by a person who qualifies for the use.
  - (i) Upon the proper installation of the elder cottage, the Zoning Officer shall issue a temporary zoning permit. Such permit shall be reviewed every 12 months until such time as the elder cottage is required to be removed. A fee, in the amount to be set by the City Council, shall be paid by the landowner upon each renewal of the temporary zoning permit. Such fee shall be based upon the cost of the annual review of the permit.
- (6) Farm occupations, as defined herein, if conducted as an accessory use to a principal agricultural use of the property, with a minimum of 10 acres, and subject to the following:
- (a) Residents and up to two nonresidents may be employed by the farm occupation.
  - (b) The use must be conducted within one completely enclosed building. Where practicable, the farm occupation shall be conducted within an existing farm building. However, any new building constructed for use by the farm occupation shall be located behind the farm's principal buildings or must be no less than 100 feet from any adjoining roads or properties.
  - (c) Any new building constructed for use by the farm occupation shall be of a design so that it can be readily converted to agricultural use, or removed, if the farm occupation is discontinued.

- (d) No part of a farm occupation shall be located within 100 feet of any side or rear lot line. Such distances shall be measured as a straight line between the closest points of any physical improvement associated with the farm occupation and the property/zoning line.
  - (e) The farm occupation shall occupy no more than 4,000 square feet of gross floor area nor more than one acre of lot area. However, any access drive serving the farm occupation and the farm shall not be calculated as land serving the farm occupation.
  - (f) No more than 50% of the land devoted to a farm occupation shall be covered by buildings, structures, parking or loading areas, or any other impervious surfaces.
  - (g) Any sign used for a farm occupation shall not exceed 12 square feet in size.
- (7) Rural occupations, as defined herein, subject to the following:
- (a) Only one rural occupation may be conducted on the same property as the owner's principal residence.
  - (b) A rural occupation shall only be conducted within one completely enclosed outbuilding that satisfies at least one of the following:
    - [1] The building will remain the same size and in the same location as it existed on the effective date of this section; and/or
    - [2] The building is limited to 1 1/2 stories in height or 20 feet, whichever is lesser, is no larger than the square footage that comprises the principal residence's main grade level, is located in the rear yard of the principal residence, and is set back at least 50 feet from any side or rear lot line. All applicants are required to design buildings that are compatible with their residential settings.
  - (c) In no case shall any new rural occupation building be constructed before the owner resides on the subject property. In addition, rural occupations may only be conducted so long as the sole owner of the business resides on the site.
  - (d) In no case shall the required maximum lot coverage be exceeded by those impervious surfaces associated with

the principal residence, rural occupation and/or other accessory uses.

- (e) All off-street parking and loading spaces shall be screened from adjoining roads and properties.
  - (f) No outdoor storage or display shall be permitted, except that one commercial truck of not more than 11,000 pounds' gross vehicle weight may be parked behind the principal residence, so long as it is screened from adjoining roads and properties.
  - (g) One nonilluminated sign not exceeding 12 square feet shall be permitted, and it must be set back at least five feet from all property lines.
  - (h) No rural occupation and its principal dwelling shall generate more than 20 vehicle trips per day to or from the site. The applicant shall furnish written evidence regarding the expected numbers of vehicle trips associated with the proposed use.
  - (i) Vehicular access to the rural occupation shall be limited to the same driveway connection with the public street that serves the principal residence. No additional roadway connections shall be permitted.
  - (j) Up to two nonresidents of the site may be employed in the rural occupation.
  - (k) Rural occupations shall only be conducted between the hours of 6:00 a.m. and 9:00 p.m.
  - (l) No manufacturing, mechanical, or industrial use shall be permitted which causes any noise, odor, glare, fumes, smoke, dust, vibration, electromagnetic interference, or other hazard that is noticeable at or beyond the line of the nearest residential lot. No use that requires application or permitting by the PA DEP for the handling of hazardous waste or other substances shall be permitted, except for wastewater treatment.
- (8) Home occupations, as defined herein, subject to the following:
- (a) The use shall be clearly incidental to the primary use of the premises as a dwelling for living purposes.
  - (b) Up to two nonresident employees shall be permitted.

- (c) No more than one home occupation may be located in any dwelling unit.
  - (d) The home occupation shall not alter the appearance of the building as a dwelling unit.
  - (e) No mechanical equipment shall be employed in a home occupation, other than that customarily utilized for hobby or domestic purposes.
  - (f) No sales of any goods or merchandise shall occur on the premises that would require customer visitation to the site, other than those goods or merchandise which are/is produced on the premises.
  - (g) No manufacturing shall occur on the premises other than the products of customary hobbies and fabrication of garments by a seamstress or tailor.
  - (h) No goods shall be displayed so as to be visible from the exterior of the premises.
  - (i) Home occupations shall be limited to not more than 25% of the floor area of the dwelling unit.
  - (j) No accessory building or structure shall be utilized as a home occupation, except that an accessory building or structure may be used as storage area for the home occupation, provided that said area shall be included in the total area permitted for a home occupation use and, further, that no such accessory building or structure shall be accessible to the public for business purposes.
  - (k) In addition to the required parking spaces for the dwelling unit, one parking space for patrons on site at one time shall be provided.
  - (l) Only one sign advertising a home occupation shall be permitted. Such sign shall not be illuminated and shall be limited to 12 square feet in display area, including all sides of the sign.
  - (m) The applicant shall submit evidence of all applicable state approvals.
- (9) Noncommercial keeping of livestock, as defined herein, subject to the following:

- (a) Minimum lot area: one acre. Additionally, the following list specifies additional requirements by size of animals kept:
  - [1] Group 1: Animals whose average adult weight is less than 10 pounds shall be permitted at an animal density of 12 per acre, with a maximum number of 50 animals.
  - [2] Group 2: Animals whose average adult weight is between 10 and 65 pounds shall be permitted at an animal density of two per acre, with a maximum number of 20 animals.
  - [3] Group 3: Animals whose average adult weight is greater than 65 pounds shall be permitted at an animal density of one per acre, with a maximum number of 10 animals.
  - [4] The keeping of a combination of animal types (Groups 1, 2 and 3) shall require an animal density equal to the ratio of the number of animals, by type. In no case shall a lot contain more than 50 total animals. Should one structure be used to house a combination of animal types, the most-restrictive setback shall apply.
- (b) The following lists minimum setbacks (from all property lines) imposed upon the placement of any structure used to house noncommercial livestock:
  - [1] Group 1 animals:
    - [a] Up to 25 animals: a twenty-five-foot setback.
    - [b] Above 25 animals: a fifty-foot setback.
  - [2] Group 2 animals:
    - [a] Up to 2 animals: a twenty-five-foot setback.
    - [b] Above 2 animals: a fifty-foot setback.
  - [3] Group 3 animals: 50 feet.
- (c) All structures used to house noncommercial livestock shall be prohibited from placement in the front yard.

- (d) All outdoor pasture/recreation areas shall be enclosed with fencing to prevent the escape of the animals.
  - (e) All animal wastes shall be properly stored and disposed of, so as not to be objectionable at the site's property line. All animals, their housing, and their outdoor pasture/recreation areas shall be properly maintained so as not to become a nuisance to adjoining properties.
- (10) Temporary farm employee housing, if contained on a farm, subject to the following standards:
- (a) For each farm, one mobile home is permitted for the use of farm workers (and their families) who are employed by the owner of the farm, for such time as the employee works the land of the owner.
  - (b) All such units shall be located within the rear yard of the farm dwelling and shall further comply with all setback requirements imposed upon single-family detached dwellings.
  - (c) Such mobile homes shall be securely anchored to a mobile home stand, a six-inch-thick poured concrete slab over a six-inch stone base, the length and width of which shall be at least equal to the dimensions of the mobile home. Each mobile home pad shall include properly designed utility connections.
  - (d) The mobile home shall be occupied at least 120 days a year by at least one person who is employed on the farm where the mobile home is located. If this condition is not satisfied, the mobile home shall be removed within 120 days.
- (11) No-impact home-based businesses, as defined herein.
- (12) Outdoor furnaces, subject to the following standards:
- (a) The outdoor furnace shall not be permitted within the front yard.
  - (b) The outdoor furnace shall be located within 30 feet of the building it serves.
  - (c) The outdoor furnace shall comply with all applicable accessory use setbacks.
  - (d) The outdoor furnace shall comply with Chapter 7, Part 1, Outdoor Fires, of the Saint Marys City Code.

- Q. Qualified oil and gas operations, excluding natural gas processing plants. **[Added by Ord. 275, 7/2/2012]**
- 3. Special exception uses (subject to the requirements listed in § 604, Subsection 3, of this chapter):
  - A. Campgrounds. (See § 414.)
  - B. Commercial produce operations. (See § 418.)
  - C. Communication towers and equipment that are not co-located upon an existing structure. (See § 420.)
  - D. Concentrated animal feeding operations. (See § 421.)
  - E. Golf courses. (See § 429.)
  - F. Nursery and garden centers and contractors. (See § 443.)
  - G. Nursing, rest or retirement homes. (See § 444.)
  - H. Wind farms. (See § 458.)
- 4. Conditional uses (subject to the requirements listed in § 704 of this chapter):
  - A. Airports/heliports. (See § 404.)
  - B. Cluster developments. (See § 416.)
  - C. Manufactured home parks. (See § 438.)
  - D. Mining, quarrying, and related processing facilities. (See § 441.)
  - E. Sawmills. (See § 450.)
  - F. Septage and/or spent mushroom compost processing or commercial mushroom operations. (See § 451.)
  - G. Shooting ranges. (See § 452.)
  - H. Oil and gas operations not meeting the requirements of § 459.1. **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**
- 5. Design requirements for the RC Zone. **[Amended by Ord. 279, 1/21/2013]**

Use	Minimum Lot Area <sup>1</sup>	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Yard Setbacks			
				Front (feet)	One Side (feet)	Both Sides (feet)	Rear (feet)
Agricultural, horticultural or forestry uses	10 acres	200	10%	50 <sup>2</sup>	50 <sup>2</sup>	100 <sup>2</sup>	50 <sup>2</sup>

Use	Minimum Lot Area <sup>1</sup>	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Yard Setbacks			
				Front (feet)	One Side (feet)	Both Sides (feet)	Rear (feet)
Single-family dwellings, camps and cottages and other permitted uses with on-lot sewage and on-lot water	1 acre	125	20%	30	20	40	25
Single-family dwellings and other permitted uses with public sewage or public water	20,000 square feet	100	25%	30	15	30	25
Single-family dwellings and other permitted uses with public sewage and public water	12,000 square feet	70	30%	30	10	20	25
Single-family dwellings and other permitted uses if more than 50% of the site possesses slopes in excess of 15%	2 acres	150	7%	30	20	40	25
Accessory residential uses	N/A	N/A	Same as above	60 if the accessory use is in front of the principal building	15	30	15

**NOTES:**

<sup>1</sup> All uses relying upon on-lot sewers are subject to the requirements listed in § 317 of this chapter.

**NOTES:**

<sup>2</sup> Special setback requirements. Except as provided for in the following paragraph, no area for the storage or processing of manure, garbage, or spent mushroom compost, structures for the cultivation of mushrooms or the raising of commercial livestock, nor any building housing commercial livestock shall be permitted within 200 feet of any adjoining property. The Zoning Hearing Board may, as a special exception, however, reduce the above special setback requirements where it is shown that, because of prevailing winds, unusual obstructions, topography, or other conditions, a lesser distance would protect adjoining lands from odor, dust, or other hazards. In no case, however, shall the Zoning Hearing Board reduce the special setback to less than 100 feet. The burden shall be upon the applicant to prove that a lesser distance would not be detrimental to the health, safety, and general welfare of the community.

6. Maximum permitted height:
  - A. Principal buildings and structures: 35 feet.
  - B. Accessory buildings and structures: 25 feet.
7. Agricultural nuisance disclaimer. Lands within the Rural Conservation Zone are located within an area where land is used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations and are hereby put on official notice that Section 4 of Pennsylvania Act 133 of 1982, the Right to Farm Law,<sup>11</sup> may bar them from obtaining a legal judgment against such normal agricultural operations.
8. Required conservation plan. Any agricultural, horticultural or forestry uses which involve earthmoving activities or the commercial harvesting or timbering of vegetation shall require the obtainment of an approved conservation plan by the Elk County Conservation District pursuant to Chapter 102, Erosion Control, of Title 25, Rules and Regulations, of the Department of Environmental Protection. All on-site activities shall then be in compliance with the approved conservation plan.
9. All uses permitted within this zone shall also comply with all applicable general provisions contained within Part 3 of this chapter.

**§ 201. Residential Suburban Zone (RS). [Ord. 227, 12/18/2006]**

1. Purpose. The purpose of this zone is to reflect and permit a continued suburban development pattern with lower densities and detached housing units. Because areas within this zone may or may not have access to public

<sup>11</sup>Editor's Note: See 3 P.S. § 954.

utilities, design standards vary depending upon those public utilities utilized. In addition, where dwelling units are constructed in an area planned for public sewer service that precedes sewer installation, such lots will be required to employ utility infill designs and capped sewer lines. Uses permitted within this zone are limited to complement suburban neighborhoods, with accessory uses that will not detract from the residential character.

2. Permitted uses:

- A. Agricultural, horticultural and forestry uses, excluding concentrated animal feeding operations subject to the standards listed in § 200 of this chapter.
- B. Single-family detached dwellings.
- C. Municipal services, parks and playgrounds.
- D. Public and private schools.
- E. Churches, cemeteries and related uses.
- F. Public utility structures.
- G. No-impact home-based businesses.
- H. Accessory uses customarily incidental and secondary to the above permitted uses, including but not limited to no-impact home-based businesses and accessory day-care uses, as defined herein.
- I. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**

3. Special exception uses (see § 604, Subsection 3):

- A. Bed-and-breakfasts. (See § 411.)
- B. ECHO housing. (See § 425.)
- C. Family day-care facilities. (See § 426.)
- D. Home occupations. (See § 434.)

4. Design standards in the RS Zone:

Utilized Public Utilities	Minimum Lot Area (square feet)	Minimum Lot Width <sup>2</sup> at Building Setback Line/ (Frontage) (feet)	Maximum Lot Coverage	Minimum Yard Setback Sides			
				Front (feet)	One (feet)	(Both) (feet)	Rear (feet)
None	43,560 <sup>1</sup>	400 <sup>2</sup> (360)	20%	35	315	(330) <sup>2</sup>	35
Public water	32,000 <sup>1</sup>	300/(270)	25%	35	215	(230)	35

Utilized Public Utilities	Minimum Lot Area (square feet)	Minimum Lot Width <sup>2</sup> at Building Setback Line/ (Frontage) (feet)	Maximum Lot Coverage	Minimum Yard Setback Sides			
				Front (feet)	One (feet)	(Both) (feet)	Rear (feet)
Public sewer	20,000	200/(180)	30%	35	115	(130)	35
Public sewer and water	10,000	100/(90)	40%	35	15	(30)	35
Accessory residential structures		N/A	Same as above	Not permitted	10	(20)	10

**NOTES:**

<sup>1</sup> All uses relying upon on-lot sewers must comply with § 317 of this chapter.

<sup>2</sup> For a graphic illustration, refer to the following diagram.

5. Maximum permitted height:
  - A. Principal buildings and structures: 35 feet.
  - B. Accessory buildings and structures: 20 feet.
6. All uses permitted within this zone shall also comply with the applicable general provisions contained in Part 3 of this chapter.

**§ 202. Residential Urban Zone (RU). [Ord. 227, 12/18/2006]**

1. Purpose. The purpose of this zone is to reflect and permit a continued development pattern that has evolved in these older existing neighborhoods. Characteristics of this zone include smaller and narrower lot sizes with detached and attached dwellings served by public utilities. Uses permitted within this zone are limited to complement these existing neighborhoods, with accessory uses that will not detract from the residential character.
2. Permitted uses:
  - A. Single-family detached dwellings.
  - B. Duplexes.
  - C. Forestry uses, subject to § 326 of this chapter.
  - D. Municipal services, parks and playgrounds.
  - E. Public and private schools.
  - F. Churches, cemeteries and related uses.
  - G. Public utility structures.
  - H. No-impact home-based businesses.
  - I. Accessory uses customarily incidental and secondary to the above permitted uses, including but not limited to no-impact home-based businesses and accessory day-care uses, as defined herein. No detached accessory building shall contain more than 900 square feet of total floor area unless a special exception is granted in accordance with § 401 of this chapter, and further provided that no more than one accessory building shall be permitted.
  - J. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**
3. Special exception uses (see § 604, Subsection 3):
  - A. Accessory detached structures exceeding 900 square feet of total floor area. (See § 401.)
  - B. Accessory dwelling units. (See § 402.)
  - C. Boardinghouses. (See § 413.)
  - D. Bed-and-breakfasts. (See § 411.)
  - E. Family day-care facilities. (See § 426.)
  - F. Home occupations. (See § 434.)

- G. Office and retail conversions. (See § 445.)
- H. Two-family conversions. (See § 456.)

4. Design requirements for the RU Zone:<sup>12</sup>

Use	Minimum Lot Area <sup>1</sup>	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Yard Setbacks			
				Front (feet)	One Side (feet)	Both Sides (feet)	Rear (feet)
Forestry uses	10 acres	200	5%	50	50	100	50
Single-family dwellings	6,250 square feet	50	40%	20	6	12	10
Duplexes	5,000 square feet per unit	40	40%	20	6	N/A	10
Other permitted uses	7,000 square feet	50	40%	20	6	12	25
Accessory residential structures	N/A	N/A	Same as above	Not permitted in front yard	3 <sup>1</sup>	6 <sup>1</sup>	5 <sup>1</sup>

5. Maximum permitted height:

- A. Principal buildings and structures: 35 feet.
- B. Accessory buildings and structures: 15 feet.

6. All uses permitted within this zone shall also comply with the applicable general provisions contained in Part 3 of this chapter.

**§ 203. Residential Flexible Zone (RF). [Ord. 227, 12/18/2006]**

1. Purpose. The purpose of this zone is to accommodate a wide range of housing unit types and densities along with compatible uses. These areas are served by public utilities and specifically provide for the opportunity to develop affordable housing units to expand housing opportunities within the City. Uses permitted within this zone are limited to complement these neighborhoods, with accessory uses that will not detract from the residential character.
2. Permitted uses:
  - A. Single-family detached dwellings.
  - B. Duplexes.

<sup>12</sup>Editor's Note: While the table which follows contains footnote indicators, the original ordinance contained no corresponding notes.

- C. Townhouses.
  - D. Multifamily dwellings.
  - E. Forestry uses, subject to the requirements of § 326 of this chapter.
  - F. Municipal services, parks and playgrounds.
  - G. Public and private schools.
  - H. Churches, cemeteries and related uses.
  - I. Public utility structures.
  - J. Accessory uses customarily incidental and secondary to the above permitted uses, including but not limited to no-impact home-based businesses and accessory day-care uses, as defined herein.
  - K. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**
3. Special exception uses (see § 604, Subsection 3):
- A. Bed-and-breakfasts. (See § 411.)
  - B. Boardinghouses. (See § 413.)
  - C. Family day-care facilities. (See § 426.)
  - D. Funeral homes. (See § 428.)
  - E. Home occupations. (See § 434.)
  - F. Nursing, rest or retirement homes. (See § 444.)
  - G. Office and retail conversions. (See § 445.)
  - H. Two-family conversions. (See § 456.)
4. Conditional uses (see § 704):
- A. Manufactured home parks. (See § 438.)
5. Design requirements for the RF Zone:

Use	Minimum Lot Area <sup>1</sup>	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Yard Setbacks			
				Front (feet)	One Side (feet)	Both Sides (feet)	Rear (feet)
Forestry uses	10 acres	200	5%	50	50	100	50
Single-family dwellings	6,250 square feet	50	40%	20	6	12	10
Duplexes	5,000 square feet per unit	40	40%	20	6	N/A	10

Use	Minimum Lot Area <sup>1</sup>	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Yard Setbacks			
				Front (feet)	One Side (feet)	Both Sides (feet)	Rear (feet)
Townhouses <sup>1,3</sup>	2,500 square feet per unit (maximum of 8 units/net acre)	20 per unit	60%	20	10 (end units)	10	
Multifamily dwellings <sup>2,3</sup>	20,000 square feet (maximum of 8 units/net acre)	150	50%	20	20	40	20
Other permitted uses	7,000 square feet	50	40%	20	6	12	25
Accessory residential structures	N/A	N/A	Same as above	Not permitted in front yard	3 <sup>1</sup>	6 <sup>1</sup>	5 <sup>1</sup>

**NOTES:**

<sup>1</sup> No townhouse grouping shall contain more than eight units. For each townhouse grouping containing more than four units, no more than 60% of such units shall have the same front yard setback; the minimum variation of setback shall be two feet. All townhouse buildings shall be set back a minimum of 15 feet from any parking facilities contained on commonly-held lands. All townhouse buildings shall be set back at least 20 feet from any perimeter boundary of the development site. In those instances where several townhouse groupings are contained upon the same lot, the standards listed in the following footnote 3 shall apply.

<sup>2</sup> In those instances where several townhouse groupings and/or multiple-family dwelling buildings are located on the same lot, the following separation distances will be provided between each building:

- a. Front-to-front, rear-to-rear, or front-to-rear, parallel buildings shall have at least 50 feet between faces of the building. If the front or rear faces are obliquely (not parallel nor perpendicular) aligned, the above distances may be decreased by as much as 10 feet at one end, if increased by similar or greater distance at the other end.
- b. A minimum yard space of 30 feet is required between end walls of buildings. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of 20 feet.
- c. A minimum yard space of 30 feet is required between end walls and front or rear faces of buildings.

<sup>3</sup> All common open spaces are subject to the requirements listed in § 319 of this chapter.

6. Maximum permitted height:

- A. Principal buildings and structures: 35 feet.
- B. Accessory buildings and structures: 15 feet.

7. All uses permitted within this zone shall also comply with the applicable general provisions contained in Part 3 of this chapter.

**§ 204. through § 209. (Reserved)**

**§ 210. Central Business Zone (CB). [Ord. 227, 12/18/2006]**

1. Purpose. The purpose of this zone is to provide commercial goods and services to local residents who live in the City. Uses have been limited to those that residents are likely to need on a daily or regular basis. Overall, retail size has been restricted to uphold the traditional central business setting and local pedestrian orientation of this zone and to encourage the adaptive reuse of converted historic buildings rather than the construction of new commercial buildings. Requirements have been specified to preserve the urban character of this area and reflect the tightly knit land use pattern. Limited exterior activities have been allowed to contribute to the vitality and diversity of this area. Conversion apartments have also been accommodated upon upper floors, if off-street parking is provided.
2. Permitted uses:
  - A. Forestry uses, subject to the standards listed in § 326 of this chapter.
  - B. Municipal services, parks and playgrounds.
  - C. Public uses and public utility structures.
  - D. Banks and similar financial institutions, excluding drive-thru lanes.
  - E. Hotels.
  - F. Medical or dental clinics.
  - G. Offices.
  - H. Public, private and commercial schools.
  - I. Restaurants and taverns (excluding outdoor cafes and drive-thru or fast-food restaurants).
  - J. Retail sale, service and/or rental of goods (except adult-related uses, as defined herein), including:
    - (1) Card, stationery, magazine, book, or newspaper shops.
    - (2) Prerecorded music, video, or spoken-word products.
    - (3) Beverage, wine and liquor stores.
    - (4) Sporting goods stores.
    - (5) Musical instrument shops, studios and schools.
    - (6) Tobacco and smoking accessories supplies.
    - (7) Domestic hardware and 5 & \$0.10 items.

- (8) Photographic, video, audio, and electronic components and accessories.
  - (9) Clothing and shoe boutiques.
  - (10) Flower, balloon and gift shops.
  - (11) Pet stores and supplies with proper licensure.
  - (12) Jewelry, watches, and clocks.
  - (13) Art and drafting supplies and studios.
  - (14) Computers, software, and training facilities and other office supplies.
  - (15) Craft supplies, baskets, fabrics, and other notions.
  - (16) Toy and hobby stores.
  - (17) Telephone, vacuum cleaner and other domestic appliance stores.
  - (18) Prosthetic devices.
  - (19) Drugstores, perfumes, soaps, lotions, powders, and similar items.
  - (20) Draperies, wallpaper and rug showrooms.
  - (21) Bed and bath supplies.
  - (22) Kitchenware, cookware and dinnerware.
  - (23) Eyeglass and hearing aid showrooms and offices.
  - (24) Specialty food stores and grocerettes, including motor vehicle filling facilities as an accessory use.
  - (25) Religious articles and artifacts.
  - (26) Thrift and pawn shops.
- K. Retail services, including barber/beauty salons; tailors and shoe repair; tanning salons; and fitness, dance or karate centers.
- L. Art or antique shops, museums and libraries.
- M. Delicatessens, bakers and caterers.
- N. Churches and related uses, excluding cemeteries.

- O. Private clubhouses.
  - P. Automobile parking compounds, garages, and mass transit terminals.
  - Q. Movie theaters, auditoriums and other places of public assembly.
  - R. Accessory uses customarily incidental to the above permitted uses.
  - S. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**
3. Special exception uses (see § 604, Subsection 3):
- A. Banks and similar financial institutions with drive-thru lanes. (See § 410.)
  - B. Commercial day-care facilities. (See § 417.)
  - C. Conversion apartments. (See § 422.)
  - D. Drive-thru and/or fast-food restaurants. (See § 423.)
  - E. Dry cleaners and laundry stations (drop off and pick up only). (See § 424.)
  - F. Funeral homes. (See § 428.)
  - G. Hotels. (See § 435.)
  - H. Outdoor cafes. (See § 447.)
4. Required design standards in the CB Zone:

<b>Minimum Setbacks</b>						
<b>Minimum Lot Area (square feet)</b>	<b>Minimum Lot Width (feet)</b>	<b>Front</b>	<b>Each Side (feet)</b>	<b>Rear (feet)</b>	<b>Maximum Permitted Lot Coverage</b>	<b>Maximum Permitted Height (feet)</b>
5,000	40	Except as noted in footnote 1, no less than 50% of a principal building's front facade shall be located within 5 feet of the front lot line	0	0	100%	75 <sup>2</sup>

**NOTES:**

<sup>1</sup> Any use may set back the front of its building a sufficient distance to accommodate an outdoor cafe so long as the outdoor cafe is enclosed by a fence or some other barrier that is located within five feet of the front lot line.

<sup>2</sup> In no case shall building or structural height violate the Airport Zone regulations listed in § 231 of this chapter.

5. **Parking.** Except for existing nonconforming first-floor dwellings and second- or third-floor dwellings, it is the intent of this zone to accommodate parking needs with unassigned on-street parking spaces. Where provided, all off-street parking shall be located within the side or rear yard. Any garage used for the parking and/or storage of vehicles shall be set back no less than 10 feet from an adjoining alley onto which the garage opens. Off-street parking may be provided on a shared basis with adjoining properties using common parking spaces and access drives.
6. **Loading.** No off-street loading is required for principal uses within this zone. Where provided, all off-street loading shall be located within the rear yard. Any building used for the loading/unloading of vehicles shall be set back no less than 20 feet from an adjoining alley onto which the garage opens. Off-street loading may be provided on a shared basis with adjoining properties using common loading spaces and access drives.
7. **Screening.** When a use within this zone abuts property within the RU or RF Zone, any area devoted to off-street parking and/or loading shall be screened from said residentially zoned property in accordance with § 314 of this chapter.
8. **Outdoor storage and display.** No outdoor storage is permitted; however, one sidewalk display bin for retail merchandise shall be permitted per use along the main facade of the building and the street sidewalk. Such bin shall be located against the facade and shall provide a minimum three-foot-wide sidewalk clearance.
9. **Outdoor signs.** Such signs are regulated by § 315 of this Chapter. **[Amended by Ord. 279, 1/21/2013]**
10. **Access drives.** All access drives serving other uses shall be in accordance with § 311 of this chapter.
11. **Landscaping.** Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See § 314.)
12. **Waste products.** Dumpsters may be permitted within the side or rear yard. All dumpsters shall be screened and set back a minimum of five feet from any adjoining residentially zoned properties.
13. **Commercial operations standards.** All commercial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies.
14. **All uses permitted within this zone shall also comply with all applicable general provisions listed in Part 3 of this chapter.**

15. Conditional uses (see § 704): **[Added by Ord. 275, 7/2/2012]**
  - A. Oil and gas operations not meeting the requirements of § 459.1.

**§ 211. Highway Commercial Zone (HC). [Ord. 227, 12/18/2006]**

1. Purpose. This zone provides suitable locations for highway-oriented retail, service, and entertainment businesses. The uses may involve outdoor activities and/or storage areas, like automobile, boat and trailer sales, and service establishments. The uses provided in this zone are meant to serve local residents as well as those motorists passing through the City. Access to these areas is provided by adjoining major roads. Specific setbacks are imposed upon outdoor storage areas to protect adjoining properties.
2. Permitted uses:
  - A. Forestry uses, subject to the requirements of § 326 of this chapter.
  - B. Offices.
  - C. Banks and similar financial institutions.
  - D. Restaurants and taverns (but not including drive-thru or fast-food restaurants or nightclubs).
  - E. Retail sale of goods and services (including auto parts stores, without installation, but excluding adult-related uses).
  - F. Hotels, motels and similar lodging facilities.
  - G. Retail sale of automobiles, boats, farm machinery, trailers, mobile homes, spas, and swimming pools (including service or repair facilities as an accessory use and if conducted within a completely enclosed building).
  - H. Theaters and auditoriums.
  - I. Shops for contractors of plumbing, heating, air conditioning, electrical, roofing, flooring, glass and windows, insulation, carpentry and cabinetmaking, and other structural components of buildings.
  - J. Municipal services, public utilities and parks and playgrounds.
  - K. Dry cleaners, laundries and Laundromats.
  - L. Churches and related uses.
  - M. Health and fitness clubs.
  - N. Public, private and commercial schools.

- O. Medical and dental clinics.
  - P. Animal shelters and veterinary offices with no animals kept outside.
  - Q. Convenience stores.
  - R. Breweries, brew pubs and micro-breweries.
  - S. Accessory uses customarily incidental to the above permitted uses.
  - T. Recycling collection facilities as an accessory use, provided that such facilities are sufficiently enclosed to prevent the scattering of debris, the materials collected are removed at regular intervals, the facility is posted to prohibit the disposal of any material, good, or furnishing that cannot be placed within the actual recycling bin, and the total size of the facility is less than 300 square feet.
  - U. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**
3. Special exception uses (subject to the requirements listed in § 604, Subsection 3, of this chapter):
- A. Amusement arcades. (See § 405.)
  - B. Automobile filling stations (including minor incidental repair). (See § 408.)
  - C. Automobile service and repair facilities, including but not limited to auto mechanics, drive-thru lubrication services, and tire, auto paint, brake, muffler, transmission, windshield, auto body, car radio, and upholstery shops. (See § 409.)
  - D. Billboards. (See § 412.)
  - E. Car washes. (See § 415.)
  - F. Commercial recreation facilities. (See § 419.)
  - G. Drive-thru and/or fast-food restaurants. (See § 423.)
  - H. Farmers', antiques and/or flea markets. (See § 427.)
  - I. Funeral homes. (See § 428.)
  - J. Heavy equipment sales, service, and repair, such as excavation machinery, commercial trucks, buses, farm equipment, mobile homes, trailers, and other similar machinery. (See § 430.)
  - K. Home improvement and building supply stores. (See § 433.)
  - L. Mini-warehouses. (See § 442.)

4. Conditional uses (subject to the requirements listed in § 704 of this chapter):
  - A. Amusement, theme or zoo parks. (See § 406.)
  - B. Off-track betting parlors. (See § 446.)
  - C. Shopping centers involving any use permitted in this zone. (See § 453.)
  - D. Oil and gas operations not meeting the requirements of § 459.1. **[Added by Ord. 275, 7/2/2012]**
5. Lot area, lot width, and lot coverage requirements: See the following table.

<b>Public Utilities Utilized</b>	<b>Minimum Lot Area (square feet)</b>	<b>Minimum Lot Width (feet)</b>	<b>Maximum Lot Coverage</b>
Neither public sewer nor public water	43,560 <sup>1</sup>	200	30%
Public water	32,670 <sup>1</sup>	150	35%
Public sewer	20,000	125	45%
Both public sewer and public water	20,000	100	60%



**NOTES:**

<sup>1</sup> All uses relying upon on-lot sewers shall comply with § 317 of this chapter.

6. Minimum setback requirements (principal and accessory uses):
  - A. Front yard setback. All buildings, structures (except permitted signs), and outdoor loading areas shall be set back at least 40 feet from the street right-of-way; off-street parking lots and outdoor storage areas shall be set back a minimum of 10 feet from the street right-of-way.
  - B. Side yard setbacks. All buildings and structures (except permitted signs) shall be set back at least 20 feet from the side lot lines. Off-street parking lots, loading areas, and outdoor storage areas shall be set back at least 10 feet from the side lot lines, unless joint parking facilities are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities.
  - C. Rear yard setback. All buildings, structures, off-street parking lots, loading areas, and outdoor storage areas shall be set back at least 20 feet from the rear lot line.
  - D. Residential buffer strip. Any lot adjoining land within a residential zone shall maintain a fifty-foot setback, for nonresidential buildings, structures, off-street parking lots, loading areas and outdoor storage areas, from the residentially zoned parcels. Such areas shall be used for a landscape strip and screen.
7. Maximum permitted height: 35 feet. In no case shall building or structural height violate the Airport Zone regulations listed in § 231 of this chapter.
8. Off-street loading. Off-street loading shall be provided as specified in § 313 of this chapter. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone nor any side of a building facing an adjoining street.
9. Off-street parking. Off-street parking shall be provided as specified in § 312 of this chapter.
10. Signs. Signs shall be permitted as specified in § 315 of this chapter.
11. Access drive requirements. All access drives shall be in accordance with § 311 of this chapter.
12. Screening. A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially zoned parcel is developed. (See § 314 of this chapter.)

13. Landscaping.
  - A. Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See § 314 of this chapter).
  - B. A minimum ten-foot-wide landscape strip shall be provided along all property lines. Such landscape strip can be waived for that portion of the site occupied by a joint parking lot and/or loading area shared by adjoining uses.
14. Waste products. Dumpsters may be permitted within the side or rear yard, provided that such dumpsters are screened from any adjoining roads or properties. All dumpsters shall be set back a minimum of 50 feet from any adjoining residentially zoned properties. All waste receptacles shall be completely enclosed within a masonry or framed enclosure with a self-closing door or gate.
15. Commercial operations standards. All commercial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies. For a listing of some regulations, refer to § 318 of this chapter.
16. Outdoor storage. Within this zone, outdoor storage is permitted, provided that all outdoor storage areas are screened from adjoining roads and properties and they comply with all of those setbacks specifically imposed thereon, listed in this section. The outdoor storage areas for retail automobile, motorcycle, or boat sales need not be screened from adjoining roads.
17. All uses permitted within this zone shall also comply with the applicable general provisions in Part 3 of this chapter.

**§ 212. Medical Institutional Zone (MI). [Ord. 227, 12/18/2006]**

1. Purpose. The purpose of this zone is to provide for the orderly development of the Saint Marys Regional Medical Center, its affiliates and related services. Uses permitted foster a variety of health-care-related facilities and uses, to advance the quality and availability of health care services in the City and greater area and the development and operation of a modern health care campus.
2. Permitted uses:
  - A. Hospitals.
  - B. Medical residential campus.

- C. Assisted living, intermediate care and skilled nursing facilities.
- D. Medical and dental offices and clinics.
- E. Outpatient health services, including but not limited to medical research and testing laboratories, radiological and diagnostic imaging services, blood banks, outpatient surgery centers, and outpatient clinics and patient care facilities.
- F. Health and fitness clubs.
- G. Commercial day-care centers.
- H. Churches and related uses.
- I. Municipal services, parks and playgrounds.
- J. Public utility structures.
- K. Banks.
- L. Restaurants, excluding fast-food or drive-thru facilities.
- M. Forestry uses, subject to the requirements of § 326 of this chapter.
- N. Public, private and commercial schools.
- O. Accessory buildings, uses and services customarily incidental to the above uses, including but not limited to the following:
  - (1) Administrative offices.
  - (2) Public uses and essential services, excluding incinerators (e.g., private central utility plant, electrical switching facility, steam generation facility, heating facility, ventilation facility, and oxygen facility).
  - (3) Automobile parking lots and parking garages.
  - (4) Housing for students, employees and their families in accordance with the standards of the RU Zone.
  - (5) Lodging facilities for patients and their families.
  - (6) Retail sales of medical/health-care-related supplies (e.g., durable medical equipment, prosthetics, and pharmaceutical supplies) and retail sales/service for the convenience of employees, patients and visitors (e.g., uniforms, flowers, gifts, uniform cleaning, barber/beauty salons, automatic teller banking, and restaurants). All retail sales and services shall be located within buildings in which other uses permitted in this

zone are located. Retail sales and services may not exceed 5% of the floor area of existing buildings within this zone.

- (7) Facilities for short-term, intermittent educational programs which are not intended to prepare students for careers in health care but, rather, are intended to inform employees, patients, health care providers or the public regarding health care issues.

- P. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**
3. Special exception uses (see § 604, Subsection 3, of this chapter):
    - A. Helistops. (See § 432.)
    - B. Incinerators and autoclaves. (See § 436.)

4. Lot area, lot width, and lot coverage requirements:

<b>Minimum Lot Area (square feet)</b>	<b>Minimum Lot Width (feet)</b>	<b>Maximum Lot Coverage</b>
40,000	125	35%

5. Minimum setback requirements (principal and accessory uses):
  - A. Front yard setback. All buildings, structures (except permitted signs), and outdoor loading areas shall be set back at least 40 feet from the street right-of-way; off-street parking lots and outdoor storage areas shall be set back a minimum of 10 feet from the street right-of-way.
  - B. Side yard setbacks. All buildings and structures (except permitted signs) shall be set back at least 20 feet from the side lot lines. Off-street parking lots, loading areas, and outdoor storage areas shall be set back at least 10 feet from the side lot lines, unless joint parking facilities are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities.
  - C. Rear yard setback. All buildings, structures, off-street parking lots, loading areas, and outdoor storage areas shall be set back at least 20 feet from the rear lot line.
  - D. Residential buffer strip. Any lot adjoining land within a residential zone shall maintain a fifty-foot setback, for nonresidential buildings, structures, off-street parking lots, loading areas and outdoor storage areas, from the residentially zoned parcels. Such areas shall be used for a landscape strip and screen.
6. Maximum permitted height: 75 feet; provided, however, that any structure exceeding 35 feet in height shall be set back a horizontal distance equal to its

- height from each property line. In no case shall building or structural height violate the Airport Zone regulations listed in § 231 of this chapter.
7. Off-street loading. Off-street loading shall be provided as specified in § 313 of this chapter. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone nor any side of a building facing an adjoining street.
  8. Off-street parking. Off-street parking shall be provided as specified in § 312 of this chapter.
  9. Signs. Signs shall be permitted as specified in § 315 of this chapter.
  10. Access drive requirements. All access drives shall be in accordance with § 311 of this chapter.
  11. Screening. A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially zoned parcel is developed. (See § 314 of this chapter.)
  12. Landscaping.
    - A. Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See § 314 of this chapter.)
    - B. A minimum ten-foot-wide landscape strip shall be provided along all property lines. Such landscape strip can be waived for that portion of the site occupied by a joint parking lot and/or loading area shared by adjoining uses.
  13. Waste products. Dumpsters may be permitted within the side or rear yard, provided that such dumpsters are screened from any adjoining roads or properties. All dumpsters shall be set back a minimum of 50 feet from any adjoining residentially zoned properties. All waste receptacles shall be completely enclosed within a masonry or framed enclosure with a self-closing door or gate.
  14. Commercial operations standards. All commercial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies. For a listing of some regulations, refer to § 318 of this chapter.
  15. Outdoor storage. Within this zone, outdoor storage is permitted, provided that all outdoor storage areas are screened from adjoining roads and properties and they comply with all of those setbacks specifically imposed thereon, listed in this section.

16. All uses permitted within this zone shall also comply with the applicable general provisions in Part 3 of this chapter.
17. Conditional uses (see § 704): **[Added by Ord. 275, 7/2/2012]**
  - A. Oil and gas operations not meeting the requirements of § 459.1.

**§ 213. through § 219. (Reserved)**

**§ 220. Limited Industrial Zone (LI). [Ord. 227, 12/18/2006]**

1. Purpose. This zone provides for light industrial manufacturing and wholesale distribution facilities in an industrial park setting that contributes to the well-being of the City by diversifying its economy and providing valuable employment opportunities. The required lot sizes have been kept small to accommodate the startup industries that are likely to emerge; however, larger and heavier industries have also been permitted. This zone provides for light industrial uses as permitted by right but requires obtainment of a conditional use permit for heavier and potentially more-objectionable types of industrial uses. These areas have been located near existing public utility service areas and along major roads. Design standards have been imposed to create attractive site designs and moderate the objectionable impacts associated with industrial uses. Substantial setbacks are used to protect adjoining residences.
2. Permitted uses:
  - A. Agricultural and horticultural uses, subject to the standards listed in § 200 of this chapter.
  - B. Forestry uses, subject to § 326 of this chapter.
  - C. Laboratories for medical, scientific, or industrial research and development.
  - D. Manufacturing, packaging, storage and/or wholesaling of the following:
    - (1) Furniture, cabinets, fixtures, office supplies, and other household appointments.
    - (2) Scientific, specialized and technical instruments and equipment.
    - (3) Audio visual components, computers, vending machines, electronic equipment and video games.
    - (4) Finished textile products.

- (5) Brushes, brooms, and combs.
  - (6) Hot tubs, spas, saunas, and swimming pools.
  - (7) Jewelry and other precious metals.
  - (8) Photographic, lighting, and timekeeping equipment.
  - (9) Small household appliances, excluding major appliances.
  - (10) Musical instruments and sporting equipment.
  - (11) Cosmetics, toiletries, and pharmaceuticals.
  - (12) Optical, dental, and medical supplies and equipment.
  - (13) Small or novelty products from prepared materials.
  - (14) Powder coating and similar finishing operations.
  - (15) Products formed from metal, metal powder, plastics, or similar materials and any related processes. **[Added by Ord. 279, 1/21/2013]**
- E. Processing, packaging, storage and/or wholesaling of food products, excluding:
- (1) Pickling processes.
  - (2) Rendering or slaughtering operations.
  - (3) Sugar refineries.
- F. Sales, storage and/or wholesaling of the following:
- (1) Home and auto-related fuels.
  - (2) Nursery and garden materials and stock.
  - (3) Redi-mix concrete.
  - (4) Contractor supplies.
  - (5) Plumbing, heating, air conditioning, electrical, and other structural components of buildings.
- G. Bookbinding, printing, and publishing operations.
- H. Machine, tool and die, and metal fabrication shops.
- I. Repair shops for products permitted to be manufactured in this zone.

- J. Small engine repair shops.
- K. Welding shops.
- L. Sign makers.
- M. Offices.
- N. Municipal services, public utilities, and parks and playgrounds.
- O. Agricultural support businesses, including:
  - (1) Facilities for the commercial processing and warehousing of agricultural products.
  - (2) Facilities for the warehousing, sales, and service of agricultural equipment, vehicles, feed, or supplies.
  - (3) Veterinary offices, animal hospitals, or kennels.
- P. Vocational and mechanical trade schools.
- Q. Commercial day-care facilities.
- R. Clubhouses.
- S. Animal shelters and veterinary offices with proper licensure.
- T. Communication antennas that are co-located upon existing structures (e.g., utility transmission towers, observation towers, communication towers, silos, steeples, smokestacks, water towers, flagpoles, and other similar structures), subject to the requirements listed in § 200, Subsection 2N, of this chapter.
- U. Accessory uses customarily incidental to the above permitted uses, including accessory retail sales of products produced on-site so long as the sales area is no more than 10% of the total building area or 3,000 square feet, whichever is less.
- V. Recycling collection facilities as an accessory use, provided that such facilities are sufficiently enclosed to prevent the scattering of debris, the materials collected are removed at regular intervals, the facility is posted to prohibit the disposal of any material, good or furnishing that cannot be placed within the actual recycling bin, and the total size of the facility is less than 300 square feet.
- W. Industrial convenience uses as listed below, provided that such uses are developed in a coordinated manner with shared access, shared off-street parking and shared signage and do not consume more than five acres of the zone within which they are located:

- (1) Banks and similar financial uses.
  - (2) Restaurants, delicatessens and taverns.
  - (3) Health and fitness clubs.
  - (4) Dry cleaners and Laundromats.
  - (5) Retail sales of office supplies and equipment.
  - (6) Mailbox, photocopying and packaging stores.
  - (7) Automobile filling stations with minor incidental repair.
  - (8) Convenience stores.
- X. Qualified oil and gas operations. **[Added by Ord. 275, 7/2/2012]**
3. Special exception uses (subject to the requirements of § 604, Subsection 3, of this chapter):
- A. Automobile auctions and storage yards. (See § 407.)
  - B. Billboards. (See § 412.)
  - C. Communication towers and equipment that are not co-located upon an existing structure. (See § 420.)
  - D. Heavy equipment sales, service, and repair, such as excavation machinery, commercial trucks, buses, farm equipment, mobile homes, trailers, and other similar machinery. (See § 430.)
  - E. Mini-warehouses. (See § 442.)
  - F. Recycling facilities for paper, plastic, glass and metal products. (See § 449.)
  - G. Warehousing and wholesale trade establishments. (See § 457.)
4. Conditional uses (subject to the requirements of § 704 of this chapter):
- A. Junkyards. (See § 437.)
  - B. Truck or motor freight terminals. (See § 455.)
  - C. Oil and gas operations not meeting the requirements of § 459.1. **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**
5. Minimum lot area requirements. Unless otherwise specified, each use within this zone shall have a minimum lot size of 40,000 square feet. All uses relying upon on-lot sewers shall comply with § 317 of this chapter.

6. Maximum lot coverage: 60%.
7. Minimum lot width: 125 feet.
8. Minimum setback requirements (principal and accessory uses):
  - A. Front yard setback. All buildings, structures (except permitted signs), off-street loading areas, dumpsters, and outdoor storage areas shall be set back at least 40 feet from the adjoining right-of-way. All parking lots shall be set back at least 20 feet from any adjoining right-of-way.
  - B. Side yard setbacks. All buildings, structures (except permitted signs), dumpsters, and off-street loading areas shall be set back at least 30 feet from any side property lines. All outdoor storage areas and off-street parking lots shall be set back at least 20 feet from any side lot lines, unless joint parking lots and/or loading areas are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities.
  - C. Rear yard setback. All buildings, structures, dumpsters, and off-street loading areas shall be set back at least 35 feet from any rear property lines. All outdoor storage areas and off-street parking lots shall be set back at least 25 feet from any rear lot lines.
  - D. Residential buffer strip. Any use adjoining land within a residential zone, or across a road from land within a residential zone, shall maintain a seventy-five-foot setback, for buildings, structures, dumpsters, outdoor storage areas, and off-street loading areas, from the residential zone. Off-street parking lots shall be set back at least 50 feet from adjoining residentially zoned properties. All of these setback areas shall be devoted to landscaping. (See § 314.) **[Amended by Ord. 279, 1/21/2013]**
  - E. Accessory recreation uses. These facilities can be developed in any side or rear yard to within 50 feet of any property line.
9. Maximum permitted structural height. The height of any principal or accessory structure shall not exceed 35 feet, except that uninhabitable structures and mechanical appurtenances may be built to a height not exceeding 75 feet above the finished grade when erected upon or as an integral part of a building. All structures extending above 35 feet from grade (except permitted signs) shall be set back a distance at least equal to their height from all property lines. In no case shall building or structural height violate the Airport Zone regulations listed in § 231 of this chapter.
10. Off-street loading. Off-street loading shall be provided as specified in § 313 of this chapter. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone nor any side of a building facing an adjoining street.

11. Off-street parking. Off-street parking shall be provided as specified in § 312 of this chapter.
12. Signs. Signs shall be permitted as specified in § 315 of this chapter.
13. Access drive requirements. All access driveways shall be in accordance with § 311 of this chapter.
14. Screening. A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially zoned parcel is developed. (See § 314 of this chapter.)
15. Landscaping.
  - A. Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See § 314 of this chapter.)
  - B. A minimum twenty-foot-wide landscape strip shall be provided along all property lines. Such landscape strip can be waived for that portion of the site occupied by a joint parking lot and/or loading area shared by adjoining uses.
16. Waste products. All dumpsters shall be set back a minimum of 75 feet from any adjoining residentially zoned properties and shall comply with § 302, Subsection 4, of this chapter.
17. Industrial operations standards. All industrial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies. (See § 318 for a partial listing.)
18. Outdoor storage. Within the LI Zone, outdoor storage is permitted, provided that all outdoor storage areas are screened from adjoining roads and properties and they comply with all of those setbacks specifically imposed thereon, listed in this section. Outdoor display areas for heavy equipment and vehicles need not be screened from adjoining roads.
19. All uses permitted within this zone shall also comply with the applicable general provisions in Part 3 of this chapter.

**§ 221. Industrial Zone (I). [Ord. 227, 12/18/2006]**

1. Purpose. This zone provides for a wide variety of light industrial uses that contribute to the well-being of the City by diversifying its economy and providing valuable employment opportunities. In this zone, uses are permitted with a minimum of regulations, reflecting the built-up character of these areas that were largely developed prior to local zoning regulations.

- While design standards imposed between uses in this zone are minimal, buffering and screening regulations aim to improve compatibility around the edges of the zones where they abut other neighborhoods. Local officials should seize opportunities to improve these buffers and screens when uses adapt and change.
2. Permitted uses:
    - A. Any use permitted by right within the Industrial Limited Zone as listed in § 220, Subsection 2, of this chapter.
  3. Special exception uses (subject to the review procedures of § 604, Subsection 3):
    - A. Any use permitted by special exception within the Industrial Limited Zone as listed in § 220, Subsection 3, of this chapter.
  4. Conditional uses (subject to the requirements listed in § 704 this chapter):
    - A. Adult-related uses. (See § 403.)
    - B. Heavy industrial uses not permitted within the Industrial Limited Zone. (See § 431.)
    - C. Junkyards. (See § 437.)
    - D. Mass transportation depots. (See § 439.)
    - E. Methadone treatment facilities. (See § 440.)
    - F. Mining, quarrying and related processing operations. (See § 441.)
    - G. Principal waste-handling, recycling, processing and disposal facilities. (See § 448.)
    - H. Sawmills. (See § 450.)
    - I. Slaughtering, processing, rendering, and packaging of products and their by-products which are produced from the remains of animals. (See § 454.)
    - J. Truck or motor freight terminals. (See § 455.)
    - K. Warehousing and wholesale trade establishments. (See § 457.)
    - L. Oil and gas operations not meeting the requirements of § 459.1. **[Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**
  5. Minimum lot area requirements. Unless otherwise specified, each use within this zone shall have a minimum lot size of 40,000 square feet. All uses relying upon on-lot sewers shall comply with § 317 of this chapter.

6. Maximum lot coverage: 80%.
7. Minimum lot width: 125 feet.
8. Minimum setback requirements (principal and accessory uses):
  - A. Front yard setback. All buildings, structures (except permitted signs), off-street loading areas, dumpsters, outdoor storage areas, and parking lots shall be set back at least 20 feet from any adjoining right-of-way.
  - B. Side yard setbacks. All buildings, structures (except permitted signs), dumpsters, off-street loading areas, outdoor storage areas and off-street parking lots shall be set back at least 20 feet from any side lot lines, unless joint parking lots and/or loading areas are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities.
  - C. Rear yard setback. All buildings, structures, dumpsters, off-street loading areas, outdoor storage areas and off-street parking lots shall be set back at least 25 feet from any rear lot lines.
  - D. Residential buffer strip. Any use adjoining land within a residential zone, or across a road from land within a residential zone, shall maintain a seventy-five-foot setback, for buildings, structures, dumpsters, outdoor storage areas, and off-street loading areas, from the residential zone. Off-street parking lots shall be set back at least 50 feet from adjoining residentially zoned properties. All of these setback areas shall be devoted to landscaping. (See § 314.) **[Amended by Ord. 279, 1/21/2013]**
  - E. Accessory recreation uses. These facilities can be developed in any side or rear yard to within 50 feet of any property line.
9. Maximum permitted structural height. The height of any principal or accessory structure shall not exceed 35 feet, except that uninhabitable structures and mechanical appurtenances may be built to a height not exceeding 75 feet above the finished grade when erected upon or as an integral part of a building. All structures extending above 35 feet from grade (except permitted signs) shall be set back a distance at least equal to their height from all property lines. In no case shall building or structural height violate the Airport Zone regulations listed in § 231 of this chapter.
10. Off-street loading. Off-street loading shall be provided as specified in § 313 of this chapter. In addition, no off-street loading area shall be permitted on any side of a building facing adjoining lands within a residential zone.
11. Off-street parking. Off-street parking shall be provided as specified in § 312 of this chapter.

12. Signs. Signs shall be permitted as specified in § 315 of this chapter.
13. Access drive requirements. All access driveways shall be in accordance with § 311 of this chapter.
14. Screening. A visual screen must be provided along any adjoining lands within a residential zone, regardless of whether or not the residentially zoned parcel is developed. (See § 314 of this chapter.)
15. Landscaping. Any portion of the site not used for buildings, structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings. (See § 314 of this chapter.)
16. Waste products. All dumpsters shall be set back a minimum of 75 feet from any adjoining residentially zoned properties and shall comply with § 302, Subsection 4, of this chapter.
17. Industrial operations standards. All industrial operations shall be in compliance with any Commonwealth of Pennsylvania and/or Federal Government regulations, as required by the most recent regulations made available from these governmental bodies. (See § 318 for a partial listing.)
18. Outdoor storage. Within the I Zone, outdoor storage is permitted, provided that all outdoor storage areas are screened from adjoining residentially zoned properties.
19. All uses permitted within this zone shall also comply with the applicable general provisions in Part 3 of this chapter.

**§ 222. through § 229. (Reserved)**

**§ 230. Floodplain Overlay Zone (FP). [Ord. 227, 12/18/2006]**

1. Purpose. It is hereby found that the streams, creeks and waterways of the City are subject to recurring flooding, that such flooding damages and endangers life and public and private property and facilities, that this condition is aggravated by developments and encroachments in the floodplain, and that the most appropriate method of alleviating such condition is through regulation of such developments and encroachments. It is therefore determined that the special and paramount public interest in the floodplain justifies the regulation of property located therein as provided in this section, which is in the exercise of the police power of the municipality, for the protection of the persons and property of its inhabitants, and for the preservation of the public health, safety and general welfare.
2. Specific objectives:

- A. To combine with present zoning requirements certain restrictions made necessary for flood-prone areas to promote the general health, welfare and safety of the City.
- B. To prevent the erection of structures in areas unfit for human usage by reason of danger from flooding.



- C. To minimize danger to public health by protecting the quality and quantity of surface and subsurface water supplies adjacent to and underlying flood-prone areas and promoting safe and sanitary drainage.
  - D. To permit only those uses which can be appropriately located in the floodplain, as herein defined, and which will not impede the flow or storage of floodwaters or otherwise cause danger to life and property at, above, or below their locations along the floodplains.
  - E. To provide sufficient drainage courses to carry abnormal flows or stormwater in periods of heavy precipitation.
  - F. To protect adjacent landowners and those both upstream and downstream from damages resulting from development within a floodplain and the consequent obstruction or increase in flow of floodwaters.
  - G. To protect the entire City from individual uses of land which may have an effect upon subsequent expenditures for public works and disaster relief and adversely affect the economic well-being of the City.
  - H. To protect other municipalities within the same watershed from the impact of improper development and the consequent increased potential for flooding.
  - I. To provide areas for the temporary natural storage of floodwaters.
  - J. To require that uses vulnerable to floods, including public facilities, be constructed so as to be protected from flood damage in accordance with the purpose and requirements of the National Flood Insurance Program, P.L. 93-234.
  - K. To comply with the federal and state floodplain management requirements.
3. Delineation of lands within the Floodplain Overlay Zone. For purposes of this chapter, areas contained within the Floodplain Overlay Zone shall include the following:
- A. Any area located in the former Township of Benzinger subject to the one-hundred-year flood, which is identified as a special flood hazard area, Zone A or Zone AE, on the Flood Insurance Map (FIRM) as issued by the Federal Emergency Management Agency (FEMA), dated January 18, 2012, or as may be revised by that agency or its successor. **[Amended by Ord. 268, 11/7/2011]**
  - B. In addition, the General Floodplain District (FA) shall be any area located in the former Borough of St. Marys subject to the one-hundred-year flood, which is identified as a special flood hazard

area, Zone A, on the Flood Insurance Rate Map (FIRM), dated January 18, 2012, as issued by the Federal Insurance Administration, or as may be revised by that agency or its successor. **[Amended by Ord. 268, 11/7/2011]**

- C. In lieu of §§ 230, Subsection 3A, B and C, the City may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Such study shall be signed, sealed and certified by a registered professional of the Commonwealth of Pennsylvania. Such certification shall acknowledge the accuracy of the study or survey and the qualification of the individual to perform such study or survey. Copies of such studies and surveys shall be submitted by the Zoning Officer to the City Engineer and the Federal Emergency Management Agency, who shall have 30 days to comment. Any property owner whose property is so studied shall pay all costs of these studies and surveys, except for work done under retainer to, or on behalf of, the City.
- D. Description of floodplain areas. The identified floodplain area shall consist of the following specific areas: **[Amended by Ord. 268, 11/7/2011]**
- (1) FW (Floodway Area). The areas identified as "floodway" in the A Zone or AE Zone in the Flood Insurance Studies, dated January 18, 2012, prepared by FIA or FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study. For the purposes of this Part, the floodway is based upon the criteria that a certain area within the floodplain would be capable of carrying the waters of the one-hundred-year flood without increasing the water surface elevation of that flood more than one foot at any point.
  
  - (2) FF (Flood-Fringe Area). The remaining portions of the one-hundred-year floodplain in those areas identified as an A or AE Zone in the Flood Insurance Studies, dated January 18, 2012, where a floodway has been delineated. The basis for the

outermost boundary of this area shall be the one-hundred-year flood elevations as shown in the flood profiles contained in the flood studies.

- (3) FE (Special Floodplain Area). The areas identified as Zone A or AE in the Flood Insurance Studies, dated January 18, 2012, where one-hundred-year flood elevations have been provided but no floodway has been delineated. New development shall not be permitted unless it is demonstrated that the cumulative effect of all past and projected development will not increase the base flood elevation by more than one foot.
- (4) FA (General Floodplain Area). The areas identified as Zone A in the FEMA Flood Insurance Study, dated January 18, 2012, for which no one-hundred-year flood elevations have been provided. When available, information from other federal, state and other acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question. In lieu of the above, the City may require the applicant to determine the elevation with hydrologic or hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the City of St. Marys, Elk County, Pennsylvania.

4. Boundary disputes.

- A. Should a dispute concerning any boundary of the Floodplain Overlay Zone arise, the initial determination of the Zoning Officer may be appealed to the Zoning Hearing Board in accordance with § 604, Subsection 6, of this chapter. The burden of proof in such an appeal shall be on the applicant, and all hearings and procedures shall follow the requirements of § 603 of this chapter.
- B. All changes to the boundaries of the Floodplain Overlay Zone which affect areas identified in § 230, Subsection 3A, of this chapter are subject to the review and approval of the Federal Emergency Management Agency for compliance with the rules and regulations of the National Flood Insurance Program and Pennsylvania Act 166, the Pennsylvania Floodplain Management Act. Technical or scientific data shall be submitted by the applicant to the Federal Emergency Management Agency for a letter of map revision (LOMR) as soon as

practicable but within six months of any new construction, development or other activity resulting in changes to the base flood elevation. **[Amended by Ord. 268, 11/7/2011]**

5. Relationship to other sections. The provisions of this section create an overlay zoning district which is applicable within floodplains in all other zoning districts established by this chapter and the Zoning Map. To the extent that the provisions of this section are applicable and more restrictive, they shall supersede conflicting provisions within all other sections of this chapter and all other ordinances of the City. However, all other provisions of all other sections of this chapter and all other ordinances of the City shall remain in full force. If there is any conflict between any of the provisions of this chapter, the more restrictive shall apply. **[Amended by Ord. 268, 11/7/2011]**
6. Permitted uses. The following uses and development and no others are permitted in the Floodplain Overlay Zone, provided that such uses in no way diminish the capacity of the channels or floodway of any stream, as defined herein, or raise the base flood elevation:
  - A. Cultivation and harvesting crops according to recognized soil conservation practices.
  - B. Pasture and grazing of livestock (excluding feedlots) according to recognized soil conservation practices, and further provided that such livestock shall not be confined to pastures or other enclosures located entirely within the Floodplain Overlay Zone.
  - C. Outdoor plant nurseries or orchards according to recognized soil conservation practices.
  - D. Wildlife sanctuaries, woodland preserves, arboretums and passive recreation or parks, including hiking, bicycle and bridle trails, but including no facilities subject to damage by flooding.
  - E. Game farms, fish hatcheries, or hunting and fishing reserves, for the protection and propagation of wildlife, but permitting no structures.
  - F. Forestry, lumbering and reforestation according to the requirements of § 326 of this chapter.
  - G. Front, side and rear yards and required lot area in any zone, provided that such yards are not to be used for on-site sewage disposal systems.
  - H. Normal accessory uses (excepting enclosed structures, freestanding satellite dish antennas, fences and aboveground swimming pools) permitted under the applicable zone district.
  - I. Recreational uses, whether open to the public or restricted to private use, such as parks, camps, picnic areas, golf courses, fishing areas,

sport or boating clubs, not to include enclosed structures, excepting flood-proof toilet facilities, but permitting piers, docks, floats or unenclosed shelters usually found in developed outdoor recreational areas. Any flood-proof toilet facilities provided shall be connected to public water and sewerage systems.

7. Special exception uses. The following uses and development and no others are permitted by special exception in the Floodplain Overlay Zone, provided that such uses in no way diminish the capacity of the channels or floodway of any stream, as defined herein, or raise the base flood elevation and such uses comply with the specific requirements of § 230, Subsection 11, of this chapter:
  - A. Sewage treatment plants, outlet installations for sewage treatment plants and sewage pumping stations, with the approval of the City Engineer, appropriate sewer authorities and the Pennsylvania Department of Environmental Protection, when accompanied by documentation as to the necessity for locating within the boundaries of the Floodplain Overlay Zone.
  - B. Sealed public water supply wells, with the approval of the Pennsylvania Department of Environmental Protection.
  - C. Dams, culverts, bridges, and altered or relocated watercourses, with permits and/or approvals from the Pennsylvania Department of Environmental Protection, Pennsylvania Public Utility Commission, and/or United States Army Corps of Engineers. Furthermore, notification of such actions shall be provided to all affected adjoining municipalities, the Federal Emergency Management Agency and the Pennsylvania Department of Community and Economic Development. The approval of a permit by any of the preceding state or federal agencies for one of the uses allowed by in this section shall in no way affect or conflict with the requirements imposed upon the use under the regulations of this Floodplain Overlay Zone.
  - D. Sanitary or storm sewers and impoundment basins, with the approval of the Pennsylvania Department of Environmental Protection.
8. Prohibited development which may endanger human life. The following uses are prohibited from locating within the Floodplain Overlay Zone. This listing of prohibited uses and activities should not be interpreted to permit other activities not listed, unless they are permitted by §§ 230, Subsection 6 or 7, of this chapter:
  - A. New or substantially improved structures which will be used for the production or storage of any of the following materials or substances, or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume, or any amount of radioactive substances) of any of the following materials or

substances on the premises, are prohibited within Floodplain Overlay Zone:

- (1) Acetone.
  - (2) Ammonia.
  - (3) Benzene.
  - (4) Calcium carbide.
  - (5) Carbide disulfide.
  - (6) Celluloid.
  - (7) Chlorine.
  - (8) Hydrochloric acid.
  - (9) Hydrocyanic acid.
  - (10) Magnesium.
  - (11) Nitric acid and oxides of nitrogen.
  - (12) Petroleum products (gasoline, fuel oil products and the like).
  - (13) Phosphorous.
  - (14) Potassium.
  - (15) Sodium.
  - (16) Sulfur and sulfur products.
  - (17) Pesticides (including insecticides, fungicides and rodenticides).
  - (18) Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Hospitals, nursing homes, jails, new manufactured home parks, and mobile home subdivisions, and substantial improvements to existing manufactured home parks and subdivisions are prohibited within Floodplain Overlay Zone.
- C. No variance shall be granted for any of these uses or activities to locate in Floodplain Overlay Zones.
9. Nonconforming uses and structures in the Floodplain Overlay Zone.
- A. Continuation. All uses, structures or development lawfully existing in the Floodplain Overlay Zone on the effective date of this section which

are not in conformity with the provisions of this chapter shall be deemed nonconforming uses or structures. Such nonconforming uses or structures may be continued, maintained, repaired, and floodproofed, except as prohibited by § 230, Subsections 9B and 9D(2), of this chapter. However, such nonconforming uses or structures may at any time be improved to comply with existing state or City health, sanitary, or safety code specifications which are necessary solely to assure safe living conditions.

- B. **Abandonment.** Nonconforming uses or structures which have been discontinued or vacated for 12 consecutive months shall be considered abandoned. Vacation of land or structures or the nonoperative status of the use normally carried on by the property shall be evidence of discontinuance. No abandoned use or structure may be reestablished, repaired, or reoccupied. The Council may require the removal of any abandoned nonconforming use or structure upon prior notice to the owner of the property on which an abandoned nonconforming use or structure exists. If the owner has not completely removed the abandoned use or structure within a reasonable amount of time, not to exceed nine months, the Council shall have the authority to cause the removal to be accomplished, the costs of such removal to be paid by the property owner.
- C. **Expansion and modification.** A nonconforming use or structure shall not be expanded or modified in any manner which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of this section. No nonconforming use or structure shall be expanded, enlarged, or altered in any way which increases its nonconformity with respect to height, area, yard, and other requirements established in other sections of this chapter nor in any way which causes it to occupy more space within the Floodplain Overlay Zone than was occupied by it on the effective date of this chapter.
- D. **Replacement and rebuilding.**
- (1) A nonconforming use or structure may be replaced, repaired or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than 50% of its fair market value at the time of its damage or destruction. In such a case, however, the nonconformity of the new use or structure with respect to requirements as expressed in the provisions of this chapter shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this section.
  - (2) A nonconforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of 50% or more of its fair market value at the time of its damage or

destruction shall not be replaced, restored, repaired, reconstructed, improved, or rebuilt in any way other than in complete conformity and full compliance with § 230, Subsection 11C, and all other sections of this chapter and all other ordinances of the City. The Zoning Hearing Board may waive, as a special exception, the requirements of this subsection where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to the appellant in the efficient operations of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least modification possible of the provisions of this section, while respecting and maintaining the purpose and intent of this section.

- (3) The Zoning Officer shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.
  - (4) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50% of its fair market value, shall be elevated and/or floodproofed to the greatest extent possible.
- E. Historic structures. The Zoning Hearing Board shall have the right to waive, as a special exception, any of the requirements of § 230, Subsections 9B and 9D(2), for any historic structure, as defined herein.
- F. Special requirements for mobile homes.
- (1) Mobile homes are prohibited in the Floodplain Overlay Zone, except as a continuation of a nonconforming use.
  - (2) If any existing mobile home shall be replaced, reconstructed, or expanded by addition thereto, then the mobile home shall be:
    - (a) Anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the following:
      - [1] Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations

for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.

- [2] Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate locations for units 50 feet or more in length, and four additional ties per side for units less than 50 feet in length.
- [3] All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(b) Elevated in accordance with the following requirements:

- [1] The mobile home shall be elevated on a permanent foundation so that its lowest floor is 1 1/2 feet or more above the elevation of the one-hundred-year flood.
  - [2] Adequate surface drainage is provided.
  - [3] Adequate access for a hauler is provided.
- (3) An evacuation plan, indicating alternate vehicular access and escape routes, shall be filed with the City Council for manufactured home parks.

10. Elevation and construction requirements.

- A. Applicability. The standards included in this section are to be used, together with the provisions of all other sections and all other ordinances in force in the City, by the Zoning Officer and Zoning Hearing Board in their administration of this section. In order to prevent excessive damage to buildings and structures due to flooding conditions, the following provisions shall apply to all proposed construction or development occurring in any of the Floodplain Overlay Zones.
- B. Regulations and reviews by other agencies.
- (1) Where applicable and where possible, all necessary permits or other written approvals must be obtained from all other agencies before any approvals of special exceptions, variances, or permits may be granted by the City.
  - (2) Where necessary permits or written approvals from other agencies cannot be obtained prior to action by the City, any approval of special exceptions, variances, or permits by the City

shall be conditioned upon receiving such other agencies' permits or written approvals.

- (3) No regulations of the commonwealth governing watercourses are amended or repealed by this chapter. Prior to any proposed alteration or relocation of any watercourse, a permit shall be obtained from the Pennsylvania Department of Environmental Protection, Dams and Encroachment Division, and notification of any such proposal shall be given to all affected adjacent municipalities. Copies of such permit applications and municipal notifications shall be forwarded to the Federal Insurance Administration and to the Pennsylvania Department of Community and Economic Development. The flood-carrying capacity of any altered or relocated watercourse shall be maintained. **[Amended by Ord. 268, 11/7/2011]**
- C. Residential structures. Within any designated Floodplain Overlay Zone, the lowest floor (including basement) of any new or improved residential structure shall be at least 1 1/2 feet above the one-hundred-year flood elevation.
- D. Nonresidential structures. Within any designated Floodplain Overlay Zone, the lowest floor (including basement) of any new or improved nonresidential structure shall be at least 1 1/2 feet above the one-hundred-year flood elevation or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height. Any structure, or part thereof, which will not be completely or adequately elevated shall be designed and constructed to be completely or essentially dry in accordance with the standards contained in the publication entitled "Floodproofing Regulations" (U.S. Army Corps of Engineers, June 1972). A registered professional engineer or architect shall certify that the design, specifications, and plans for any nonresidential structure that is intended to be made watertight below the base flood elevation shall be substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be submitted to the Floodplain Administrator. **[Amended by Ord. 268, 11/7/2011]**
- E. Anchoring.
- (1) All buildings or structures shall be anchored to prevent flotation, movement or collapse in accordance with accepted engineering practices.

- (2) All air ducts, large pipes and storage tanks located at or below the established flood elevation shall be firmly anchored to prevent flotation in accordance with accepted engineering practices.

F. Placement of buildings and structures.

- (1) All buildings and structures shall be designed, constructed and placed on the lot so as to offer the minimum obstruction to the flow of water.
- (2) The following shall not be placed or caused to be placed in identified flood-prone areas: fences, except two-wire fences, other structures or other matter which may impede, retard or change the direction of the flow of water or that will catch or collect debris carried by such water or that is placed where the natural flow of the stream of floodwaters would carry the same downstream to the damage or detriment of either public or private property adjacent to the flood-prone areas.

G. Floors, walls and ceilings.

- (1) Wood floorings used below an elevation of one foot above the established flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain, without incurring structural damage to the building.
- (2) All finished flooring below an elevation of one foot above the established flood elevation shall be made of materials which are stable and resistant to water damage resulting from submersion.
- (3) All carpeting or carpet cushions employed as a finished flooring surface below an elevation of one foot above the established flood elevation shall be made of materials which are resistant to water damage resulting from submersion.
- (4) Plywood used below an elevation of one foot above the established flood elevation shall be of an exterior or marine grade of water-resistant or waterproof variety.
- (5) Basement ceilings below an elevation of one foot above the established flood elevation shall have sufficient wet strength and be so installed as to survive inundation.
- (6) Space below the lowest floor. **[Added by Ord. 268, 11/7/2011]**
  - (a) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area

other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

- (b) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - [1] A minimum of two openings having a net total area of not less than one square inch for every square foot of enclosed space shall be provided.
  - [2] The bottom of all openings shall be no higher than one foot above grade.
  - [3] Openings may be equipped with screens, louvers, etc., or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

#### H. Electrical systems.

- (1) All electrical water heaters, electric furnaces, and other critical electrical installations shall be prohibited below an elevation of one foot above the established flood elevation.
- (2) Electrical distribution panels shall be placed at least three feet above the established one-hundred-year flood elevation.
- (3) Separate electrical circuits serving areas below the established flood elevation shall be dropped from above.

#### I. Plumbing.

- (1) Water heaters, furnaces, and other critical mechanical installations shall be prohibited below an elevation of one foot above the established flood elevation.
- (2) No part of any on-site sewage disposal system shall be allowed within the identified flood-prone area(s).
- (3) Water supply systems and sanitary sewage systems shall be designed to preclude infiltration of floodwaters into the systems and discharges from the system into floodwaters.
- (4) All gas and oil supply systems shall be designed to preclude the infiltration of floodwaters into the systems and discharges from

the systems into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

- J. Paints and adhesives.
- (1) Adhesives used below an elevation of one foot above the established flood elevation shall have a bonding strength that is unaffected by inundation.
  - (2) Doors and all wood trim used below an elevation of one foot above the established flood elevation shall be sealed with a waterproof paint or similar product.
  - (3) Paints or other finishes used below an elevation of one foot above the established flood elevation shall be capable of surviving inundation.
- K. Storage. No materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life shall be stored in a flood-prone area unless they are properly anchored and/or floodproofed to preclude their causing damage to life and property.
- L. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure drainage at all points along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- M. Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- N. Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.
- O. Utilities. All utilities, such as gas lines, electrical and telephone systems, being placed in flood-prone areas should be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

11. Standards and criteria for special exceptions and variances. In addition to the provisions of this chapter, in hearing and deciding upon special exceptions and/or variances to the provisions of this § 230, the Zoning Hearing Board shall also determine that the following standards and criteria have been complied with:
  - A. No special exception shall be granted for any use except those specifically permitted by § 230, Subsection 7, of this chapter.
  - B. No special exception or variance shall be granted for any use, structure or development that would diminish the capacity of the channels or floodway of any stream, as defined herein, or raise the base flood elevation, unless specifically authorized by the Federal Emergency Management Agency.
  - C. In addition to the standards generally applicable to variances, variances shall only be granted upon:
    - (1) A showing of good and sufficient cause;
    - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - (3) A determination that the granting of a variance will not result in an increase in the base flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the base flood discharge, create additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with any other applicable laws, ordinances or regulations.
  - D. Variances shall only be granted upon the determination that the variances are the minimum necessary to afford relief, considering the flood hazard. The applicant must also comply with any other conditions imposed by the Zoning Hearing Board.
  - E. Whenever a variance is granted, the Board shall notify the applicant, in writing, that:
    - (1) The granting of the variance may result in increased premium rates for flood insurance if construction occurs below the one-hundred-year flood elevation.
    - (2) Such variance may increase the risk to life and property.
  - F. In granting a special exception or variance, the Board shall require that all buildings and structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

- G. A complete record of all variance requests and actions, including justifications for granted variances, shall be maintained by the Board. The Board shall report such decisions in the annual report sent to the Federal Emergency Management Agency.
- H. In hearing and deciding upon variances or special exceptions to this section, the burden of proof shall be on the applicant. The Zoning Hearing Board may require the applicant to submit such plans, specifications, and other information as it may deem necessary to assist in arriving at a fair and impartial determination. Such information shall be signed, sealed and certified by a registered professional of the Commonwealth of Pennsylvania. Such certification shall acknowledge the accuracy of the information and the qualification of the individual to provide such information. In addition to that information required by §§ 230, Subsection 11, and 701 of this chapter, such required information may include but is not limited to the following:
- (1) Plans, drawn to scale, showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel.
  - (2) A typical valley cross-section, showing the channel of the watercourse, elevations of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.
  - (3) A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply facilities, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
  - (4) A profile showing the slope of the bottom of the channel or flow line of the watercourse.
  - (5) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply facilities and sanitary facilities.
  - (6) Evidence that all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act

1966-537, as amended);<sup>19</sup> the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);<sup>20</sup> the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>21</sup> and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344.

- (7) Evidence that the proposed use is consistent with the need to minimize flood damage and conforms with the requirements of this chapter and all other applicable codes and ordinances.
  - (8) Evidence that all utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage.
  - (9) Evidence that adequate drainage is provided so as to reduce exposure to flood hazards.
- I. In hearing and deciding upon special exceptions, the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of this chapter and:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

<sup>19</sup> Editor's Note: See 35 P.S. § 750.1 et seq.

<sup>20</sup> Editor's Note: See 32 P.S. § 693.1 et seq.

<sup>21</sup> Editor's Note: See 35 P.S. § 691.1 et seq.

- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access to the property in times of flood by ordinary and emergency vehicles.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  - (12) Such other factors which are relevant to the purposes of this chapter.
- J. Supplemental technical review. The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for protection and other related matters, such as the adequacy of hydrologic and hydraulic analyses being performed in accordance with standard engineering practices.
12. Municipal liability. **[Amended by Ord. 268, 11/7/2011]**
- A. The lawful granting of a permit or making of any administrative decision under this section shall not constitute a representation, guaranty, or warranty of any kind by the City of Saint Mary's, or by any official, agent, or employee thereof, of the practicability or safety of any structure, use, or other plan proposed with respect to damage from flood or otherwise and shall create no liability upon, or a cause of action against, such public body, official, agent, or employee for any flood damage that may result pursuant thereto or as a result of reliance on this section. Larger floods may occur or flood heights may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. There is also no assurance that lands not included in the Floodplain Overlay Zone are now or ever will be free from flooding or flood damage.
  - B. This chapter shall not create liability on the part of the City of St. Marys or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 231. Airport Safety Overlay Zone (AS). [Ord. 227, 12/18/2006]**

- 1. Purpose. In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the St. Marys Area Airport. Such zones are shown on the St. Marys Area Airport Zoning District Map, which is attached

to this chapter and made a part hereof.<sup>22</sup> An area located in more than one of the following zones is considered to be only in the zone with the more-restrictive height limitation.

2. Various airport zones. The various zones are hereby established and defined as follows:
  - A. Utility Runway Visual Approach Zone. The inner edge of this zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
  - B. Utility Runway Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
  - C. Runway Larger Than Utility Visual Approach Zones. The inner edge of this zone approach coincides with the width of the primary surface and is 500 feet wide. The zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
  - D. Runway Larger Than Utility With a Visibility Minimum Greater Than Three-Fourths Mile Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
  - E. Runway Larger Than Utility With a Visibility Minimum As Low As Three-Fourths Mile Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.
  - F. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary

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<sup>22</sup>Editor's Note: The Airport Zoning District Map is on file in the City offices.

surface. Its center line is the continuation of the center line of the runway.

- G. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
  - H. Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designed utility or visual and 10,000 feet for all others from the center of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zones do not include the approach and transitional zones.
  - I. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
3. Airport zone height limitations. Except as otherwise provided in this section, no structure shall be erected, altered or maintained and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for each of the zones in question as follows:
- A. Utility Runway Visual Approach Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
  - B. Utility Runway Non-Precision Instrument Approach Zone. Slopes 20 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
  - C. Runway Larger Than Utility Visual Approach Zone. Slopes 20 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.
  - D. Runway Larger Than Utility With a Visibility Minimum Greater Than Three-Fourths Mile Non-Precision Instrument Approach Zone. Slopes 34 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line.
  - E. Runway Larger Than Utility With a Visibility Minimum As Low As Three-Fourths Mile Non-Precision Instrument Approach Zone. Slopes 34 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a

horizontal distance of 10,000 feet along the extended runway center line.

- F. Precision Instrument Runway Approach Zone. Slopes 50 feet outward for each foot upward, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway center line.
  - G. Transitional Zones. Slopes seven feet outward for each foot upward, beginning at the sides of and at the same elevation as the primary surface and the approach surface, extending to a height of 150 feet above the airport elevation, which is 1,937 feet above mean sea level. In addition to the foregoing, when an airport has a precision instrument runway approach zone, there are established height limits sloping seven feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward, beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet, measured at 90° angles to the extended runway center line.
  - H. Horizontal Zone. Established at 150 feet above the established airport elevation, or at a height of 2,087 feet above mean sea level.
  - I. Conical Zone. Slopes 20 feet outward for each foot upward, beginning at the periphery of the horizontal surface and at 150 feet above the established airport elevation, and extending to a height of 350 feet above the airport elevation.
  - J. Expected height limitations. Nothing in this section shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to 50 feet above the surface of the land.
4. Use restrictions. Notwithstanding any other provisions of this section, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

5. Nonconforming uses.
  - A. Regulations not retroactive. The regulations prescribed by this section shall not be construed to require the removal, lowering or other change or alteration of any structure or trees not conforming to the regulations as of the effective date of this chapter nor otherwise interfere with the continuance of any nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter and which is diligently executed.
  - B. Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon or nearby of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport.
6. Permits and variances.
  - A. Future uses. Except as specifically provided in Subsection 6A, B or C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created by this section unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. No permit for a use inconsistent with the provisions of this section shall be granted unless a variance has been approved in accordance with this section.
    - (1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for zones.
    - (2) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.

- (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this section, except as set forth by § 231, Subsection 3J, of this chapter.
- B. Existing uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this chapter, or any amendment thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
  - C. Nonconforming uses abandoned or destroyed. Whenever the Zoning Officer determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this section.
  - D. Variances.
    - (1) Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth or otherwise use his property in violation of airport zoning regulations may apply to the St. Marys Zoning Hearing Board for a variance from the zoning regulations in question.
    - (2) The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variance shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief (if) granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this section. Additionally, no application for variance to the requirements of this section may be considered by the Zoning Hearing Board unless a copy of the application has been furnished to the Airport Manager for advice as to the

aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Zoning Hearing Board may act to grant or deny said application.

- E. Marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purposes of this chapter and be reasonable in the circumstances, be so conditional as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Zoning Hearing Board, this condition may be modified to require the owner to permit the St. Marys Area Airport, at its own expense, to install, operate, and maintain the necessary markings and lights.



**PART 3**  
**GENERAL PROVISIONS**

**§ 300. General Provisions. [Ord. 227, 12/18/2006]**

The regulations contained within Part 3 shall apply to all uses within the City. In some cases, the regulations contained within this Part reference regulations contained within the Subdivision and Land Development Ordinance.<sup>23</sup> In such cases, any relief to be granted to such applicable standards shall be obtained according to the appropriate procedures within the SLDO and will not require approval of a variance under the terms of this chapter.

**§ 301. Accessory Uses and Structures. [Ord. 227, 12/18/2006]**

1. Fences and walls. Except as noted below for retaining walls, no fence or wall (except livestock, required junkyard or tennis court walls or fences, or the wall of a building permitted under the terms of this chapter) shall be erected to a height of more than four feet in a front yard nor more than six feet in any other yard within the RC, RS, RU, RF, MI and CB Zones. Except as noted below for retaining walls, within any HC, LI and I Zones, no fence nor wall (except livestock, required junkyard or tennis court walls or fences, or the wall of a building permitted under the terms of this chapter) shall be erected to a height of more than 10 feet in any yard. No fence or wall shall interfere with the required clear sight triangle as listed in § 310, Subsection 3, of this chapter.
  - A. The use of retaining walls higher than:
    - Four feet in a front yard within the RC, RS, RU, RF, MI and CB Zones
    - Six feet in any side or rear yard within the RC, RS, RU, RF, MI and CB Zones
    - Ten feet in any yard within the HC, LI and I Zones

up to a maximum height of 30 feet, is permitted, subject to the following findings:

- (1) That the proposed height of the retaining wall is necessary to facilitate an efficient use of the site and/or protect an important or sensitive natural or cultural feature of the site.
- (2) That the applicant has submitted written expert evidence from a professional engineer registered to practice within the Commonwealth of Pennsylvania that the proposed retaining wall is designed and will be constructed to assure structural

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<sup>23</sup>Editor's Note: See Ch. 22, Subdivision and Land Development.

integrity and will in no way adversely affect any underground utility lines and/or interfere with their rights-of-way.

- (3) That the applicant has provided sufficient separation and physical barriers between the proposed retaining wall and any pedestrian and/or vehicle movement areas to ensure adequate vehicle and pedestrian safety.
  - (4) That the base of the retaining wall is set back a horizontal distance at least equal to its height from each property line.
2. Swimming pools. Swimming pools may be permitted in any zone. No permanent swimming structure shall be permitted without an operable filtration system utilizing chlorine, bromine or some other antibacterial agent. All swimming pools shall be completely enclosed by a minimum four-foot-high fence or wall with a self-closing and lockable gate; however, this does not apply to aboveground pools having a wall measuring no less than four feet in height at any perimeter point and having a retractable ladder. Such fence or wall shall be erected before any pool is filled with water. All pools must be set back at least 10 feet from all lot lines. No water from a pool shall be discharged onto any public street or alley. These requirements shall not apply to man-made ponds, lakes or other impoundments, unless the primary purpose for their construction is swimming.
3. Tennis courts. Tennis courts may be permitted in any zone. All tennis courts in residential zones shall include an open-mesh permanent fence 10 feet in height behind each baseline. Such fence shall extend parallel to said baseline at least 10 feet beyond the court's playing surface, unless the entire court is enclosed. Any lighting fixtures shall be arranged to prevent objectionable glare on adjoining property.
4. Satellite dish antennas. Satellite dish antennas are subject to all accessory use standards. Furthermore, any satellite dish antenna located within the RC, RS, RU, RF, MI and CB Zones shall be used only to receive signals, not to transmit them. All ground-mounted satellite dish antennas located within the HC, LI and I Zones that are used to transmit video-format data shall be completely enclosed by an eight-foot-high, non-climbable fence that includes signage warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended. Satellite dish antennas within the HC, LI and I Zones shall comply with all principal use standards.
5. Alternative energy sources. Except for those contained on farms, wind energy conversion systems (WECS) shall not be permitted in the front yard area of any property, unless such units are set back at least 100 feet from the nearest property line. Height regulations do not apply to WECS units, provided that the height of the WECS unit shall not be greater than the shortest distance measured along a horizontal plane from the unit to any lot line and that such WECS units comply with § 231 of this chapter. WECS

- units may be placed on the roof of any structure, provided that the perimeter of the unit does not cover 25% of the roof area of the structure on which the WECS unit is placed. The additional height extension shall be so positioned that the height of the WECS unit above the roof is less than the distance measured along a horizontal plane from such unit to any lot line. All transmission lines to and from any freestanding WECS unit or any supporting building or structure shall be buried underground. Solar energy units shall be permitted in any zone and shall be subject to the requirements of that zone.
6. Ornamental ponds and wading pools. Ornamental ponds and wading pools may be permitted in any zone, subject to the following:
- A. Such structures shall comply with all accessory use setbacks.
  - B. No such impoundment shall contain more than 337.5 cubic feet of water (2,530 gallons). All ponds, pools or other impoundments exceeding the requirements of this section shall be considered as "man-made lakes, dams and impoundments" and are subject to the criteria listed in § 301, Subsection 7, of this chapter.
  - C. No such impoundment shall have a length or diameter exceeding 15 feet nor a maximum depth exceeding 1 1/2 feet.
  - D. All such ponds or pools shall be maintained so as to not pose a nuisance by reason of odor or the harboring of insects.
  - E. No such pond(s) shall be used for the commercial hatching of fish or other species.
7. Man-made lakes, dams, ponds, and impoundments. All lakes, dams, ponds, and impoundments may be permitted in any zone, subject to the following:
- A. Lakes, dams, ponds, and impoundments located along and connected to a stream.
    - (1) All lakes, dams, ponds, and impoundments located along and connected to a stream that involve any of the following shall require a permit from the PA DEP, Bureau of Dams and Waterways, Division of Dam Safety, or a letter indicating that the proposed use does not require a PA DEP permit:
      - (a) The lake, dam, pond, or impoundment contains a volume of at least 50 acre feet.
      - (b) The dam reaches a height of 15 feet.
      - (c) The lake, dam, pond, or impoundment impounds the water from a watershed of at least 100 acres.

- (2) All such lakes, dams, ponds, and impoundments shall be located 75 feet from all adjoining lot lines, as measured from the closest point of the adjoining property line to the maximum anticipated water surface elevation.
- B. All lakes, dams, ponds, and impoundments not contiguous to a stream that have an intake, outlet, or both, and/or have an embankment within 50 feet of a stream shall require the obtainment of a permit from the PA DEP Bureau of Dams and Waterways, Division of Waterways and Stormwater Management.
- C. All other lakes, dams, ponds, and impoundments require the submission of a statement and seal by a qualified engineer that the proposed use is properly constructed and will not pose a threat to the public safety nor the environment during normal flow conditions and those associated with the base flood. All dams shall be constructed to a height of one foot above the water surface elevation occurring during the base flood.
- D. All lakes, dams, ponds, and impoundments, including stormwater management basins, shall be located a minimum of 50 feet from any subsurface sewage disposal system or well.
- E. Fencing. All ponds constructed within areas subject to livestock shall be enclosed by fencing that prevents livestock from trampling the pond's shores and polluting the waters.
- F. Maintenance. All ponds shall be regularly maintained, and floating debris shall be removed from all pipes and spillways. All ground cover shall be trimmed. Weeds, brush and trees shall not be permitted to grow on the dam or spillway.
8. Garage/yard sales. Within any zone, an owner and/or occupant may conduct up to four garage/yard sales per year. No garage or yard sale shall be conducted for a period longer than three consecutive days. Such sales may offer for sale personal possessions; no import or stocking of inventory shall be permitted. Only one four-square-foot sign shall be permitted advertising the garage/yard sale, located upon the premises where the sale occurs, and it shall be removed promptly upon the completion of the sale. In no case shall any aspect of the garage/yard sale be conducted in a street right-of-way. The conduct of garage sales beyond the extent described herein represents a commercial business and requires appropriate zoning authorization. The City Zoning Officer or Code Enforcement Officer may remove noncompliant signs without notice to the property owner. **[Amended by Ord. 279, 1/21/2013]**
9. Accessory repair of personal motor vehicles. The routine maintenance, repair and servicing of personal motor vehicles, owned or leased by the person performing such services, when performed outside of a completely enclosed

building within the RC, RS, RU and RF Zones, is permitted by an occupant of the residence, but only in compliance with the following:



- A. All vehicles shall be maintained with proper registration.
- B. All work shall be performed on the vehicle owner's (lessee's) property of residence.
- C. Work shall be limited to the following:
  - (1) Servicing and replacement of spark plugs, batteries, distributors, distributor parts, water hoses, fan belts, brake fluids, transmission fluid, oil filters, air filters, oil, grease, light bulbs, fuses, floor mats and carpeting, seat covers, seat belts, windshield wipers, mirrors, and engine coolants.
  - (2) Repair and replacement of tires and wheels, excluding recapping or regrooving.
  - (3) Repair and replacement of car radios, tape players, amplifiers, and speakers.
  - (4) Repair and replacement of fuel pumps, oil pumps and line repairs.
  - (5) Minor servicing and adjustment of carburetors.
  - (6) Minor motor adjustments not involving the removal of the motor head or crankcase nor the prolonged revving of the motor.
  - (7) Minor body repairs, excluding the replacement of body parts, the complete repainting of the body and the application of undercoating.
  - (8) Cleaning of all exterior and interior surfaces, including washing, shampooing, vacuuming, rubbing, polishing, waxing, and the application of paint sealants.
- D. All by-product or waste fuels, lubricants, chemicals, and other products shall be properly disposed of.
- E. No vehicle shall be stored in a jacked-up position or on blocks for more than 72 continuous hours.

**§ 302. Unenclosed Storage. [Ord. 227, 12/18/2006]**

- 1. Recreational vehicles, boats, campers, trailers, and trucks. Within any RC, RS, RU, and RF Zones, the unenclosed storage of recreational vehicles, travel trailers, trucks, buses, boats, and trailers used solely for the transport of the residents' recreational vehicle(s) is permitted only according to the following requirements:

- A. For purposes of this section, recreational vehicles, travel trailers, buses, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) are divided into two separate categories, as follows:
- (1) Class I vehicles: those recreational vehicles, travel trailers, buses, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) that possess no more than 200 square feet, as measured to the vehicle's outermost edges, nor exceed a height of 10 feet, as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, masts, antennas, outrigger fishing poles, etc.) but will be measured to the highest point of any flybridge or other boat console.
  - (2) Class II vehicles: those recreational vehicles, travel trailers, buses, boats (including trailers), and other trailers used solely for the transport of the residents' recreational vehicle(s) that possess more than 200 square feet, as measured to the vehicle's outermost edges, and/or exceed a height of 10 feet, as measured from the ground to the highest point of the main body of the vehicle. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, antennas, masts, outrigger fishing poles, etc.) but will be measured to the highest point of any flybridge or other boat console.
- B. The temporary parking of one Class I or Class II vehicle for periods not exceeding 72 hours during any seven-day period is permitted on a paved or gravel surface in any yard, so long as the vehicle is set back no less than 10 feet from any street right-of-way and five feet from adjoining property lines.
- C. The storage of one Class I vehicle shall be permitted per lot behind the building setback line, so long as the unit is set back no less than five feet from any adjoining lot line. All areas used for the storage of Class I vehicles shall be maintained so as to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and current inspection and shall prevent the leakage of fuels and/or lubricants into the ground.
- D. Except as permitted in § 302, Subsection 1B, and as follows, the parking or storage of any Class II vehicle is expressly prohibited in any residential zone or on any property used principally for residential purposes. The storage of one Class II vehicle on a residentially zoned parcel or a parcel used for a principal residence is permitted, subject to the following requirements:

- (1) In no case shall the vehicle contain more than 320 square feet, as measured to the vehicle's outermost edges, nor exceed a height of 13 feet, as measured from the ground to the highest point of the vehicle's main body. Vehicle height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, antennas, masts, outrigging fishing poles, etc.) but will be measured to the highest point of any flybridge or other boat console.
  - (2) All vehicles shall be set back a minimum horizontal distance equal to the vehicle's height from each side and rear lot line.
  - (3) No vehicle shall be stored in front of the building setback line. On vacant lots, the vehicle must be stored behind the required front yard setback line, as specified for principal uses.
  - (4) Screening, as described in § 314, Subsection 3, of this chapter, shall be provided along any side and rear lot lines. Such screening shall not extend into the required front yard. Screening shall not be required along a common side lot line when the owner resides on one lot and stores the vehicle on an adjacent vacant lot that he/she owns. One ten-foot-wide break in required screening may be provided along one rear or side lot line for vehicular access onto an adjoining alley.
  - (5) All areas used for the storage of Class II vehicles shall be maintained so as to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and prevent the leakage of fuels and/or lubricants into the ground.
2. Outdoor stockpiling. In all zones, no outdoor stockpiling of any material or outdoor storage of trash is permitted in the front yard. The outdoor stockpiling of material (including firewood) shall be located in the rear yard only and shall be a minimum of 10 feet from the closest property line. In any residential zone, the outdoor stockpiling of materials (except firewood) for more than 180 days is prohibited.
  3. Trash, garbage, refuse, or junk. Except as provided in §§ 437 and 448, the outdoor accumulation of trash, garbage, refuse, or junk for a period exceeding 15 days is prohibited.
  4. Dumpsters. All trash dumpsters shall be enclosed and located as specified in the CB, HC, MI, LI and I Zones and screened as set forth in § 314 of this chapter.
  5. Domestic composts. The placement of framed-enclosure composts as an accessory residential use is permitted, subject to all accessory use setbacks. Only waste materials from the residential site shall be deposited within the

compost, and in no case shall meat or meat by-products be composted. All composts shall be properly maintained so as not to become a nuisance to nearby properties.

**§ 303. Setback Modifications. [Ord. 227, 12/18/2006]**

1. Front yard setback of buildings on built-up streets. Where at least two adjacent buildings have front yard setbacks less than that required, the average of the lesser setbacks becomes the required minimum front setback for the property.
2. Accessory or appurtenant structures. The setback regulations do not apply to:
  - A. Telephone booths.
  - B. Cornices, eaves, chimneys, steps, canopies, and similar extensions, but they do apply to porches and patios, whether covered or not.
  - C. Open fire escapes.
  - D. Minor public utility structures.
  - E. Parts of ornamentation or decoration.
  - F. Fences, hedges, and retaining walls.
  - G. Sidewalks. **[Amended by Ord. 279, 1/21/2013]**

**§ 304. Height Limit Exceptions. [Ord. 227, 12/18/2006]**

1. The height regulations do not apply to the following structures or projections, provided that such structures or projections are set back a horizontal distance at least equal to their height from any property line, are not used for habitable floor space, are compliant with § 231 of this chapter and are constructed in accordance with the prevailing Uniform Construction Code:
  - A. Water towers, antennas, utility poles, smokestacks, chimneys, farm silos, windmills, flagpoles, clock or bell towers, spires, steeples, belfries, cupolas, monuments, dormers, domes, satellite dishes, electrical transmission lines and structures, conveyors, derricks, skylights, solar energy collectors and other similar structures.
  - B. Rooftop structures for the housing of elevators, stairways, water storage tanks, ventilating fans, and other mechanical appurtenances.
  - C. Parapet walls or cornices used solely for ornamental purposes, if not in excess of five feet above the roof line.

2. In no case shall any freestanding or rooftop structure above the maximum permitted height be used for the purpose of providing additional floor space for residential, commercial or industrial purposes.

**§ 305. Clear Sight Triangle. [Ord. 227, 12/18/2006]**

1. On corner lots, there shall be provided and maintained a clear sight triangle of at least 40 feet, as measured along the center line from the intersecting roads. No structure, planting, excavation, nor other visual obstruction shall be permitted at a height greater than 30 feet within such area. All such clear sight triangles shall be depicted upon proposed subdivision and land development plans and sketch plans for building permit applications. A public right-of-way shall also be reserved for the purpose of removing any visual obstruction within the clear sight triangle.

2. In addition, any vegetative material that creates a visual obstruction and is greater than 30 inches in height, that existed on the effective date of this chapter, and that is located within the above-described clear sight triangle shall be considered nonconforming. Such vegetation may continue for a period not to exceed six months from the effective date of this chapter. After six months, such vegetation must be trimmed so as not to create a visual obstruction or be removed by the owner.
3. Should the owner fail to remove such vegetation within the six-month period, the City shall notify the owner of the need to remove such vegetation within 30 days. Should the owner fail to remove such vegetation, after notification, within 30 days, the City may remove such vegetation and seek reimbursement for the cost of such removal from the owner, as prescribed by law.

**§ 306. Minimum Habitable Floor Area. [Ord. 227, 12/18/2006]**

All dwelling units must conform to the minimum habitable floor area following:

- A. Single-family, duplex and townhouse dwelling units: 700 square feet per dwelling unit.
- B. Multifamily dwellings: 400 square feet per dwelling unit.
- C. Cabins, ECHO housing, temporary farm employee housing, and apartments of two-family conversions: 250 square feet per dwelling unit.

**§ 307. Permanent/Temporary Occupancy Requirements. [Ord. 227, 12/18/2006]**

No persons or family shall be permitted to permanently reside within any tent, travel trailer, bus, boat, camper, or motor home. However, temporary occupancy of a tent, travel trailer, camper, or motor home shall be permitted within an approved campground for periods of up to 181 days in any calendar year or on the property of a friend or relative for periods of no more than two weeks.

**§ 308. Establishment of More Than One Principal Use on a Lot. [Ord. 227, 12/18/2006]**

More than one principal use may be established on a single lot, provided that all lot and yard requirements, standards, and other requirements of this chapter shall be met for each structure, as though it were on an individual lot; this shall expressly apply to uses within existing structures. In addition, such proposals shall gain approval for any required land development or subdivision plan and provide individually approved methods of sewage disposal.

**§ 309. Required Vehicular Access. [Ord. 227, 12/18/2006]**

Every building hereafter erected or moved shall be on a lot adjacent to and with vehicular access to a public street or with access to an approved private street. Access to lots containing single-family dwellings shall be via driveways. (See § 310.) Access to lots containing other uses shall be via access drives. (See § 311.)

**§ 310. Driveway Requirements (Single-Family Dwellings). [Ord. 227, 12/18/2006]**

1. Number per lot. No more than two driveway connections per lot shall be permitted.
2. Setbacks. Driveways shall not connect with a public street within 40 feet of the right-of-way lines of any intersecting streets nor within five feet of a fire hydrant. Furthermore, no part of a driveway shall be located within five feet from any adjoining side lot line, except as permitted in §§ 310, Subsections 9 through 16, and 322 of this chapter.

3. Clear sight triangle. Driveways shall be located and constructed so that a clear sight triangle of 75 feet, as measured along the street center line, and five feet along the driveway center line, is maintained; no permanent obstructions and/or plant materials over 30 inches high shall be placed within this area.
  
4. Slope. A driveway shall not exceed a slope of 8% within 25 feet of the street right-of-way lines.
5. Road classification. Driveway access shall be provided to the street of lesser classification when there is more than one street classification involved.
6. Driveway width. No driveway shall provide a curb cut exceeding 24 feet in width.
7. PennDOT permit. Any driveway intersecting with a City-owned or a state-owned road shall require the obtainment of a driveway permit from the City or Pennsylvania Department of Transportation, respectively.
8. Drainage. Driveways shall not be constructed in a manner to be inconsistent with the design, maintenance and drainage of the street.

9. Townhouses on individual lots are permitted to utilize front-yard driveways and garages if such driveways are designed and constructed to provide independent access to both required off-street parking spaces, are only connected to local roads, and comply with the following as depicted above:
  - A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse (see Lots 1-6), except that one end unit within a townhouse grouping containing three, five or seven units may use one freestanding driveway. (See Lot 7.)
  - B. Such driveway shall be at least 43 feet in length (see Lot 7), and the side-by-side, off-street parking spaces shall be set back at least 23 feet from the street line. (See Lot 1.)
  - C. Such driveways must be set back at least:
    - (1) Twelve feet from any lot line of an adjoining townhouse that does not share the joint-use driveway, as measured at the street line. (See Lots 2 and 3.)
    - (2) Two feet from any lot line of an adjoining townhouse that does not share the joint-use driveway. (See the inset in the above diagram.)
    - (3) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Lot 1.)
    - (4) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use. (See Lot 7.)
    - (5) Five feet from the closest point of any building other than a garage. (See Lot 1.)

- D. No individual driveway shall be narrower than 20 feet. (See Lot 7.)
  - E. Garages must be attached to, and rely upon, a driveway as permitted above.
  - F. Garages must be set back at least:
    - (1) Twenty-three feet from the street right-of-way. (See Lot 1.)
    - (2) Twelve feet from any lot line of an adjoining townhouse that does not share a joint-use driveway. (See Lot 5.)
    - (3) Five feet when detached from any building on the site. (See Lot 1.)
    - (4) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use. (See Lot 7.)
10. Townhouses on individual lots are permitted to utilize rear-yard driveways and garages if such driveways are designed and constructed to provide independent access to both required off-street parking spaces and comply with the following as depicted above:
- A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse. (See Lots 1-7.)
  - B. Such driveways must be set back at least:
    - (1) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Lot 1.)

- (2) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use. (See Lot 7.)
    - (3) Five feet from the closest point of any building other than a garage.
  - C. No individual driveway shall be narrower than 20 feet. (See Lot 2.)
  - D. Garages must be attached to, and rely upon, a driveway as permitted above.
  - E. Garages must be set back at least:
    - (1) Twenty feet from the alley right-of-way. (See Lot 4.)
    - (2) Twelve feet from any townhouse unit that is not directly attached to the garage. (See Lot 5.)
    - (3) Five feet when detached from any building on the site.
    - (4) Five feet from any adjoining lot line that does not share the same garage structure. (See Lot 4.)
    - (5) Eighteen feet from the lot line of an end unit that abuts another end unit or a non-townhouse use.
  
11. Townhouses on common property are permitted to utilize front-yard driveways and garages if such driveways are designed and constructed to provide independent access to both required off-street parking spaces, are only connected to local roads, and comply with the following as depicted above:
  - A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse (see Units 1-6), except that one

end unit within a townhouse grouping containing three, five or seven units may use one freestanding driveway. (See Unit 7.)

- B. Such driveway shall be at least 43 feet in length (see Unit 7), and the side-by-side, off-street parking spaces shall be set back at least 23 feet from the street line. (See Unit 1.)
- C. Such driveways must be set back at least:
  - (1) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Unit 1.)
  - (2) Twenty-four feet from any other driveway or access drive that is not connected to the driveway, as measured at the street line. (See Units 2 and 3.)
  - (3) Four feet from any other driveway or access drive that is not connected to the driveway. (See the inset in the above diagram.)
  - (4) Twenty feet from any outside boundary of the development site or a non-townhouse use. (See Unit 7.)
  - (5) Forty feet between two different driveways serving end units.
  - (6) Five feet from the closest point of any building other than a garage. (See Unit 1.)
- D. No driveway shall be narrower than 20 feet. (See Unit 7.)
- E. Garages must be attached to, and rely upon, a driveway as permitted above.
- F. Garages must be set back at least:
  - (1) Twenty-three feet from the street right-of-way. (See Unit 1.)
  - (2) Fourteen feet from any adjoining townhouse that does not share a joint-use driveway. (See Units 2 and 3.)
  - (3) Five feet when detached from any building on the site. (See Unit 4.)
  - (4) Eighteen feet from an outside boundary of the development site or a non-townhouse use.
  - (5) Thirty-six feet between two different garages serving end units.

12. Townhouses on common property are permitted to utilize rear-yard driveways and garages if such driveways are designed and constructed to provide independent access to both required off-street parking spaces and comply with the following as depicted above:
  - A. Such driveways must be arranged as a side-by-side, joint-use driveway with an adjoining townhouse. (See Units 1-7.)
  - B. Such driveways must be set back at least:
    - (1) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Unit 1.)
    - (2) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use. (See Unit 7.)
    - (3) Five feet from the closest point of any building other than a garage.
  - C. No individual driveway shall be narrower than 20 feet.
  - D. Garages must be attached to, and rely upon, a driveway as permitted above and shall be no wider than 48 feet. (See Units 3 and 4.)
  - E. Garages must be set back at least:
    - (1) Twenty feet from the alley right-of-way. (See Unit 4.)
    - (2) Twelve feet from any townhouse unit that is not directly attached to the garage. (See Unit 5.)

- (3) Five feet when detached from any building on the site.
  - (4) Twelve feet from any adjoining garage that does not share the same garage structure. (See Units 2 and 3.)
  - (5) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use. (See Unit 7.)
13. Townhouses on individual lots are permitted to utilize front-yard driveways and garages if:
- A. Such townhouses have garages contained on the ground floor of the unit.
  - B. Such garages share the front wall on the same vertical plane as the townhouse unit.
  - C. Such driveways are only connected to local roads.
  - D. Such townhouses, garages and their driveways comply with the following as depicted above:
    - (1) Such driveways must extend entirely between the cartway of the adjoining local road and the garage contained within the townhouse unit. (See Lots 1-7.)
    - (2) Such driveway shall be at least 40 feet in length, as measured from the street right-of-way line. (See Lot 5.)
    - (3) Such driveways must be set back at least:

- (a) One foot from any side lot line. (See Inset on Lots 1 and 2.)
  - (b) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway (see Lot 1.)
  - (c) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use (see Lot 7.)
- (4) No individual driveway shall be narrower than 12 feet or wider than 14 feet.

14. Townhouses on common property are permitted to utilize front-yard driveways and garages if:
- A. Such townhouses have garages contained on the ground floor of the unit.
  - B. Such garages share the front wall on the same vertical plane as the townhouse unit.
  - C. Such driveways are only connected to local roads.
  - D. Such townhouses, garages and their driveways comply with the following as depicted above:
    - (1) Such driveways must extend entirely between the cartway of the adjoining local road and the garage contained within the townhouse unit. (See Units 1-7.)

- (2) Such driveway shall be at least 30 feet in length, as measured from the street right-of-way line. (See Unit 5.)
  - (3) Such driveways must be set back at least:
    - (a) Two feet from any other driveway and neighboring townhouse unit. (See between Units 1 and 2.)
    - (b) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Unit 1.)
    - (c) Twenty feet from a neighboring end unit or a non-townhouse use. (See Unit 7.)
  - (4) No individual driveway shall be narrower than 12 feet or wider than 14 feet.
15. Townhouses on individual lots are permitted to utilize rear-yard driveways and garages if:
- A. Such townhouses have garages contained on the ground floor of the unit.
  - B. Such garages share the rear wall on the same vertical plane as the townhouse unit.

- C. Such driveways are only connected to alleys as regulated by § 503 of the SLDO.<sup>24</sup>
- D. Such townhouses, garages and their driveways comply with the following as depicted above:
- (1) Such driveways must extend entirely between the alley and the garage contained within the townhouse unit. (See Lots 1-7.)
  - (2) Such driveway shall be at least 40 feet long, as measured from the closest edge of the alley cartway. (See Lot 4.)
  - (3) Such driveways must be set back at least:
    - (a) One foot from any side lot line. (See Lots 4 and 5.)
    - (b) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Lot 1.)
    - (c) Twenty feet from the lot line of an end unit that abuts another end unit or a non-townhouse use. (See Lot 7.)
  - (4) No individual driveway shall be narrower than 12 feet or wider than 14 feet.
- E. For units employing the above design, the minimum required front yard setback is reduced to 25 feet, and the maximum permitted lot coverage is increased to 60%.

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<sup>24</sup>**Editor's Note: See Ch. 22, Subdivision and Land Development. The original text refers to § 503 of the SLDO; however, the provisions regarding alleys are actually included in § 209 of Ch. 22.**

16. Townhouses on common property are permitted to utilize rear-yard driveways and garages if:
- A. Such townhouses have garages contained on the ground floor of the unit.
  - B. Such garages share the rear wall on the same vertical plane as the townhouse unit.
  - C. Such driveways are only connected to alleys as regulated by § 503 of the SLDO.<sup>25</sup>
  - D. Such townhouses, garages and their driveways comply with the following as depicted above:
    - (1) Such driveways must extend entirely between the alley and the garage contained within the townhouse unit. (See Units 1-7.)
    - (2) Such driveway shall be at least 40 feet long, as measured from the closest edge of the alley cartway. (See Unit 4.)
    - (3) Such driveways must be set back at least:
      - (a) Two feet from any other driveway and neighboring townhouse unit. (See Inset on Units 1 and 2.)

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<sup>25</sup> **Editor's Note: See Ch. 22, Subdivision and Land Development. The original text refers to § 503 of the SLDO; however, the provisions regarding alleys are actually included in § 209 of Ch. 22.**

- (b) Thirty feet from the right-of-way of any street or alley which does not connect with the driveway. (See Unit 1.)
- (c) Twenty feet from a neighboring end unit or a non-townhouse use. (See Unit 7.)
- (4) No individual driveway shall be narrower than 12 feet or wider than 14 feet.
- E. For units employing the above design, the minimum required front yard setback is reduced to 25 feet, and the maximum permitted lot coverage is increased to 60%.

**§ 311. Access Drive Requirements (Non-Single-Family Dwellings). [Ord. 227, 12/18/2006]**

1. Number per lot. Except as specified elsewhere, the number of access drives intersecting with a street may not exceed two per lot frontage.
2. Setbacks. All access drives shall be set back at least:
  - A. Twenty feet from the intersection of any street right-of-way lines.
  - B. Twenty feet from any other access drive located upon the same lot (measured from cartway edges).
  - C. Fifteen feet from any side and/or rear property lines; however, this setback can be waived along one property line when a joint parking lot is shared by adjoining uses.
3. Clear sight triangle. Access drives shall be located and constructed so that no permanent obstructions and/or plant materials over 30 inches high shall be placed within a clear sight triangle of 40 feet, as measured along the street center line and along the access drive center line.

4. Slope. Access drives shall not exceed a slope of 4% within 75 feet of the intersecting street center line.
5. Surfacing. All access drives shall be paved with concrete or bituminous paving material or another dust-free material.
6. Access drive width. Access drives shall provide a minimum twelve-foot-wide cartway for each lane of travel. However, in no case shall any access drive cartway be less than 18 feet wide if it provides for truck movement between the public right-of-way and any required off-street loading spaces, as regulated by § 313 of this chapter. **[Amended by Ord. 279, 1/21/2013]**
7. PennDOT permit. Any access drive intersecting with a state-owned road shall require the obtainment of a driveway permit from the Pennsylvania Department of Transportation.

**§ 312. Off-Street Parking Requirements. [Ord. 227, 12/18/2006]**

1. Except as noted in § 210, Subsection 5, of this chapter, off-street parking shall be required in accordance with the provisions of this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. Off-street parking shall be provided whenever: **[Amended by Ord. 279, 1/21/2013]**
  - A. A building is constructed or a new use is established.

- B. The use of an existing building is changed to a use requiring more parking facilities.
    - C. An existing building or use is altered or enlarged so as to increase the amount of parking space required.
  2. Parking for single-family dwellings. Every single-family dwelling shall be required to provide at least two off-street parking spaces. Such spaces must be provided behind the street right-of-way line and may take the form of garages, carports or driveways. Additional regulations pertaining to driveways are contained in § 310 of this chapter.
  3. Site plan approval:
    - A. Each application for a building permit (for a use for which parking spaces are required) shall include a drawing (site plan) showing the proposed layout of the lot. The drawing shall clearly indicate all of the design elements required below.
    - B. No building permit shall be issued for any use for which parking spaces are required unless the site plan has been approved or necessary variances have been obtained.
  4. Surfacing. All parking lots shall be constructed and maintained with a paved surface of concrete or bituminous materials or another dust-free surface.
  5. Separation from streets and sidewalks. Parking spaces shall be guarded by curbs or other protective devices which are arranged so that parked motor vehicles cannot project into the streets, yards, or walkways.
  6. Drainage. Parking lots shall be graded to a minimum slope of 1% to provide for drainage. Adequately sized inlets and storm sewers shall be provided to discharge stormwater, in accordance with a plan under the SLDO.<sup>20</sup>
  7. Parking space sizes. The following lists required minimum space sizes, in feet:
    - A. Standard motor vehicle spaces:
      - (1) Parallel: 22 by 8.
      - (2) Nonparallel: 18 by 9.
    - B. Spaces for physically handicapped:
      - (1) Parallel: 22 by 12.
      - (2) Nonparallel: 18 by 12.

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<sup>20</sup>Editor's Note: See Ch. 22, Subdivision and Land Development.

- 8. Design standards for handicapped parking spaces. Parking lots shall comply with the latest version of the Americans With Disabilities Act.
- 9. Interior driveway widths.
  - A. Interior driveways between rows of parking spaces shall have the minimum widths indicated in the following table:

<b>Angle of Parking</b>	<b>Width of Interior Driveway/One-Way Traffic (feet)</b>	<b>Width of Interior Driveway/Two-Way Traffic (feet)</b>
90°	22	22
60°	1	22
45°	13	22
30°	12	22
Parallel	12	22

- B. Interior driveways in areas where there is no parking permitted shall be at least 12 feet wide for each lane of traffic.
- 10. Marking of parking spaces and interior drives.
  - A. All parking lots paved by bituminous or concrete materials shall be adequately marked and maintained for the purpose of defining parking stalls and interior drives. As a minimum, the lines of all parking stalls and interior drives (including directional arrows, etc.) shall be solid white and four inches in width. White paint for these lines shall conform to Federal Specification TT-P-115C, Type 1, for white nonreflective traffic line paint, or equivalent. **[Amended by Ord. 279, 1/21/2013]**
  - B. In the event that parking lots are not marked as required by this section, the City may notify the owner, in writing, at least 30 days in advance, and, at its option, perform or hire the said marking to be done and recover the cost thereof from the owner or tenant of said lot in a manner prescribed by law.
- 11. Not less than a four-foot radius of curvature shall be permitted for horizontal curves in parking areas.
- 12. All dead-end parking lots shall be designed to provide sufficient backup area for vehicles parked in all end spaces.
- 13. Lighting. Adequate lighting shall be provided if the parking lot is to be used at night. The lighting shall be arranged so as not to reflect or glare on land used for residential purposes or adjoining lots or streets.

- 14. Access drive requirements. Every parking lot shall be connected to a street by means of an access drive. This access drive shall be at least 12 feet wide for each lane, exclusive of curb return and gutters. Section 311 specifies other requirements for access drives.
- 15. Landscaping and screening requirements. The following landscaping and screening requirements shall apply to all parking lots:

A. Landscaped strip.

- (1) When a parking lot is located in a yard which abuts a street, a landscaped strip shall be provided on the property along the entire street line. If there is no building or other structure on the property, the parking lot shall still be separated from the street by the landscaped strip. This strip shall be measured from the street line. The strip may be located within any other landscaped strip required to be located along a street.
- (2) The following lists required width of landscape strips:

<b>Number of Spaces in Parking Lot, Including Joint Facilities</b>	<b>Landscape Strip Width in Feet, Measured from Street Right-of-Way Line*</b>
Less than 250	10
Over 250	20

**NOTE:**

\* Or the closest edge of any access drive that is located along the street that provides for vehicle access to the site.

- (3) Unless otherwise indicated, all parking lots constructed in side or rear yards (as defined herein) shall be set back according to the standards listed in the respective zones. Such setbacks shall be used for landscape strips.

B. Interior landscaping.

- (1) In any parking lot containing 20 or more parking spaces (except a parking garage), 5% of the total area of the lot shall be devoted to interior landscaping. Such interior landscaping may be used, for example, at the end of parking space rows to break up rows of parking spaces at least every 10 parking spaces and to help visually define travel lanes through or next to the parking lot. Landscaped areas situated outside of the parking lot, such as peripheral areas and areas surrounding buildings, shall not constitute interior landscaping. For the purpose of computing the total area of any parking lot, all areas within the perimeter of the parking lot shall be counted, including all

parking spaces and access drives, aisles, islands, and curbed areas. Ground cover alone is not sufficient to meet this requirement. Trees, shrubs, or other approved material shall be provided. At least one shade tree shall be provided for each 300 square feet (or fraction) of required interior landscaping area. These trees shall have a clear trunk at least five feet above finished grade level.

- (2) Parked vehicles may not overhang interior landscaped areas more than 2 1/2 feet. Where necessary, wheel stops or curbing shall be provided to ensure no greater overhang.
- (3) If a parking lot of under 20 spaces is built without interior landscaping and later additional spaces are added so that the total is 20 or more, the interior landscaping shall be provided for the entire parking lot.

C. Screening. When a parking lot is located on property which adjoins land in the RC, RS, RU or RF Zone, the parking lot shall be screened from the adjoining residential property.

16. Speed bumps.

- A. Speed bumps, constructed as part of access drives or parking lots, shall be marked with permanent, yellow diagonal stripes.
- B. The speed bumps shall be in the form of mounds or depressions in the pavement and shall be designed to restrain motor vehicle speed.
- C. There shall be a warning sign posted at each entrance to a parking area having bumps.
- D. In no case shall the overall height (or depth) of speed bumps exceed two inches.
- E. Speed bumps shall be located no less than 50 feet from any street right-of-way line.

17. Joint parking lots.

- A. In shopping centers over two acres in size, joint parking lots may be permitted. These joint facilities can reduce the total number of parking spaces required by a maximum of 20%. Therefore, the resulting joint parking lot will be required to provide at least 80% of the total number of spaces required by the sum of all of the shopping center's tenants. Such reduced parking spaces must be appropriately distributed upon the lot to provide convenient walking distance between vehicles and each of the shopping center's stores.

- B. Required parking spaces may be provided in parking lots designated to jointly serve two or more establishments or uses, provided that the number of required spaces in such joint facility shall not be less than the total required separately for all such establishments or uses. However, where it can be conclusively demonstrated that one or more uses will be generating a demand for parking spaces primarily during periods when the other use(s) is(are) not in operation, the total number of required parking spaces may be reduced to:
- (1) That required number of spaces that would be needed to serve the use generating the most demand for parking; plus.
  - (2) Twenty percent of that number of required parking spaces needed to serve the use(s) generating the demand for lesser spaces.
  - (3) Each use must reserve sufficient land area on its respective site to accommodate required parking independently.
18. Prohibited and temporary uses of parking lots. Motor vehicle parking lots are for the sole purposes of accommodating the motor vehicles of persons associated with the use which requires them. Parking lots shall not be used for the following and/or loading purposes:
- A. The sale, display, or storage of motor vehicles or other merchandise.
  - B. Parking vehicles accessory to the use.
  - C. Performing services (including services to vehicles).
  - D. Required off-street parking space shall not be used for loading and unloading purposes except during hours when business operations are suspended.
19. Schedule of Required Parking Spaces. The following lists required numbers of parking spaces by use type. Any use involving a combination of several uses shall provide the total number of spaces required for each individual use. **[Amended by Ord. 279, 1/21/2013]**

**Commercial Uses**

<b>Type of Use</b>	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Automobile, truck, trailer, bus, and recreational vehicle repair, filling and washing facilities	400 square feet of gross floor and ground area devoted to repair and service facilities in addition to areas normally devoted to automobile storage, and 1 per employee on the major shift	10,000 square feet of gross floor and ground area devoted to repair and service facilities
Automobile, boat, and trailer sales	1,000 square feet of gross indoor and outdoor display areas	10,000 square feet of gross indoor and outdoor display areas
Carpeting, drapery, floor covering, and wall covering sales	500 square feet of gross floor area	10,000 square feet of gross indoor and outdoor display areas
Convenience stores	75 square feet of gross floor area	1,000 square feet of gross floor area or fraction thereof
Drive-thru and/or fast-food restaurants	2 seats, and 1 per each 2 employees	30 seats or fraction thereof
Food markets and grocery stores	150 square feet of gross floor area for public use, and 1 per each employee on the 2 largest shifts	5,000 square feet of gross floor area or fraction thereof
Funeral homes	100 square feet of gross floor area, 1 per each employee, and 1 per each piece of mobile equipment, such as hearses and ambulances	Funeral home
Furniture sales	500 square feet of gross floor area	10,000 square feet of gross floor area or fraction thereof

<b>Commercial Uses</b>		
<b>Type of Use</b>	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Hotels, motels	Guest sleeping room, and 1 per each employee on the 2 largest shifts (Restaurants and other accessory uses shall add to this requirement.)	10 guest sleeping rooms or fraction thereof
Mini-warehouses	25 units, plus 1 per 250 square feet of office space, plus 2 per any resident manager	25 units or fraction thereof
Nightclubs	2 seats, plus 1 per each employee on site at 1 time	30 seats of legal occupancy or fraction thereof
Office buildings	300 square feet of gross floor area	10,000 square feet of gross floor area or fraction thereof
Professional offices of veterinarians, physicians, dentists, etc.	6 spaces per each physician or dentist, etc.	10,000 square feet of gross floor area or fraction thereof
Retail stores or shops (except those listed above)	200 square feet of gross floor area of display area or sales area, and 1 per each employee on the 2 largest shifts	5,000 square feet of gross floor area or fraction thereof
Restaurants and taverns	3 seats, plus 1 per each employee on the largest shift	30 seats or fraction thereof
Shopping centers or malls	See § 453, Subsection 4, of this chapter	5,000 square feet of gross floor area or fraction thereof
Other commercial buildings	400 square feet of gross floor area	5,000 square feet of gross floor area or fraction thereof

**Industrial Uses**

<b>Type of Use</b>	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Industrial and heavy manufacturing establishments	2 employees on the 2 largest shifts or at least 1 space per each 1,000 square feet of gross floor area, whichever is the greatest number	10,000 square feet of gross floor area or fraction thereof
Warehousing	Employee on the 2 largest shifts	10,000 square feet of gross floor area or fraction thereof

**Recreation Uses**

<b>Type of Use</b>	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Amusement arcades	50 square feet, plus 1 per employee	30 persons of legal occupancy or fraction thereof
Baseball, soccer, field hockey, lacrosse, rugby, football and other athletic fields without spectator seating	1/12 field (12 per field)	1/2 field (i.e., 2 per field)
Baseball, soccer, field hockey, lacrosse, rugby, football and other athletic fields with spectator seating	1/12 field (12 per field), plus 1 per each 4 seats of spectator seating	1/2 field (i.e., 2 per field)
Basketball and volleyball courts without spectator seating	1/8 court (8 per court)	1 court (i.e., 1 per court)
Basketball and volleyball courts with spectator seating	1/8 court (8 per court), plus 1 per each 4 seats of spectator seating	1 court (i.e., 1 per court)
Bowling alleys, billiard rooms	1/4 lane/table (i.e., 4 per lane/table), and 1 per each 2 employees	100 persons of legal occupancy or fraction thereof
Campgrounds	Non-RV campsite, plus 1 per employee, plus 50% of the spaces normally required for accessory uses	RV campsite, plus 1 per 20 non-RV campsites or fraction thereof.

<b>Type of Use</b>	<b>Recreation Uses</b>	
	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Golf courses	1/4 hole (i.e., 4 per hole), plus 1 per employee, plus 50% of the spaces normally required for accessory uses	9 holes or fraction thereof
Golf driving ranges	1 per tee, and 1 per employee	20 tees or fraction thereof
Miniature golf courses	1/2 hole (i.e., 2 per hole), and 1 per employee	18 holes or fraction thereof
Gymnasiums without spectator seating	1/8 court (8 per court)	1/2 gym (i.e., 2 per gym)
Gymnasiums with spectator seating	1/8 court (8 per court), plus 1 per 4 seats of spectator seating	1/2 gym (i.e., 2 per gym)
Riding schools or horse stables	2 stalls, plus 1 per every 4 seats of spectator seating	4 stalls or fraction thereof
Picnic areas	1 table	20 tables or fraction thereof
Skating rinks	4 persons of legal occupancy	100 persons of legal occupancy or fraction thereof
Swimming pools (other than one accessory to a residential development)	4 persons of legal occupancy	100 persons of legal occupancy or fraction thereof
Tennis or racquetball clubs without spectator seating	1/4 court (i.e., 4 per court), plus 1 per employee.	10 courts or fraction thereof
Tennis or racquetball clubs with spectator seating	1/4 court (i.e., 4 per court), plus 1 per each 4 seats of spectator seating	10 courts or fraction thereof

**Residential Uses**

<b>Type of Use</b>	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Single-family detached dwellings, 2-family conversions, and conversion apartments	1/2 dwelling unit (i.e., 2 spaces per dwelling unit)	See § 302 of this chapter.
Boardinghouses, group homes, and bed-and-breakfasts	Bedroom	See § 302 of this chapter.
Duplex, townhouse and multiple-family dwellings	1/2 dwelling unit (i.e., 2 spaces per dwelling unit). Such parking spaces can take the form of private driveways or garages and/or common parking lots, provided all spaces required are within 150 feet of the unit served.	See § 302 of this chapter.

**Social And Institutional Uses**

<b>Type of Use</b>	<b>Minimum of One Automobile Parking Space for Each</b>	<b>Minimum of One Oversize Parking Space for Each</b>
Auditorium, banquet, conference, and meeting facilities; churches, theaters, and other such places of public assembly	200 square feet, but not fewer than 1 space per each 3 seats	100 persons of legal occupancy or fraction thereof
Clubs, lodges and other similar places	200 square feet of gross floor area, and 1 per each employee on the 2 largest shifts	30 persons of legal occupancy or fraction thereof
Nursing, rest or retirement homes	3 accommodations (beds), in addition to those needed for doctors and support staff	100 persons of residency or fraction thereof

**Social And Institutional Uses**

Type of Use	Minimum of One Automobile Parking Space for Each	Minimum of One Oversize Parking Space for Each
Hospitals, sanitariums	Spaces shall be provided for visitors at the rate of at least 1 space per each 1.5 accommodations (beds). Such spaces shall be in addition to those necessary for doctors and other personnel.	100 accommodations (beds) or fraction thereof
Museums, art galleries, cultural centers, libraries	400 square feet of gross floor area	100 persons of legal occupancy or fraction thereof
Rehabilitation centers (without overnight accommodations)	1 per each employee, and 1 per each 3 people anticipated to be handled through the facility	30 persons of legal occupancy or fraction thereof
Schools below grade 10, including principal day-cares and kindergartens	6 students enrolled	60 students enrolled or fraction thereof
Schools, tenth grade and above, including colleges	3 students enrolled	40 students or fraction thereof
Vocational training and adult education facilities	1.5 students enrolled	60 students enrolled or fraction thereof

**§ 313. Off-Street Loading Facilities. [Ord. 227, 12/18/2006]**

1. Except as noted in § 210, Subsection 6, off-street loading shall be required in accordance with this section prior to the occupancy of any building or use, so as to alleviate traffic congestion on streets. These facilities shall be provided whenever: **[Amended by Ord. 279, 1/21/2013]**
  - A. A new use is established.
  - B. The use of a property or building is changed, thereby requiring more loading space.
  - C. An existing use is enlarged, thereby requiring an increase in loading space.

2. Site plan. Each application for a building permit (or use for which off-street loading spaces are required) shall include a drawing (site plan) showing the proposed layout of the loading area. The drawing shall clearly indicate the design elements required below. No building permit shall be issued for any use for which a loading area is required unless the site plan has been approved or necessary variances have been approved.
3. Location. Except within the I Zone, a ground-level loading area may be located in any side or rear yard. No exterior portion of an off-street loading facility (including access drives) shall be located within 50 feet of any land within an RC, RS, RU or RF Zone. Off-street loading facilities shall be located on the face of a building not facing any adjoining land in an RC, RS, RU or RF Zone.
4. Surfacing. All off-street loading facilities, including access drives, shall be constructed and maintained with a paved surface of concrete or bituminous materials.
5. Connection to street. Every loading space shall be connected to a street by means of an access drive. The access drive shall be at least 18 feet wide, exclusive of curb returns and gutters. Section 311 specifies other requirements for access drives.
6. Separation from streets, sidewalks and parking lots. Off-street loading spaces shall be designed so that there will be no need for service vehicles to back over streets or sidewalks. Furthermore, off-street loading spaces shall not interfere with off-street parking lots.
7. Drainage. Off-street loading facilities (including access drives) shall be drained to prevent damage to other properties or public streets. Furthermore, all off-street loading facilities shall be designed to prevent the collection of standing water on any portion of the loading facility surface, particularly next to access drives.
8. Required off-street loading facility sizes. The following lists required minimum loading space sizes, in feet (excluding access drives, entrances, and exits):

<b>Facility</b>	<b>Length (feet)</b>	<b>Width (feet)</b>	<b>Height (if covered or obstructed) (feet)</b>
Industrial, wholesale, shopping centers and storage uses	63	12	15
All other uses	33	12	15

- 9. Lighting. Adequate lighting shall be provided if the loading facility is to be used at night. The lighting shall be arranged so as not to be directed or reflected or to cause glare off of the site.
- 10. Landscaping and screening requirements. Except in the case of joint off-street loading areas, all off-street loading areas shall comply with those applicable setbacks listed in each zone. Such setbacks shall be used to provide a landscape strip, and all off-street loading facilities shall also be screened from adjoining residentially zoned properties and/or adjoining public streets.
- 11. Schedule of Required Loading Spaces.

<b>Type of Use</b>	<b>Number of Spaces Per</b>	<b>Gross Floor Area/Dwelling Unit</b>
Hospital or other institution	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Hotel, motel and similar lodging facilities	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Industry or manufacturing	None	First 2,000 square feet
	1.0	2,000 to 25,000 square feet
	+1.0	Each additional 40,000 square feet (or fraction)
Multifamily dwelling	None	Less than 100 dwelling units
	1.0	100 to 300 dwelling units
	+1.0	Each additional 200 dwelling units (or fraction)
Office building, including banks	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Retail sales and services, per store, and restaurants	None	First 2,000 square feet
	1.0	2,000 to 10,000 square feet
	2.0	10,000 to 40,000 square feet

Type of Use	Number of Spaces Per	Gross Floor Area/Dwelling Unit
	+1.0	Each additional 100,000 square feet (or fraction)
Shopping centers (integrated shopping centers, malls and plazas) having at least 25,000 square feet	1.0	25,000 square feet up to 100,000 square feet
	+1.0	Each additional 100,000 square feet
Theater, auditorium, bowling alley, or other recreational establishment	None	First 10,000 square feet
	1.0	10,000 to 100,000 square feet
	+1.0	Each additional 100,000 square feet (or fraction)
Undertaking establishment or funeral parlor	None	First 3,000 square feet
	1.0	3,000 to 5,000 square feet
	+1.0	Each additional 10,000 square feet (or fraction)
Wholesale or warehousing (except mini-warehousing)	None	First 1,500 square feet
	1.0	1,500 to 10,000 square feet
+1.0	Each additional 40,000 square feet (or fraction)	

**§ 314. Landscaping and Screening Requirements. [Ord. 227, 12/18/2006]**

1. Yard ground cover. Any part of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks, and designated storage areas shall be planted with an all-season ground cover approved by the City Council (e.g., grass, mulch, ivy, pachysandra, etc.). In addition, gravel can be substituted if done in a manner to complement other vegetative materials. It shall be maintained to provide an attractive appearance, and all non-surviving plants shall be replaced promptly.
2. Landscaping requirements.

- A. Any required landscaping (landscape strips and interior landscaping) shall include a combination of the following elements: deciduous trees, ground covers, evergreens, shrubs, vines, flowers, rocks, gravel, earth mounds, berms, walls, fences, screens, sculptures, fountains, sidewalk furniture, or other approved materials. Artificial plants, trees and shrubs may not be used to satisfy any requirement for landscaping or screening. No less than 80% of the required landscape area shall be vegetative in composition, and no outdoor storage shall be permitted within required landscape areas.
  - B. For each 750 square feet of required area for landscape strips, one shade/ornamental tree shall be provided. If deciduous, these trees shall have a clear trunk at least five feet above finished grade; if evergreen, these trees shall have a minimum height of six feet. All required landscape strips shall have landscaping materials distributed along the entire length of the lot line abutting the yard.
3. Screening. The following materials may be used: evergreens (trees, hedges or shrubs), walls, fences, earth berms, or other approved similar materials. Fences and walls shall not be constructed of corrugated metal, corrugated fiberglass or sheet metal. Screening shall be arranged so as to block the ground-level views between grade and a height of six feet. Landscape screens must achieve this visual blockage within two years of installation.
  4. Selection of plant materials.
    - A. Trees and shrubs shall be typical of their species and variety and have normal growth habits, well-developed branches, dense foliage, and vigorous, fibrous root systems. They shall have been grown under climatic conditions similar to those in the locality of the project or properly acclimated to conditions of the locality of the project.
    - B. Any tree or shrub which dies shall be replaced so as to maintain ground cover and/or screening. All landscaping and screening treatments shall be properly maintained.

**§ 315. Outdoor Signs. [Ord. 227, 12/18/2006; as amended by Ord. 261, 10/18/2010, §§ 2, 3]**

1. General regulations for all signs.
  - A. Signs must be constructed of durable material and maintained in good condition.
  - B. No sign shall be maintained within the City in such a state of disrepair as to have the appearance of complete neglect, which is rotting or falling down, which is illegible, or which has loose parts separated from original fastenings.

- C. Whenever a sign becomes structurally unsafe or endangers the safety of the building or premises, or endangers public safety, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that such sign be made safe or removed within five days.
- D. Advertising painted upon or displayed upon a barn or other building or structure shall be regarded as a flat wall sign, and the regulations pertaining thereto shall apply.
- E. Each sign shall be removed when the circumstances leading to its erection no longer apply.
- F. Signs may be interior-lighted with non-glaring lights or may be illuminated by floodlights or spotlights that are shielded so there is no direct light transmitted to other properties or public rights-of-way.
- G. No sign shall be of the intermittent flashing or rotating type.
- H. No sign located within 300 feet of any traffic light shall be illuminated with red, green or yellow lights or neon tubing.
- I. All electrically illuminated signs shall be constructed to the standards of the National Board of Fire Underwriters.
- J. Signs must be positioned so that they do not interfere with any clear sight triangle.
- K. Determination of size. The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, including any border framing or decorative attachments, but not including any supporting framework or bracing incidental to the display itself. Where the sign consists of individual letters or symbols attached to a building, wall or window, the area of the sign shall be considered to be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign; provided, however, that for a double-face sign, if the interior angle formed by the two faces of the double-face sign is less than 45° and the two faces are at no point more than three feet from one another, the area of only the larger face shall be included.

- L. No lewd, vulgar, indecent, or obscene advertising matter shall be displayed in any manner, including but not limited to:
- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
  - (2) Scenes wherein a person displays the vulva or the anus or other genitals.
  - (3) Scenes wherein artificial devices are employed to depict, or drawings are employed to portray, any of the prohibited signs, photographs or graphic representations described above.
  - (4) Any other graphic illustration pertaining to specified sexual activities and/or specified anatomical areas.
- M. No sign shall be erected or located as to prevent free ingress or egress from any window, door or fire escape.
- N. No sign shall be placed in such a position that it will obscure light or air from a building or which would create a traffic danger.
- O. No permanent sign shall be erected within the right-of-way of any street. **[Amended by Ord. 279, 1/21/2013]**
- P. No sign located within any floodplain shall exceed six square feet of area per side.
- Q. In the event that a symbol, trademark or other such figure is used as a signpost or standard which could be construed to indicate or identify a particular use or business, that symbol, trademark or figure is to be computed as part of the total allowable sign area.

- R. Except in the cases of billboards, as regulated by § 315.2, and off-premises advertising signs, off-premises directional signs, sponsorship signs, and multibusiness signs, as regulated by § 315.2 and this Subsection, only those signs referring directly to materials or products made, sold or displayed on the premises, to services offered on the premises, and/or to activities conducted on the premises, shall be permitted. Off-premises advertising signs, off-premises directional signs, and sponsorship signs shall all be included in the aggregate square footage allowed per premises as provided for herein. Where there is more than one business located on the premises, the maximum sign area permitted is 200 square feet per premises, not per business, but in any ratio.
- S. Except in the case of billboards and school bus shelters, all signs must relate to a use or activity that is located and/or conducted within City of Saint Marys.
- T. All signs, except permitted temporary signs as specifically regulated by this § 315, shall be affixed at a permanent and stationary location.
- U. Temporary signs in right-of-way. **[Added by Ord. 279, 1/21/2013]**
- (1) No temporary sign shall be erected within the right-of-way of any public street if:
    - (a) The sign interferes with or obstructs the flow and safety of traffic; or
    - (b) The property owner abutting the place within the right-of-way where the sign is erected objects to placement of the sign.
  - (2) City shall have the right to remove any sign violating this subsection without prior notice to the owner of the sign.
2. Specific standards. The following tables present specific standards imposed upon permanent and temporary signs, respectively.<sup>21</sup>

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<sup>21</sup>Editor's Note: Said tables are included at the end of this chapter.

3. All signs requiring the obtainment of a permit (as listed in the preceding tables) shall be required to submit building permit applications that include scaled plans or diagrams showing the following:
  - A. Exact dimensions of the lot, including any right-of-way lines or building upon which the sign is proposed to be erected.
  - B. Exact size, dimensions and location of the said sign on the lot or building, together with its type, construction, materials to be used, and the manner of installation.
  - C. Any other lawful information which may be required of the applicant by the Zoning Officer.
4. Application for a permit shall be made in writing to the Zoning Officer and shall contain all information necessary for such Officer to determine whether the proposed sign or the proposed alterations conform to all the requirements of this chapter.
5. No sign permit shall be issued except in conformity with the regulations of this chapter, except upon order of the Zoning Hearing Board, granted pursuant to the procedures established for the issuance of a variance.

**§ 316. Roadway Classifications. [Ord. 227, 12/18/2006]**

For the purposes of this chapter, the City's roads shall be classified in the following categories:

**Arterial Roads**

Bucktail Road (PA Route 120)

State Street (PA Route 120)

South Saint Marys Street (PA Route 255)

Johnsonburg Road (PA Route 255)

**Collector Roads**

Taft Road (SR 1002)

Windfall Road (SR 1003)

Wilson Road

West Creek Road (SR 1008)

Washington Road (SR 1008)

Theresa Street (SR 1005)

West Theresa Road

South Michael Street (SR 2008)

Averyville Road

Lemans Road

Vine Road

**Local Roads**

All roads not listed as arterials or collectors



**§ 317. Zoning Requirements for Use of On-Lot Sewage Disposal Systems. [Ord. 227, 12/18/2006]**

1. Except for those nonconforming lots described in § 507 of this chapter and as noted below in § 317, Subsection 5, of this chapter, as of the effective date of this chapter, all future uses that rely upon on-lot sewage disposal systems shall be required to specifically test for and secure one disposal site (field, bed, or trench) and replacement area. Both disposal sites shall be approved by the Sewage Enforcement Officer. Furthermore, the alternate disposal site shall be perpetually protected from excavation, construction, and other activities that would result in disturbance of the soil's ability to renovate sewage effluent, until such time as the alternate field is activated due to malfunction of the initial disposal site.
2. Regardless of any maximum lot area requirements listed elsewhere in this chapter, the minimum required lot size may be increased to ensure an acceptable level of nitrate-nitrogen in the adjoining groundwaters. Such determinations will be made by the PA DEP, through its sewer module review process. In those cases where applicable maximum lot area requirements are exceeded to protect groundwater quality, the applicant shall furnish evidence that the amount of land needed to protect local groundwater is the minimum necessary for such protection.
3. Every use relying upon on-lot sewage disposal systems shall be required to properly maintain and repair such systems in accordance with the City's on-lot disposal system management program.
4. Every use relying upon an on-lot sewage disposal system shall be required to comply with the Pennsylvania Sewage Facilities Act, Act 537, as may be amended.<sup>32</sup>
5. In those areas that have been officially identified by the City as future public sewer service areas, anyone who develops a parcel for residential purposes prior to the actual installation and connection of public sewers will be required to employ utility infill design as regulated in § 201 of this chapter. Furthermore, any parcel improved shall also require the installation of capped sewer lines along the property frontage(s) in accordance with the City's prevailing design standards prior to the issuance of a certificate of use and occupancy.

**§ 318. Operations and Performance Standards. [Ord. 227, 12/18/2006]**

All uses proposed within City of Saint Marys shall operate in compliance with applicable state and federal regulations, as they are periodically amended. The following lists City-devised standards and known governmental regulations associated with various land use impacts or specific requirements imposed by this

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<sup>32</sup>Editor's Note: See 35 P.S. § 750.1 et seq.

chapter. This list in no way excludes or limits federal or state jurisdiction over uses within the City.

A. Noise.

- (1) Except for agricultural, horticultural and forestry-related uses, no use shall regularly generate exterior noise levels in excess of those listed in the following table:

<b>Measurement Taken Along An Adjoining Property that is Within the Following Districts</b>	<b>Time Period</b>	<b>Maximum Permitted Noise Level</b>
RC, RS, RU, RF and MI	7:00 a.m. to 10:00 p.m.	50 dBA
RC, RS, RU, RF and MI	10:00 p.m. to 7:00 a.m.	45 dBA
CB and HC	7:00 a.m. to 10:00 p.m.	60 dBA
CB and HC	10:00 p.m. to 7:00 a.m.	55 dBA
LI and I	Anytime	70 dBA

- (2) Should the ambient noise level at any location exceed the above standards, that ambient noise level shall become the maximum permitted noise level at that location. The maximum permitted noise level shall be applied to regularly occurring uses and activities; short-term temporary noises and infrequent instantaneous noises may be permitted at noise levels 20 dBA higher than the above-described standards, but only between 7:00 a.m. and 10:00 p.m.

B. Glare and light.

- (1) All on-site lighting shall be provided within the following ranges for periods when the use is in operation and shall be, except as noted in § 318B(2), otherwise extinguished between the hours of 10:00 p.m. and 6:00 a.m.:

<b>On-Site Area</b>	<b>Range of Required Illumination footcandles</b>
Roadside sidewalks and bikeways (without stairways and/or tunnels)	0.2 to 0.9
Freestanding sidewalks, paths and bikeways (without stairways and/or tunnels)	0.5 to 0.8

<b>On-Site Area</b>	<b>Range of Required Illumination footcandles</b>
Sidewalk, path and bikeway stairways and/or tunnels	20 to 50
Playgrounds, parks and athletic courts/fields where on-site lighting is required	5.0 to 30
Off-street loading areas	2.0 to 20
Off-street parking areas	0.5 to 2.0
Building facades, monuments, fountains, signs, architectural features, and similar objects	0 to 15
Building entries for public, quasi-public, commercial, and industrial uses	1.0 to 5.0

- (2) In all zones, exterior lighting of a building and/or grounds for security surveillance purposes is permitted. Such lighting shall be arranged and of sufficient illumination to enable the detection of suspicious movement rather than the recognition of definitive detail. For security lighting of grounds and parking lots, the level of illumination shall not exceed one footcandle. Security lighting for buildings/structures shall be directed toward the face of the building/structure, rather than the area around it, and shall not exceed five footcandles.
  - (3) In all zones, all exterior lighting provided in conjunction with any nonresidential or nonfarm use shall be hooded and/or screened so as not to permit the source of illumination nor lenses to be seen from off of the premises.
  - (4) Adequate lighting shall be provided in parking lots and loading areas that will be used at night. The primary lighting sources shall be pole-mounted fixtures, not building-mounted fixtures. The maximum height of lighting standards shall not exceed the maximum permitted height of principal buildings or 20 feet, whichever is less.
- C. Air pollution, airborne emissions and odor: Rules and Regulations of the Pennsylvania Department of Environmental Protection.
  - D. Water pollution: the Clean Streams Law, June 22, 1937, P.L. 1987, 35 P.S. § 691.1, as amended.
  - E. Workplace safety: the General Safety Law, No. 174, P.L. 654, and Regulations of the Pennsylvania Department of Labor and Industry.
  - F. Handicap access: the latest version of the Americans With Disabilities Act.

**§ 319. Common Open Space Requirements. [Ord. 227, 12/18/2006]**

In those instances where open space is required elsewhere in this chapter, or when an applicant proposes the use of open space, such open space shall comply with the following:

- A. Required common open space shall be designed and arranged to achieve at least one of the following objectives, and the applicant shall demonstrate those specific measures employed to achieve these objectives:
  - (1) Protection of important natural resources (e.g., streams, ponds, wetlands, steep slopes, woodlands, unique geologic features, wildlife habitats, aquifer recharge areas, etc.).
  - (2) Protection of important historical and/or archaeological sites.
  - (3) Provision of usable play and recreation areas that are conveniently accessible to residents within the development and the City.
  - (4) Integration of greenbelts throughout the development that link residences with on-site or adjoining parks, schools, or other similar features.
  
- B. An essential element of the use of common open space is a written description and plan for the disposition of ownership of common open space land, designating those areas to be offered for dedication or to be owned by the specific form of organization proposed. The permanent preservation of common open space shall be accomplished through one of the following:
  - (1) An offer of dedication to the City. The City shall not be obligated to accept dedication of the common open space.
  - (2) With permission of the City, and with appropriate deed restrictions in favor of the City and in language acceptable to the City Solicitor, the developer may transfer ownership of the common open space or a portion thereof to a private, nonprofit organization among whose purposes is the preservation of common open space land and/or natural resources. The organization shall be a bona fide conservation organization with a perpetual existence, the conveyance must contain appropriate provision for reverter or retransfer if the organization is unable to maintain the land, and the organization must enter into a maintenance agreement with the City.
  - (3) The developer shall provide for and establish an organization for the ownership and maintenance of the common open space, which shall be generally consistent with the requirements for unit owners' associations found in the Pennsylvania Uniform Condominium Act, 68 Pa.C.S.A. § 3101 et seq. If such an organization is created, the agreements of sale and deeds for all lots shall contain the following requirements, in language acceptable to the City Solicitor:

- (a) Such organization shall not dispose of the common open space by sale or otherwise, except to the City, unless the City has given prior written approval. Such transfer shall be made only to another organization which shall maintain the common open space in accordance with this chapter.
- (b) The organization and all lot owners shall enter into a maintenance agreement with the City and shall agree to be bound by the provisions of Article VII of the Pennsylvania Municipalities Planning Code<sup>33</sup> relating to the maintenance of deteriorating common open space by municipalities.
- (c) The City may require the establishment of a reserve fund to provide for maintenance of or capital improvements to the common open space.
- (d) The common open space shall be restricted in perpetuity from development and subdivision

**§ 320. Required Traffic Impact Reports. [Ord. 227, 12/18/2006]**

1. Applicability. For those uses requiring a traffic study, the following requirements are applicable.
2. Traffic impact study.
  - A. Area of traffic impact study. The traffic impact study area shall be based on the characteristics of the surrounding area. The intersections to be included in the study shall be adjacent to the site or have direct impact upon the access to the site. The intersections shall be mutually agreed upon by the municipalities in which the proposed project is located and the traffic engineer preparing the study. The County Planning Commission shall be called upon to resolve any disputes between the municipality and the engineer.
  - B. Preparation by transportation engineer required. Traffic impact studies shall be prepared under the supervision of qualified and experienced transportation engineers with specific training in traffic and transportation engineering and at least two years of experience related to preparing traffic studies for existing or proposed developments.
  - C. Horizon year. The traffic forecasts shall be prepared for the anticipated opening year of the development, assuming full build-out and occupancy. This year shall be referred to as the "horizon year" in the remainder of this section.

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<sup>33</sup>Editor's Note: See 53 P.S. § 10701 et seq.

- D. Non-site traffic estimates. Estimates of non-site traffic shall be made and will consist of through traffic and traffic generated by all other developments within the study area for which preliminary or final plans have been approved. Non-site traffic may be estimated using any one of the following three methods: build-up technique, area transportation plan data or modeled volumes, and trends or growth rates.
- E. Trip generation rates required. The traffic impact study report shall include a table showing the categories and quantities of land uses, with the corresponding trip generation rates or equations (with justification for selection of one or the other) and resulting number of trips. The trip generation rates used must be either from the latest edition of Trip Generation by the American Institute of Traffic Engineers (ITE) or from a local study of corresponding land uses and quantities. All sources must be referenced in the study.
- F. Consideration of pass-by trips. If pass-by trips or shared trips are a major consideration for the land use in question, studies and interviews at similar land uses must be conducted or referenced.
- G. Rate sums. Any significant difference between the sums of single-use rates and proposed mix-use estimates must be justified in the study report.
- H. Explanations required. The reasoning and data used in developing a trip generation rate for special/unusual generators must be justified and explained in the report.
- I. Definition of influence area.
- (1) Prior to trip distribution of site-generated trips, an influence area must be defined which contains 80% or more of the trip ends that will be attracted to the development. A market study can be used to establish the limits of an influence area, if available. If no market study is available, an influence area should be estimated based on a reasonable documented estimate. The influence area can also be based on a reasonable maximum convenient travel time to the site or delineating area boundaries based on locations of competing developments.
  - (2) Other methods, such as using trip data from an existing development with similar characteristics or using an existing origin-destination survey of trips within the area, can be used in place of the influence area to delineate the boundaries of the impact.
- J. Estimates of trip distribution required.

- (1) Trip distribution can be estimated using any one of the following three methods:
  - (a) Analogy.
  - (b) Trip distribution model.
  - (c) Surrogate data.
- (2) Whichever method is used, trip distribution must be estimated and analyzed for the horizon year. A multi-use development may require more than one distribution and coinciding assignment for each phase (for example, residential and retail phases on the same site). Consideration must also be given to whether inbound and outbound trips will have similar distributions.

K. Trip assignments.

- (1) Assignments must be made considering logical routings, available roadway capacities, left turns at critical intersections, and projected (and perceived) minimum travel times. In addition, multiple paths should often be assigned between origins and destinations to achieve realistic estimates rather than assigning all of the trips to the route with the shortest travel time. The assignments must be carried through the external site access points and in large projects (those producing 500 or more additional peak direction trips to or from the site during the development's peak hour) through the internal roadways. When the site has more than one access driveway, logical routing and possibly multiple paths should be used to obtain realistic driveway volumes. The assignment should reflect conditions at the time of the analysis. Assignments can be accomplished either manually or with applicable computer models.
- (2) If a thorough analysis is required to account for pass-by trips, the following procedure should be used:
  - (a) Determine the percentage of pass-by trips in the total trips generated.
  - (b) Estimate a trip distribution for the pass-by trips.
  - (c) Perform two separate trip assignments, based on the new and pass-by trip distributions.
  - (d) Combine the pass-by and new trip assignment.

- (3) Upon completion of the initial site traffic assignment, the results should be reviewed to see if the volumes appear logical given characteristics of the road system and trip distribution. Adjustments should be made if the initial results do not appear to be logical or reasonable.
- L. Total traffic impacts. Traffic estimates for any site with current traffic activity must reflect not only new traffic associated with the site's redevelopment but also the trips subtracted from the traffic stream because of the removal of a land use. The traffic impact report should clearly depict the traffic estimate and its components.
- M. Capacity analysis.
- (1) Capacity analysis must be performed at each of the major street and project site access intersection locations (signalized and unsignalized) within the study area. In addition, analyses must be completed for roadway segments deemed sensitive to site traffic within the study area. These may include such segments as weaving sections, ramps, internal site roadways, parking facility access points, and reservoirs for vehicles queuing off site and on site. Other locations may be deemed appropriate depending on the situation.
  - (2) The recommended level-of-service analysis procedures detailed in the most recent edition of the Highway Capacity Manual must be followed. The City of Saint Marys considers the overall level-of-service ratings A, B, C, and D to be acceptable for signalized intersections (level C or better is considered desirable); level-of-service E or F is considered to be unacceptable.
  - (3) The operational analyses in the Highway Capacity Manual should be used for analyzing existing conditions, traffic impacts, access requirements, or other future conditions for which traffic, geometric, and control parameters can be established.
- N. Required levels of service. The recommendations of the traffic impact study shall provide safe and efficient movement of traffic to and from, and within and past, the proposed development, while minimizing the impact to non-site trips. The current levels of service must be maintained if they are C or D, not allowed to deteriorate to worse than C if they are currently A or B, and improved to D if they are E or F.
- O. Documentation required. A traffic impact study report shall be prepared to document the purpose, procedures, findings, conclusions, and recommendations of the study.

- (1) The documentation for a traffic impact study shall include, at a minimum:
  - (a) Study purpose and objectives.
  - (b) Description of the site and study area.
  - (c) Existing conditions in the area of the development.
  - (d) Recorded or approved nearby development.
  - (e) Trip generation, trip distribution, and modal split.
  - (f) Projected future traffic volumes.
  - (g) An assessment of the change in roadway operating conditions resulting from the development traffic.
  - (h) Recommendations for site access and transportation improvements needed to maintain traffic flow to, from, within, and past the site at an acceptable and safe level of service.
- (2) The analysis shall be presented in a straightforward and logical sequence. It shall lead the reader step-by-step through the various stages of the process and resulting conclusions and recommendations.
- (3) The recommendations shall specify the time period within which the improvements should be made (particularly if the improvements are associated with various phases of the development construction) and any monitoring of operating conditions and improvements that may be required.
- (4) Data shall be presented in tables, graphs, maps, and diagrams wherever possible for clarity and ease of review.
- (5) To facilitate examination by the City Planning Commission and Council, an executive summary of one or two pages shall be provided, concisely summarizing the purpose, conclusions and recommendations.
- (6) The report documentation outlined above provides a framework for site traffic access/impact reports. Some studies will be easily documented using this outline. However, the specific issues to be addressed, local study requirements, and the study results may warrant additional sections.

### 3. Improvements.

- A. Responsibility for improvements. The applicant shall be responsible for the improvements required to provide safe and convenient ingress and egress to the development site.
- B. Coordination with municipal requirements. The applicant shall be responsible for other improvements as may be agreed to with the City Council, to be installed or paid for by the applicant, consistent with provisions of Article V-A of the Act.

**§ 321. Required Nutrient Management Plans. [Ord. 227, 12/18/2006]**

All agricultural uses shall comply with the Pennsylvania Nutrient Management Act of 1993, as may be amended.<sup>34</sup>

**§ 322. Flag Lots. [Ord. 227, 12/18/2006]**

- 1. Within any zone, the use of flag lots is permitted for public uses and public utilities; and within the RC and RS Zones, the use of residential flag lots is permitted only when it will enable the preservation of some important natural or cultural feature (including productive farmland) which would otherwise be disturbed by conventional lotting techniques.
  - A. For the purposes of this section, a flag lot shall be described as containing two parts:
    - (1) The "flag" shall include that portion of the lot that is the location of the principal and accessory buildings.
    - (2) The "pole" shall be considered that portion of the site that is used for vehicular access between the site and its adjoining road.

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<sup>34</sup>Editor's Note: See 3 P.S. § 1701 et seq.

B. Requirements for the flag.

- (1) The minimum lot area and lot width requirements of this chapter shall be measured exclusively upon the flag.
- (2) For purposes of determining required yards and setbacks, the following shall apply:
  - (a) Front yard: the area between the principal structure and that lot line of the flag which is most parallel to the street providing vehicular access to the site. Additionally, all areas of the pole shall be considered to be within the front yard.
  - (b) Rear yard: the area between the principal structure and that lot line of the flag that is directly opposite the front yard, as described above.

- (c) Side yards: the area between the principal structure and that one outermost lot line which forms the flag and pole, plus the area on the opposite side of the principal structure. (See the preceding Flag Lot Diagram for a graphic depiction of the yard locations.)
- C. The flag lot shall contain adequate driveway dimension for vehicular backup so that ingress to and egress from the lot is in the forward direction.
- D. Requirements for the pole.
  - (1) The pole shall maintain a minimum width of 28 feet.
  - (2) The pole shall not exceed 600 feet in length, unless additional length is needed to avoid the disturbance of productive farmlands or some other significant natural or cultural feature.
  - (3) No part of the pole shall be used for any portion of an on-lot sewage disposal system nor any other improvement except a driveway and other permitted improvements, such as landscaping, fencing, utility connections to off-site facilities, mailboxes and signs.
  - (4) The cartway contained on the pole shall be located at least six feet from any adjoining property line and 20 feet from any existing structures on the site or any adjoining property.
  - (5) No pole shall be located within 200 feet of another on the same side of the street, unless an adjoining pole utilizes a joint-use driveway, regulated as follows.
- 2. Joint-use driveways.

- A. When one or more flag lots are proposed, such lots may rely upon a joint-use driveway for vehicular access.
- B. A joint-use driveway must serve at least one flag lot but may also serve conventional lots, up to a maximum of four total lots.
- C. All joint-use driveways shall have a minimum cartway width of 16 feet.
- D. Cross-access easements shall be required to ensure common use of, access to, and maintenance of joint-use driveways; such easements shall be recorded in language acceptable to the City Solicitor and depicted on the subdivision plan.
- E. The joint-use driveway will require a 911 address and a private road sign with a name approved by the City.

**§ 323. Litter. [Ord. 227, 12/18/2006]**

1. No property shall be developed, used or maintained in a state that creates litter, either on the property or upon any adjoining properties and/or roads.
2. Any property containing litter on the effective date of this chapter shall be considered nonconforming. Such litter may continue for a period not to exceed 30 days from the effective date of this chapter. After the thirty-day period, such litter shall be removed by the owner.
3. Should any property or use be conducted or maintained in a condition that causes repeated litter complaints or violations, the owner shall be required, upon the instruction of the Zoning Officer, to prepare and implement a working plan for the cleanup of such litter as a condition of zoning compliance.

**§ 324. Materials and Waste-Handling Requirements. [Ord. 227, 12/18/2006]**

1. All principal commercial, industrial, institutional, and health-care-related uses shall be required to provide detailed information regarding materials and waste-handling, including:
  - A. Listing of all materials to be used and/or produced on the site.
  - B. Listing of all wastes generated on the site.
  - C. Written evidence that the storage, treatment, processing, transfer, and disposal of all materials and wastes shall be accomplished in a manner that complies with all applicable federal, state, county, and City requirements, including but not limited to the following:
    - (1) The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101).<sup>35</sup>
    - (2) The Pennsylvania Solid Waste Management Act (Act 97).<sup>36</sup>
    - (3) The Federal Emergency Management Act.
    - (4) The Federal Superfund Amendment and Reauthorization Act.
    - (5) The Pennsylvania Hazardous Materials Emergency Planning and Response Act.
    - (6) The Pennsylvania Low-Level Radioactive Waste Disposal Act.<sup>37</sup>

<sup>35</sup> Editor's Note: See 53 P.S. § 4000.101 et seq.

<sup>36</sup> Editor's Note: See 35 P.S. § 6018.101 et seq.

<sup>37</sup> Editor's Note: See 35 P.S. § 7131.101 et seq.

**§ 325. Commercial Outdoor Storage and Display Requirements. [Ord. 227, 12/18/2006]**

1. Shopping cart storage. For grocery stores, or other stores that offer the use of shopping carts for patrons, the outdoor storage and collection of shopping carts is permitted under the following conditions:
  - A. Shopping carts may be collected and stored immediately in front of the storefront (upon sidewalks or under a canopy) and/or in cart corrals within the parking lot.
  - B. In no case shall such designed shopping cart storage and collection areas be located upon any facilities used for vehicle circulation, parking spaces, and loading spaces, nor emergency vehicle access (e.g., fire lanes).
  - C. Such shopping cart storage and collection areas shall be situated so as to provide clear pedestrian access (sidewalk or other area) at least eight feet wide adjoining the storefront.
  - D. Signage for such shopping cart storage and collection areas shall be governed by those regulations pertaining to on-site informational signs, as regulated by § 315 of this chapter.
  - E. The applicant shall submit a working plan for the collection of shopping carts from the parking lot. Also, the applicant shall be required to depict intended shopping cart storage and collection areas upon any permits and/or plans required by the City. No additional permits shall be required unless such areas change location or size.
2. Seasonal sidewalk displays.
  - A. Only seasonal merchandise may be displayed, and they shall be limited to the calendar periods between April 1 and October 1, and November 25 and January 5, of each year.
  - B. The location of such outdoor displays shall be limited to sidewalks, under canopies, or other areas immediately in front of the building's storefront. The stacking and/or display of such items shall be arranged to provide clear pedestrian access (sidewalk or other area) at least three feet wide adjoining the storefront.
  - C. In no case shall the location of such sidewalk display areas occur within any area used for vehicular circulation, parking, and loading, nor emergency vehicle access (e.g., fire lanes).
  - D. In no case shall such sidewalk display area exceed 75% of the linear storefront dimension. (For example, a two-hundred-foot-long storefront could display no more than 150 linear feet of a sidewalk display).

- E. No signage, except as authorized by § 315 of this chapter, shall be permitted.
  - F. The applicant shall submit a working plan to the City for the cleanup of litter and debris which may result from such outdoor display. Also, the applicant shall depict intended sidewalk display areas upon any permits and/or plans required by the City. No additional permits shall be required unless such area is to change location or size.
3. Special event sales.
- A. In addition to the above, two special event sales shall be permitted per calendar year. Such special event sales shall be limited to no more than a total of 30 days per calendar year.
  - B. Special event sales displays shall be located no closer than 45 feet from an adjoining road nor 10 feet from any side or rear lot lines.
  - C. Special event sales may be located within the parking lot, provided that such location minimizes congestion within the parking lot and those access drives that provide direct vehicular access to adjoining roads. Within parking lots, such display areas shall be specifically delineated from the adjoining parking lot by the use of identifiable barriers (e.g., tents, canopies, temporary fences, or ropes). Additionally, location within the parking lot shall only be permitted upon parking spaces in excess of the number required by § 312, Subsection 19, of this chapter.
  - D. Special event sales shall only be operated between the hours of dawn to 9:00 p.m.
  - E. The area devoted to special event sales displays shall not exceed 20% of the gross leasable floor area of the use(s) conducting the special event sale.
  - F. All uses conducting a special event sale shall be responsible for the ongoing cleanup of litter and debris. Also, no exterior public-address nor lighting systems shall be used which produce impacts beyond the subject property.
  - G. Signage for special event sales shall comply with the applicable requirements contained within § 315 of this chapter.

**§ 326. Forestry Uses. [Ord. 227, 12/18/2006]**

- 1. In accordance with state law, forestry uses (as defined herein) are permitted, by right, in every zone, subject to the following standards.

2. Logging plan requirements. Every landowner on whose land timber harvesting is to occur shall obtain a building permit, as required by this chapter. In addition to the building permit requirements listed in § 701 of this chapter, the applicant shall prepare and submit a written logging plan in the form specified below. No timber harvesting shall occur until a building permit has been issued. The provisions of the permit shall be followed throughout the operation. The logging plan shall be available at the harvest site at all times during the operation and shall be provided to the Zoning Officer upon request. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan and the building permit.
  - A. Minimum requirements. At a minimum, the logging plan shall include the following:
    - (1) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings.
    - (2) Design, construction and maintenance of water-control measures and structures, such as culverts, broad-based dips, filter strips, and water bars.
    - (3) Design, construction and maintenance of stream and wetland crossings.
    - (4) The general location of the proposed operation in relation to City and state highways, including any accesses to those highways.
  - B. Map. Each logging plan shall include a sketch map or drawing containing the following information:
    - (1) 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 that property.
    - (2) Significant topographic features related to potential environmental problems.
    - (3) Location of all earth-disturbance activities, such as roads, landings and water-control measures and structures.
    - (4) Location of all crossings of waters of the Commonwealth.
    - (5) The general location of the proposed operation to municipal and state highways, including any accesses to those highways.

- C. Compliance with state law. The logging plan shall address and comply with the requirements of all applicable state regulations, including but not limited to the following:
- (1) 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.).
  - (2) 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.).
- D. Relationship of state laws, regulations and permits to the logging plan. 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 in § 326, Subsection 2A and B, provided that all information required by these sections is included or attached.
3. Required forest practices. The following requirements shall apply to all timber harvesting operations:
- A. Felling or skidding on or across any public road is prohibited without the express written consent of the City or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.
  - B. No treetops or slash shall be left within 25 feet of any public road, or private roadway providing access to adjoining residential property.
  - C. All treetops and slash between 25 feet and 50 feet from a public roadway, or private roadway providing access to adjoining residential property, or within 50 feet of adjoining residential property shall be lopped to a maximum height of four feet above the ground.
  - D. No treetops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.
  - E. Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.
4. 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 landowner and the operator shall be responsible for repairing any damage to City 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 shall be required to furnish a bond to guarantee the repair of such potential damages, as determined by the City Engineer.



**PART 4**  
**SPECIFIC USE CRITERIA**

**§ 400. Specific Standards for Special Exception and Conditional Uses. [Ord. 227, 12/18/2006]**

1. In addition to the general criteria listed in §§ 604, Subsection 3, and 704, Subsection 2, the following sets forth standards that shall be applied to each individual special exception or conditional use. These standards must be satisfied prior to approval of any application for a special exception or conditional use. The applicant shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance. All uses must comply with the standards expressed within the underlying zone, unless those standards expressed for each special exception or conditional use specify different standards; in such cases, the specific special exception or conditional use standards shall apply.
2. For the purposes of this Part, any required setbacks imposed upon special exceptions or conditional uses shall be measured from the boundary line of the site for which the special exception or conditional use is requested, regardless of whether or not this line corresponds to a property line or a lease line.

**§ 401. Accessory Detached Structures Exceeding 900 Square Feet. [Ord. 227, 12/18/2006]**

1. Within the RU Zone, accessory detached structures exceeding 900 square feet of total floor area are permitted by special exception, subject to the following criteria.
2. The applicant shall explain why the proposed accessory building must exceed 900 square feet in total floor area and such reasons must be related to a use that is customarily incidental to the principal use of the property.
3. The applicant must demonstrate that the design and location of the structure will confine any stormwater runoff from the structure onto the applicant's property.
4. The applicant shall demonstrate that the lot coverage requirements of the zone in which the accessory building is proposed will not be violated.
5. The Zoning Hearing Board may require the erection of a landscape screen on the subject property if it determines that the proposed use would disrupt the character of the neighborhood and/or adjoining properties.

**§ 402. Accessory Dwelling Units. [Ord. 227, 12/18/2006]**

1. Within the RU Zone, accessory dwelling units are permitted by special exception, subject to the following criteria.
2. Only one accessory dwelling unit shall be permitted as an accessory use to an owner-occupied, single-family, detached dwelling.
3. The accessory dwelling unit may only be located within an accessory building that was in existence as of the effective date of this chapter.
4. The accessory dwelling unit shall contain no less than 400 square feet of habitable floor area; however, the accessory dwelling unit shall not occupy more than 50% of the habitable floor area of the principal detached dwelling unit.
5. The applicant shall furnish expert testimony that any exterior modifications to the appearance of the building (except required fire escapes) complement the property's residential character.
6. All units contained on floors above or below grade shall have a direct means of escape to ground level and at least one hard-wired fire-detection device.
7. The applicant shall demonstrate that an approved means of sewage disposal and water supply shall be used.
8. At least one off-street parking space shall be provided for the accessory dwelling unit.
9. No permanent sign shall advertise the presence of the accessory dwelling unit; however, a temporary sign, not to exceed two square feet, may be used to advertise the availability of the unit when it is unoccupied.

**§ 403. Adult-Related Uses. [Ord. 227, 12/18/2006]**

1. Within the I Zone, adult-related uses are permitted by conditional use, subject to the following criteria.
2. An adult-related use shall not be permitted to be located within 1,000 feet of any other adult-related use.
3. No adult-related use shall be located within 1,000 feet of any land within the RC, RS, RU, RF, or MI Zone.
4. No establishment shall be located within 600 feet of any parcel of land which contains any one or more of the following specified land uses:
  - A. Amusement park.
  - B. Camp (for minors' activity).

- C. Child-care facility.
  - D. Church or other similar location for religious congregation.
  - E. Community center.
  - F. Museum.
  - G. Park.
  - H. Playground.
  - I. School.
  - J. Other lands where minors congregate.
5. The distance between any two adult-related uses shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each use. The distance between any adult-related use and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult-related use to the closest point on the property line of said land use.
  6. No materials, merchandise, or film offered for sale, rent, lease, loan, or for view upon the premises shall be exhibited or displayed outside of a building or structure.
  7. Any building or structure used and occupied as an adult-related use shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise or film are exhibited or displayed, and no sale materials, merchandise or film shall be visible from outside of the building or structure.
  8. No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise or film offered therein.
  9. Each entrance to the premises shall be posted with a notice specifying that persons under the age of 17 years are not permitted to enter therein and warning all other persons that they may be offended upon entry.
  10. No adult-related use may change to another adult-related facility except upon approval of an additional conditional use.
  11. The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.
  12. No unlawful sexual activity or conduct shall be permitted.
  13. No more than one adult-related use may be located within one building.

**§ 404. Airports/Heliports. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, airports/heliports are permitted by conditional use, subject to the following criteria.
2. All facilities shall be designed and operated in strict compliance with all applicable state and federal laws and regulations.
3. The applicant shall furnish evidence of the acquisition of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.
4. No part of the takeoff/landing strip and/or pad shall be located nearer than 300 feet from any property line.

**§ 405. Amusement Arcades. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, amusement arcades are permitted by special exception, subject to the following criteria.
2. All activities shall take place within a completely enclosed building.
3. The applicant must furnish evidence as to how the use will be controlled as to not constitute a nuisance due to noise or loitering outside the arcade.
4. A minimum of one parking space for each 80 square feet of gross leasable floor area shall be provided. In addition, any accessory uses (e.g., snack bar) shall also require one parking space per two seats, plus one parking space for each two employees.
5. A working plan for the cleanup of litter shall be furnished and implemented by the applicant.

**§ 406. Amusement, Theme or Zoo Parks. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, amusement, theme or zoo parks are permitted by conditional use, subject to the following criteria.
2. Amusement and/or theme parks may include any of the following uses, provided that each use is sized, designed and located to only serve employees and guests of the park; relies upon the circulation and parking facilities of the park; has signage that is oriented to those employees and guests of the park, except as permitted in § 315 of this chapter; and is owned, operated and maintained by the park:
  - A. Museums, including tours of historic properties.
  - B. Public parks, playgrounds and recreational facilities.

- C. Public or private conservation areas for use for the conservation of open space, water, soil, and wildlife resources, including state or county-sponsored agricultural and/or conservation districts.
- D. Zoos.
- E. Lodging for guests and employees.
- F. Riding stables and related facilities (but not including horse racing).
- G. Arboretums.
- H. Commercial tennis, racquetball and similar facilities, whether indoors or outdoors.
- I. Agricultural, horticultural and forestry-related uses, as regulated by § 200 of this chapter.
- J. Hotels and motels.
- K. Bed-and-breakfasts.
- L. Fast-food restaurants and snack bars.
- M. Amusement arcades.
- N. Public or private utility service structures.
- O. Public or nonprofit fire services or public or nonprofit emergency services.
- P. Indoor or outdoor theaters and auditoriums.
- Q. Information centers.
- R. Campgrounds, in accordance with the requirements listed in § 414 of this chapter.
- S. Taverns, restaurants and nightclubs.
- T. Amusement exhibits and rides.
- U. Miniature golf courses.
- V. Sports and/or amusement arenas.
- W. Retail sales and/or rental of goods and services, provided that such sales or rentals are related to or accessory to any of the commercial recreation uses listed above.
- X. Health and fitness clubs.

- Y. Accessory uses customarily incidental to the above permitted uses.
3. Special review process. Prior to the issuance of a building permit for any of those uses permitted under § 406, Subsection 2, the applicant must comply with the following two-stage review process:
- A. Stage 1: Concept Master Plan. Prior to or coincidental with the approval of a land development for any use or development, the applicant shall submit a concept master plan for conditional use approval by the City Council in accordance with § 704 of this chapter. The requirements of this § 406 shall be used as the specific criteria for evaluating the conditional use application. Such concept master plan shall be submitted by the applicant and shall include a textual and/or graphic description of the following items:
- (1) The location, boundaries, dimensions, acreage, and ownership of the land to be included within the proposed use.
  - (2) The types and mixture of uses proposed of the land to be included within the proposed use. (A schematic drawing of proposed use types shall be provided.)
  - (3) The road network contained upon the land to be included within the proposed use, including major points of access, intersections and any traffic improvements proposed to accommodate the proposed use.
  - (4) The name, location, center line and present right-of-way width of all abutting streets.
  - (5) Physical characteristics of the site, including:
    - (a) Areas with slopes exceeding 15%.
    - (b) One-hundred-year floodplains.
    - (c) Alluvial soils, wetlands, ponds, and streams.
    - (d) Sinkholes, caves, vistas, or other significant geologic features.
    - (e) Endangered or threatened species' habitats.
    - (f) Archaeological resources.
    - (g) Historic sites.
    - (h) Significant stands of mature trees.
  - (6) Any regional facilities that are proposed and will serve more than one lot/use within the proposed development. Examples of

such facilities could include stormwater management devices, open space areas, pedestrian pathways, and wastewater or water facilities.

- (7) Other information illustrating that the basic concept of the proposed uses are well-integrated, functional, efficient and attractive.
- B. Stage 2: Site Development Plan. As part of the granting of a building permit for a use proposed and contained in the concept plan, the Zoning Officer shall review a site plan submitted by the applicant to determine that it complies with the approved concept master plan and any applicable regulations. Upon determining compliance, the Zoning Officer shall issue the permit. Upon determining noncompliance, the Zoning Officer may reject the permit for cause and/or may require additional review by other City officials or their agents. Such site plan shall include but not be limited to the following:
- (1) Any information necessary to demonstrate compliance with all applicable regulations contained within this chapter.
  - (2) A textual and graphic description of how the proposed use(s) complies with the concept master plan approved for the proposed development, plus any conditions of approval attached to the grant of the concept master plan.
4. Minimum lot area requirement. Unless otherwise specified, the permitted uses shall have a minimum lot size of 25 acres. For the purposes of this section, a "use" can include several businesses that are developed in a coordinated fashion (e.g., joint parking lots, access drives, loading areas, landscaping, signage, etc.), that functions as one development site and satisfies all of those requirements imposed upon this zone.
5. Minimum lot width: 500 feet.
6. Minimum lot depth: 1,000 feet.
7. Off-street parking spaces.
- A. Off-street parking spaces shall be provided at the rate equal to that required by § 312 of this chapter. For parks that require more than 300 off-street parking spaces, up to 50% of the total number of spaces can be provided in a dust-free, nonpaved surface if:
- (1) The applicant can adequately demonstrate that a maintenance plan will be employed that prevents excessive dust and erosion.
  - (2) Adequate measures will be employed to prevent the spreading of mud onto adjoining roads.

- B. No direct access between a nonpaved parking lot and an adjoining road shall be permitted. The applicant shall be required to demonstrate those measures that will be employed to prevent vehicles from crossing and/or parking on adjoining properties that are not part of the park.
8. Any booths or other structures used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle backups on adjoining roads during peak arrival periods. Any other collection of fees (roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on adjoining roads. If, at any time after the opening of the commercial recreation facility, the City Council determines that traffic backups are occurring on adjoining roads, and such backups are directly related to the means of access to the subject property, the City Council can require the applicant to revise the means of access to relieve the undue congestion.
  9. Those uses involving extensive outdoor activities shall provide sufficient screening and/or landscaping measures to mitigate any visual and/or audible impacts on adjoining properties.
  10. Any structures exceeding the maximum permitted height may be permitted so long as they are set back from all property lines at least the horizontal distance equal to their height, plus an additional 50 feet. Furthermore, such structures shall comply with the Airport Safety Zone requirements listed in § 231 of this chapter.
  11. The applicant shall furnish evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, litter, dust, and pollution. All noise and lighting shall comply with § 318 of this chapter.
  12. Any outside pedestrian waiting lines shall be provided with a means of shade.
  13. Any use involving the keeping of wild and/or dangerous animals shall require the submission of qualified expert testimony that demonstrates sufficient care for and containment of such animals. Also, the applicant must present qualified expert evidence that the means of disposal of deceased animals complies with applicable regulations.

**§ 407. Automobile Auctions and/or Storage Yards. [Ord. 227, 12/18/2006]**

1. Within the LI and I Zones, automobile auctions and/or storage yards shall be permitted by special exception, subject to the following criteria.
2. Any site used for the sale, parking and/or storage of more than 150 vehicles shall front solely upon collector or arterial roads.

3. All exterior areas used for the sale, parking and/or storage of automobiles shall be completely enclosed by a six-foot-high fence, which shall be subject to the zone's setback requirements imposed upon off-street parking lots.
4. Access drives shall be governed by § 311 of this chapter and the SLDO for a distance of 100 feet from the edge of the street right-of-way. Beyond this, all areas used for vehicle sales, parking or storage shall not be governed by § 311 of this chapter; however, all areas shall include a nonpaved, all-weather, dust-free surface.
5. Vehicles may be parked and/or stored in a horizontally stacked configuration; however, no vehicles shall be located more than 100 feet from a minimum eighteen-foot-wide on-site access drive.
6. All lighting shall be designed and constructed so as to comply with § 318 of this chapter.
7. In addition to the preceding requirements, automobile auctions shall comply with the following:
  - A. The sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape, which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The sales area shall include all indoor and outdoor areas as listed above.
  - B. The retail sales area shall be set back at least 50 feet from all property lines and shall be calculated as part of the maximum permitted lot coverage, regardless of its surface treatment.
  - C. Any exterior, amplified public-address system shall be arranged and designed so as to comply with § 318 of this chapter.
  - D. Exterior trash receptacles shall be provided amid any outdoor sales 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.
  - E. The servicing, reconditioning, demolition, or junking of vehicles is prohibited.
  - F. The applicant shall furnish evidence that the disposal of all materials will be accomplished in a manner that complies with all applicable state and federal regulations.
  - G. No part of the auction shall be located within 300 feet of any land within the RC, RS, RU, RF and MI Zones.
8. A traffic impact report shall be prepared in accordance with § 320 of this chapter.

**§ 408. Automobile Filling Stations (Including Minor Incidental Repair).  
[Ord. 227, 12/18/2006]**

1. Within the HC Zone, automobile filling stations (including minor incidental repair) are permitted by special exception, subject to the following criteria.
2. The subject property shall have a minimum width of 125 feet.
3. The subject property shall front on an arterial or collector road, as defined herein.
4. The subject property shall be set back at least 300 feet from any lot containing a school, day-care facility, playground, library, hospital, or nursing, rest or retirement home.
5. The storage of motor vehicles (whether capable of movement or not) for more than one month is prohibited.
6. Any parts removed from repaired vehicles shall not remain on the site longer than seven days.
7. All structures (including gasoline pump islands, but not permitted signs) and machinery shall be set back at least 50 feet from any street right-of-way line.
8. No outdoor storage of auto parts shall be permitted.
9. Access driveways shall be a minimum of 28 feet wide and separated by 100 feet from one another, if located along the same frontage, as measured from edge to edge.
10. All ventilation equipment associated with fuel storage tanks shall be set back 100 feet and oriented away from any adjoining residential properties.
11. The applicant shall furnish evidence of how the storage and disposal of materials will be accomplished in a manner that complies with all applicable state and federal regulations.

**§ 409. Automobile Sales, Service and Repair Facilities.**

1. Within the HC Zone, automobile sales, service and repair facilities, including but not limited to auto mechanics, drive-thru lubrication services and tires, auto paint, brake, muffler, transmission, windshield, auto body, car radio, and upholstery shops, are permitted by special exception, subject to the following criteria.
2. All service and/or repair activities shall be conducted within a completely enclosed building.
3. All uses involving drive-thru service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads.

4. No outdoor storage of parts, equipment, lubricants, fuel, or other materials used or discarded as part of the service or repair operation shall be permitted.
5. All exterior vehicle storage areas shall be screened from adjoining residential properties.
6. The storage of vehicles on the property without current registration is prohibited.
7. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directly toward any adjoining property within the RC, RS, RU, RF, or MI Zone.
8. All vehicles shall be repaired and removed from the premises promptly.
9. The demolition or junking of motor vehicles is prohibited.
10. The applicant shall furnish evidence of how the storage and disposal of materials will be accomplished in a manner that complies with all applicable state and federal regulations.

**§ 410. Banks and Similar Financial Institutions with Drive-Thru Lanes. [Ord. 227, 12/18/2006]**

1. Within the CB Zone, banks and similar financial institutions with drive-thru lanes are permitted by special exception, subject to the following criteria.
2. Where practicable, all drive-thru window lanes shall be separated from the parking lot's interior driveways.
3. All automated teller machines shall be located so that or contain convenient parking spaces so that the on-site movement of vehicles will not be hampered by those cars belonging to persons using the automated teller machines.
4. Sufficient stacking lanes shall be provided associated with drive-thru windows to prevent vehicle backups on adjoining roads. Furthermore each drive-thru lane shall have on-site directional signs, indicator lights or pavement markings identifying the direction of travel and lane status (i.e., open vs. closed).
5. Any exterior microphone/speaker system shall be arranged and/or screened to prevent any objectionable noise impact on adjoining properties.

**§ 411. Bed-and-Breakfasts. [Ord. 227, 12/18/2006]**

1. Within the RS, RU and RF Zones, bed-and-breakfasts are permitted by special exception, subject to the following criteria.

2. Bed-and-breakfasts shall only be permitted to occupy buildings that have more than 3,000 square feet on the effective date of this chapter. No additions to add habitable floor area after the effective date of this chapter will be eligible for bed-and-breakfast use. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character shall be permitted.
3. All floors above the second story and/or below grade shall have a permanently affixed direct means of escape to ground level and a hard-wired smoke alarm.
4. One off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit.
5. Within the RS Zone, all off-street parking areas shall be set back a minimum of 25 feet from all property lines; and within the RU and RF Zones, they shall be set back at least 10 feet.
6. A bed-and-breakfast may erect one sign no larger than 12 square feet in size. Such sign must be set back 10 feet from all lot lines.
7. Meals shall be offered only to registered overnight guests.
8. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.
9. The applicant shall furnish proof of any needed land development approvals and approval from the Pennsylvania Department of Agriculture.
10. All bed-and-breakfasts shall have a full-time manager on the site.

**§ 412. Billboards. [Ord. 227, 12/18/2006]**

1. Within the HC, LI and I Zones, billboards are permitted by special exception, subject to the following criteria.
2. No billboard shall be located within 1,000 feet of another billboard.
3. All billboards shall be a minimum of 50 feet from all side and rear property lines.
4. All billboards shall be set back at least 35 feet from any street right-of-way lines.
5. All billboards shall be set back at least 100 feet from any land within the RC, RS, RU, RF and MI Zones.
6. No billboard shall obstruct the view of motorists on adjoining roads or the view of adjoining commercial or industrial uses which depend upon visibility for identification.

7. No billboard shall exceed an overall size of 300 square feet nor exceed 25 feet in height.

**§ 413. Boardinghouses. [Ord. 227, 12/18/2006]**

1. Within the RU and RF Zones, boardinghouses are permitted by special exception.
2. Minimum lot area: 10,000 square feet.
3. The applicant shall furnish evidence that approved systems for sewage disposal and water supply shall be used.
4. All floors above the first story and/or below grade shall have a permanently affixed direct means of escape to ground level and a hard-wired smoke alarm.
5. One off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit.
6. All off-street parking areas shall be set back a minimum of 10 feet and be screened from all adjoining residential property lines.
7. Meals shall be offered only to registered tenants.
8. All uses must comply with Pennsylvania Department of Labor and Industry requirements.

**§ 414. Campgrounds. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, campgrounds are permitted by special exception, subject to the following criteria.
2. Minimum lot area: five acres.
3. Setbacks. All campsites shall be located at least 50 feet from any side or rear property line and at least 100 feet from any street line.
4. No more than 15 campsites per acre within a campground are permitted, and each campsite shall either provide parking space which will not interfere with the convenient and safe movement of traffic, or equivalent parking shall be provided in a common parking area.
5. An internal road system shall be provided with a dust-free surface.
6. All outdoor play areas shall be set back 100 feet from any property line and screened from adjoining residentially zoned properties. Such outdoor play areas shall be used exclusively by registered guests and their visitors.

7. All campgrounds shall furnish centralized sanitary and garbage collection/recycling facilities that shall be set back a minimum of 100 feet from any property line. Such facilities shall be screened from adjoining residentially zoned properties.
8. Any accessory retail or service commercial uses shall be set back a minimum of 100 feet from any property line. Such accessory commercial uses shall be solely designed and constructed to serve the campground's registered guests and their visitors. Any parking spaces provided for these commercial uses shall have vehicular access from the campground's internal road, rather than the public street. All accessory commercial uses and related parking shall be screened from adjoining residentially zoned parcels.
9. All campgrounds containing more than 100 campsites shall have direct vehicular access to an arterial or collector street.
10. A campground may construct one freestanding or attached sign containing no more than 32 square feet. Any reference to accessory commercial or recreational facilities shall remain secondary in size to the reference of the principal campground use. Such sign shall be set back at least 10 feet from the street right-of-way line and at least 25 feet from adjoining lot lines.
11. A minimum of 20% of the gross area of the campground shall be devoted to active and passive recreational facilities. Responsibility for maintenance of the recreation area shall be with the landowner. Should the landowner neglect to maintain the recreation area, the City Council shall then maintain the area and shall assess the landowner for any costs incurred.
12. Every campground shall have an office in which shall be located the person responsible for operation of the campground. Such person shall maintain a daily registration log of tenants; such registration log shall be maintained for each calendar year.
13. All water facilities, sewage-disposal systems, rest rooms, solid waste disposal, and vector control shall be approved and maintained in accordance with the requirements of the Pennsylvania Department of Environmental Protection (PA DEP).
14. All lighting shall be arranged and shielded so that no glare or direct illumination shall be cast upon adjacent properties or public streets.
15. Occupancy of a campsite by the same tenant shall be limited to no more than 181 days during any calendar year.
16. Upon the proper installation of the campground, the Zoning Officer shall issue a temporary use and occupancy permit. Such permit shall be reviewed every 12 months. A fee, in the amount to be set by the City Council, shall be paid by the landowner upon each renewal of the temporary use and

occupancy permit. Such fee shall be based upon the cost of the annual review of the permit.

17. Prior to the issuance or renewal of a certificate of use and occupancy, the owner of a campground shall file with, and receive approval by, the City Council of a set of campground regulations.
18. Upon due notice, the Zoning Officer may revoke a certificate of use and occupancy for failure by the owner to enforce such regulations, or for the violation of this chapter or other provisions, and the same shall not be reinstated or renewed until satisfactory guarantees of future enforcement are provided.
19. All campgrounds must obtain and maintain a permit from the Pennsylvania Department of Health.

**§ 415. Car Washes. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, car washes are permitted by special exception, subject to the following criteria.
2. Public sewer and water facilities shall be utilized, and gray water recycling is required.
3. For automatic and self-service car washes, each washing bay shall provide a minimum one-hundred-foot-long on-site stacking lane which precedes the washing process. For full-service car washes, such on-site stacking shall be a minimum of 200 feet per lane.
4. For full-service car washes, a post-washing drying area shall be provided for no fewer than six vehicles per washing lane.
5. All structures housing washing apparatus shall be set back 100 feet from any street right-of-way line, 50 feet from any rear property line, and 20 feet from any side lot line.
6. Trash receptacles shall be provided and routinely emptied to prevent the scattering of litter, and the applicant shall furnish and implement a working plan for the cleanup of litter and debris.
7. The subject property shall front on an arterial or collector road.
8. The applicant shall demonstrate adequate provision for the collection and disposal of greases and wastes.
9. Car wash properties shall be screened from adjoining properties within the RC, RS, RU, RF and MI Zones.

**§ 416. Cluster Developments. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, cluster developments are permitted by conditional use, subject to the following criteria.
2. Purpose. This conditional use is intended to blend various residential development types amid substantial areas of the City that are characterized by severe development constraint and/or natural sensitivity. It is the express purpose to offer a density bonus and flexible design standards as enabled in the Act for the preservation and protection of natural/cultural features and/or the provision of public accessible common open space. It is further the intent of the City Council to encourage flexibility, economy and ingenuity in the development of tracts within the RC Zone of the City. It is the specific intent of the City Council to permit developers to consider and utilize innovative methods of planning, design, and development.
3. The provisions of this § 416 shall be applied by conditional use to lands within the RC Zone. This conditional use shall only be permitted by approval of the City Council and written acceptance by the landowner of all requirements of this section and any valid conditions of approval attached by the City Council.
4. The minimum area devoted to a cluster development shall be two acres.
5. All proposed dwellings shall be connected to and served by both public water and public sewer utilities.
6. Required ratio and permitted densities of housing types. The following table calculates permitted residential structure types and densities within the cluster development based upon the extent of proposed common open space:

<b>Proposed Common Open Space (percent of total site area)</b>	<b>Percentage of Dwelling Units Required by Structural Type</b>		
	<b>Single-Family</b>	<b>Duplex</b>	<b>Townhouse or Multiple- Family</b>
No less than 30%	At least 90%	No more than 10%	No more than 10%
31 to 50%	At least 65%	No more than 35%	No more than 35%
51 to 65%	At least 30%	No more than 70%	No more than 70%
65% or more	No more than 100%	No more than 100%	No more than 100%

7. Required design standards. Within cluster developments, the maximum permitted residential density is six units per net acre of the site, including

common open space. The following table and its footnotes present applicable design standards applied to the various dwellings/lots:

Use	Minimum Lot Area (square feet)	Maximum Permitted Height (feet)	Minimum Lot Width at Building Setback/ Frontage (feet)	Maximum Lot Coverage	Minimum Required Yards			
					Front <sup>4</sup> (feet)	One Side (feet)	Both Sides (feet)	Rear <sup>5</sup> (feet)
Single-family <sup>1</sup>	6,000	35	60/(50)	50%	20	6	12	15
Duplex	4,500 per unit	35	45/(40 per unit)	60%	20	10	N/A	15
Townhouse <sup>2</sup>	1,800	35	18 feet/(18 per unit)	75%	15	15	End units	20
Multiple-family <sup>3</sup>	43,500	35	150/(200)	60%	25	30	60	35

**NOTES:**

1. Within the cluster development, single-family dwellings may employ a zero-lot-line design when the following conditions have been met:

- a. One side wall of the structure may be located no less than one inch from one of the side lot lines when adjoining another zero-lot-line dwelling lot. The opposite side yard shall be least 10 feet wide.
- b. A perpetual five-foot wall-maintenance easement shall be provided on the lot adjacent to the zero-lot-line, which, with the exception of freestanding walls, landscaping and/or fences, shall be kept clear of all structures. This easement shall be shown on the plan and incorporated into each deed transferring title to the property. The wall shall be maintained in its original color and treatment, unless otherwise agreed to, in writing, by the two affected lot owners.
- c. Roof overhangs may penetrate the easement on the adjacent lot a maximum of 24 inches, but the roof shall be so designed that water runoff from the dwelling's place on the lot line is limited to the easement area.

**NOTES:**

- d. The wall of a dwelling located along a zero-lot-line shall have no openings (e.g., windows, doors, air-conditioning units, vents, etc.) unless such openings are located at least eight feet above grade and have translucent panels.
2. No townhouse building shall contain more than eight units. For each townhouse building containing more than four units, no more than 60% of such units shall have the same front yard setback; the minimum variation of setback shall be two feet. In addition, no more than two contiguous units shall have identical rooflines that generally parallel the ground along the same horizontal plane. All townhouse buildings shall be set back a minimum of 15 feet from any interior access drive or parking facilities contained on commonly held lands. All townhouse buildings shall be set back at least 30 feet from any perimeter boundary of the development site. In those instances where several townhouse buildings are located on the same lot, the following footnote 3 shall apply.
3. In those instances where several multiple-family dwelling buildings and/or townhouse buildings are located on the same lot, the following separation distances will be provided between each building:
  - a. Front-to-front, rear-to-rear, or front-to-rear, parallel buildings shall have at least 50 feet between faces of the building. If the front or rear faces are obliquely aligned, the above distances may be decreased by as much as 10 feet at one end if increased by a similar or greater distance at the other end.
  - b. A minimum yard space of 30 feet is required between end walls of buildings where both end walls contain windows and 20 feet otherwise. If the buildings are at right angles to each other, the distance between the corners of the end walls of the building may be reduced to a minimum of 20 feet.
  - c. A minimum yard space of 30 feet is required between end walls and front or rear faces of buildings.
  - d. All multiple-family dwelling buildings shall be set back a minimum of 15 feet from any interior access drives or parking facilities contained on commonly held lands.
4. If the property abuts an arterial road, the minimum front yard setback shall be 40 feet from the right-of-way line. Except for multiple-family dwellings, the minimum front yard setback for accessory residential garages shall be 20 feet.
5. Where dwellings abut the common open space to the rear, the minimum required rear yard setback shall be reduced to 20 feet.
8. **Open space design requirements.** As specified in § 416, Subsection 6, no less than 30% of the total development site's net acreage shall be devoted to public and open space uses. The following standards shall also be applied to these areas:
  - A. Of the minimum amount of open space required within a cluster development, no less than one-third shall be used for public open spaces, including centralized common greens, such as neighborhood parks, commons, buffers, greenways, and golf courses. The remaining open space may be used for perimeter buffers and conservation areas.
  - B. The location and design of required public open spaces shall be largely determined by a proper site planning process. As part of this process, applicants shall be required to prepare a natural and cultural features inventory of the site.
    - (1) Qualified experts must identify and plot each of the following found on the proposed site:
      - (a) One-hundred-year floodplains.
      - (b) Steep slopes (greater than 15%).
      - (c) Wetlands, streams, ponds, or other water bodies.

- (d) Sinkholes, caves, vistas, or other significant geologic features.
  - (e) Threatened or endangered species' habitats.
  - (f) Archaeological resources.
  - (g) Historic resources.
  - (h) Significant individual or groups of mature trees.
- (2) From this inventory and plot, it shall be incumbent upon the applicant to demonstrate that the proposed schematic design of the cluster development minimizes disturbance of but integrates these features to provide a safe and attractive network of common pedestrian paths that link areas within the proposed development. All common pedestrian paths shall consist of an all-weather, durable surface that is at least four feet wide.
- C. The ownership and maintenance of common open space shall be governed by § 319 of this chapter.
- D. Areas proposed to be dedicated to the City as public parklands may be located within the common open space, provided that such parkland complies with the following:
- (1) The site shall be located and designed so that safe and convenient access shall be provided to all existing and proposed inhabitants. Additionally, each shall have at least one area available for vehicular access that is no less than 24 feet in width.
  - (2) The site shall be sized and configured so as to accommodate its intended uses. Sufficient lot width/depth dimension shall be provided so as to accommodate, where practicable, ballfields, courts, and other open play areas. Furthermore, should a development be proposed at a location contiguous to an existing park, parklands shall be provided, where practicable, as an expansion of an existing facility.
  - (3) The site shall have suitable topography and soil conditions for use and development as active play areas. No more than 25% of the regular open space shall be comprised of floodplains, stormwater management facilities, and/or slopes exceeding 3%. Any unimproved site shall be provided with a healthy and vibrant ground cover.
  - (4) The site shall be located and designed to conveniently access proximate public utilities (e.g., sewer, water, power, etc.).

However, no part of any overhead utility easement or any aboveground protrusion of an underground utility should be permitted in active play areas of the site.

- (5) No part of the site shall be calculated as part of any required setback, yard and/or open space for adjoining lots or uses as regulated in this chapter.

**§ 417. Commercial Day-Care Facilities. [Ord. 227, 12/18/2006]**

1. Within the CB Zone, commercial day-care facilities are permitted by special exception, subject to the following criteria.
2. An outdoor play area shall be provided, at a rate of 65 square feet per individual enrolled. Off-street parking compounds shall not be used as outdoor play areas. Outdoor play areas shall be completely enclosed by a minimum four-foot-high fence. Any vegetative materials located within the outdoor play areas shall not be of a harmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must provide a means of shade, such as a shade tree(s) or a pavilion(s).
3. "Enrollment" shall be defined as the largest number of persons under day-care supervision at any one time during a seven-day period.
4. Passenger drop-off and pickup areas shall be provided and arranged so that the passengers do not have to cross traffic lanes on or adjacent to the site.

**§ 418. Commercial Produce Operations. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, commercial produce operations are permitted by special exception, subject to the following criteria.
2. Minimum lot area: 10 acres.
3. Maximum permitted lot coverage: 30%, including all impervious surfaces.
4. If applicable, the applicant shall submit written evidence from the appropriate review that the proposed use has an approved nutrient management plan. All subsequent operations and activities shall be conducted in accordance with such plans. If, at any time, the nutrient management plan is amended, the applicant must again submit written evidence of plan approval to the Zoning Officer.
5. The applicant shall furnish evidence from the Elk County Conservation District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If, at any time, the conservation plan is amended, the applicant must again furnish evidence from the Elk County Conservation District that the amended plan has been approved.

6. The applicant shall abide by and demonstrate a working knowledge of those methods that will be employed to comply with the above-required nutrient management plan and conservation plan.
7. If greenhouses, or other buildings with substantially clear or translucent surfaces, are used, the applicant shall submit information that demonstrates compliance with § 318, Subsection 2, of this chapter.
8. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within 1,000 feet of the closest subject property line, then the applicant shall construct a dispersion buffer. Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at any of the subject property lines.
9. Any driveway or access drive providing for vehicular access to the proposed use shall be paved and shall maintain a fifty-foot-wide radius for all turns and intersections.
10. Any on-site waste storage facilities shall comply with the requirements of § 200, Subsection 2P(3), of this chapter.
11. While a commercial produce operation exists, no subdivision or land development that would create an additional principal dwelling unit shall be permitted on the subject property, except that, subject to the limitations of § 200, Subsection 5, additional dwellings may be created for family members of the farm owner or for someone who is involved in the day-to-day farm operations.
12. Water.
  - A. The applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, indicating the quantity of water required. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed.
  - B. In addition, if the facility is to rely upon nonpublic sources of water, a water feasibility study will be provided to enable the City to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility study shall be reviewed by the City engineers.
  - C. A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering

the water withdrawn by the proposed development, shall not be approved by the City.

- D. A water feasibility study shall include the following information:
- (1) Calculations of the projected water needs.
  - (2) A geologic map of the area, with a radius of at least one mile from the site.
  - (3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.
  - (4) The location of all existing on-lot sewage disposal systems within 1,000 feet of the site.
  - (5) The location of all streams within 1,000 feet of the site and all known point sources of pollution.
  - (6) A determination of the long-term safe yield based on the geologic formation(s) underlying the site.
  - (7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams and the groundwater table.
  - (8) A statement of the qualifications and the signature(s) of the person(s) preparing the study.
13. All commercial produce operations must comply with applicable stormwater management regulations of the City.
  14. The applicant shall be required to obtain an approved land development under the SLDO.<sup>38</sup>
  15. The applicant shall be required to submit a traffic impact report in accordance with § 320 of this chapter.
  16. The site shall include one off-street parking space for each employee during the largest work shift.
  17. The applicant may conduct a roadside stand operation within one of the permanent buildings, but such use shall be limited to no more than 250 square feet of display area.
  18. All buildings and storage/processing structures shall be set back at least 100 feet from adjoining roads and properties, and all off-street parking and

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<sup>38</sup>Editor's Note: See Ch. 22, Subdivision and Land Development.

loading spaces, outdoor storage areas and dumpsters shall be set back at least 50 feet and screened from adjoining roads and properties.

19. One sign, as provided for in § 315, Subsection 2, shall be permitted.

**§ 419. Commercial Recreation Facilities. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, commercial recreation facilities are permitted by special exception, subject to the following criteria.
2. If the subject property contains more than two acres, it shall front on an arterial or collector road.
3. Those uses involving outdoor activities shall provide sufficient screening and/or landscaping measures to mitigate any visual and/or audible impacts on adjoining properties. All uses must comply with § 318 of this chapter.
4. Structures exceeding the maximum permitted height may be permitted, so long as they are set back from all property lines at least the horizontal distance equal to their height, plus an additional 50 feet. Furthermore, such structures shall not be used for occupancy and must comply with § 231 of this chapter.
5. The applicant shall furnish qualified evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, noise, light, litter, dust, and pollution.
6. Required parking will be determined based upon the types of activities proposed and the schedule listed in § 312 of this chapter. In addition, the Council may require an unimproved, grassed, overflow parking area to be provided for peak-use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads.
7. Any booths or other structures used for the collection of admission and/or parking fees shall be set back and arranged to prevent vehicle backups on adjoining roads during peak arrival periods. Any other collection of fees (roaming parking lot attendants) shall be conducted in a manner to prevent vehicle backups on adjoining roads. If, at any time after the opening of the commercial recreation facility, the City Council determines that traffic backups are occurring on adjoining roads, and such backups are directly related to the means of access to the subject property, the City Council can require the applicant to revise the means of access to relieve the undue congestion.
8. Any outside pedestrian waiting lines shall be provided with a means of shade.

**§ 420. Communication Towers and Equipment. [Ord. 227, 12/18/2006]**

1. Within the RC, LI and I Zones, communication towers and equipment that are not co-located upon existing structures are permitted by special exception, subject to the following criteria.
2. The applicant shall demonstrate, using technical evidence, that the proposed location is necessary for the efficient operation of the system. All other uses associated with the communication tower, such as a business office, maintenance depot, or vehicle storage, shall not be located on the site, unless the use is otherwise permitted in the zone in which the site is located.
3. Any communication tower shall be set back from each property line a distance equal to its height, plus 50 feet. This setback shall also be applicable to guide wire anchors for the communication tower.
4. All towers and guide wire anchors shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate. Any wire on top of the fence shall not be included in the measurement of the height of the fence.
5. All ground-mounted satellite dishes that are used to transmit video-format data shall be completely enclosed by a minimum eight-foot-high, non-climbable fence that includes signage warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended.
6. The applicant shall demonstrate that the proposed communication tower and support structure is safe and that the surrounding area and roads will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio or satellite frequency interference.
7. No site shall be located within 500 feet of:
  - A. Any land within the RS, RU, RF or MI Zone.
  - B. The nearest property line of any existing residence.
  - C. The nearest property line of any approved lot which has been subdivided during the last five years for residential purposes, which has not yet been constructed.
  - D. The nearest property line of any lot proposed for residential purposes which has been submitted for preliminary or final subdivision approval.
8. The applicant shall submit notice of approval for the proposed installation from the Federal Aviation Administration, the Federal Communications Commission, and any other state and/or federal agencies.

9. The applicant shall submit expert testimony that the communication tower is the minimum height required to function satisfactorily and that it complies with § 231 of this chapter.
10. The applicant shall submit a plan for the removal of the communication tower when it becomes functionally obsolete or is no longer in use. The owner shall be responsible for the removal of the facility within three months from the date the applicant ceases use of the facility or the facility becomes obsolete.
11. In order to reduce the number of tower support structures needed in the City in the future, any proposed support structure shall be designed to accommodate other users, including but not limited to police, fire and emergency services.
12. If a tower site is fully automated, two off-street parking spaces shall be required. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift, but in any event may not be less than two off-street parking spaces.
13. The following landscaping shall be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground-level features (such as a building):
  - A. An evergreen screen shall be required to surround the site. The screen can be either a hedge or a row of evergreen trees. The evergreen screen shall be a minimum height of six feet at planting and shall grow to a minimum of 15 feet at maturity.
  - B. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
14. The applicant shall obtain a building permit in accordance with the Building Code<sup>39</sup> prior to commencement of construction or any modification of any communication tower.
15. Communication towers shall be painted with silver or have a galvanized finish retained in order to reduce visual impact. Support structures may be painted green up to the height of nearby trees to lessen visual impact. All support structures shall meet all applicable Federal Aviation Administration regulations. No communication tower may be artificially lighted, except when required by the Federal Aviation Administration, state regulations or by City requirements.
16. Lighting shall be required on all towers in excess of 50 feet. The lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

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<sup>39</sup>Editor's Note: See Ch. 4, Buildings.

17. The minimum lot area shall be one acre.
18. All communication towers shall be located at least 1/2 mile from any other communication towers.
19. A full site plan, prepared by either a registered surveyor or a professional engineer, with elevations prepared by a professional engineer, shall be required for communication tower sites, showing the communication tower, buildings, fences, buffering, access, and any accessory structures.
20. Prior to a certificate of use and occupancy being issued, the applicant shall provide an engineer's certification that the tower is constructed as designed and shall submit the same to the Zoning Officer.

**§ 421. Concentrated Animal Feeding Operations (CAFO's). [Ord. 227, 12/18/2006]**

1. Within the RC Zone, concentrated animal feeding operations are permitted by special exception, subject to the following requirements.
2. Any building or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least 500 feet from:
  - A. The nearest property line of any existing residence, other than the principal residence of the applicant.
  - B. The nearest property line of any approved lot which has been subdivided during the last five years for residential purposes, which has not yet been constructed.
  - C. The nearest property line of any lot proposed for residential purposes which has been submitted for preliminary or final subdivision approval.
3. Any building or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least 500 feet from any adjoining properties within the RC Zone and any land within the RS, RU, RF and MI Zones.
4. The applicant shall submit a copy of an approval nutrient management plan for the proposed use which has been reviewed and approved by the appropriate reviewing agency. All subsequent operations and activities shall be conducted in accordance with such plans. If, at any time, the nutrient management plan is amended, the applicant must again submit the amended plan to the Zoning Officer.
5. The applicant shall furnish evidence from the Elk County Conservation District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If, at any time, the conservation plan is amended,

- the applicant must again furnish evidence from the Elk County Conservation District that the amended plan has been approved.
6. The applicant shall submit, abide by and demonstrate a working knowledge of written qualified evidence describing those methods that will be employed to:
    - A. Minimize odor on nearby properties. Unless these methods employ the best possible techniques and materials that can be practicably applied to the proposed use, the application will be denied.
    - B. Dispose of dead animals according to the regulations of the Pennsylvania Department of Agriculture. In the event of a catastrophic event in which mass disposal is warranted, the Pennsylvania Department of Agriculture can require whatever disposal methods are deemed appropriate to safeguard animal and public health.
    - C. Comply with the above-required nutrient management plan and conservation plan.
  7. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within 1,000 feet of the closest residence that is not that of the operator, then the applicant shall construct a dispersion buffer between the exhaust of the fan and that residence(s). Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at the property line.
  8. Any driveway or access drive providing for vehicular access to the proposed use shall maintain a fifty-foot-wide radius for all turns and intersections.
  9. Any on-site manure storage facilities shall comply with the requirements of § 200, Subsection 2P(3).
  10. All buildings used for the housing of livestock shall be fitted with a solid concrete slab or slotted floor.
  11. The applicant may conduct a roadside stand operation within one of the permanent buildings, but such use shall be limited to no more than 250 square feet of display area.

**§ 422. Conversion Apartments. [Ord. 227, 12/18/2006]**

1. Within the CB Zone, conversion apartments shall be permitted by special exception, subject to the following criteria.

2. Conversion apartments shall only be permitted within buildings that contained 4,000 or more square feet of floor area on the effective date of this chapter.
3. All dwelling units within the conversion apartment building shall contain at least 400 square feet of habitable floor area.
4. The applicant shall furnish evidence that an approved system of water supply and sewage disposal will be utilized.
5. Any modifications to the external appearance of the building will not alter its essential architectural character if the Council determines that such building is of historic merit within the City.
6. All floors above or below grade shall have direct means of escape to ground level and a hard-wired smoke alarm.
7. One off-street parking space per unit shall be provided either upon the site or within 150 feet of the site and with written and recorded agreements for access to and use of such parking spaces on other property.
8. The applicant shall obtain any required land development approvals.
9. Fire escapes, where required, shall only be provided in the rear yard and attached to the building's rear wall.

**§ 423. Drive-Thru and/or Fast-Food Restaurants. [Ord. 227, 12/18/2006]**

1. Within the CB and HC Zones, drive-thru and/or fast-food restaurants are permitted by special exception, subject to the following criteria.
2. Exterior trash/recycling receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. All applications shall include a description of a working plan for the cleanup of litter.
3. Within the HC Zone, all drive-thru window lanes shall be separated from the parking lot's interior driveways and shall provide at least 200 feet of on-site stacking per lane, preceding the food order location. Within the CB Zone, no drive-thru lanes are permitted.
4. Any exterior speaker/microphone and lighting systems shall be arranged and/or screened to comply with § 318 of this chapter. Within the CB Zone, no outside microphone system is permitted.
5. All exterior seating/play areas shall be completely enclosed by a minimum three-foot-high fence.
6. Within the HC Zone, no part of the subject property shall be located within 200 feet of any land within the RC, RS, RU, RF, or MI Zone.

**§ 424. Dry Cleaners, Laundries and Laundromats. [Ord. 227, 12/18/2006]**

1. Within the CB Zone, dry cleaners, laundries and Laundromats are permitted by special exception, subject to the following criteria.
2. Public sewer and water shall be used.
3. All activities shall be conducted within a completely enclosed building.
4. During operation or plant cleanup and maintenance, all windows and doors on walls facing adjoining residential zones shall be kept closed.
5. Any exhaust ventilation equipment shall be directed away from adjoining residentially zoned property.

**§ 425. ECHO Housing. [Ord. 227, 12/18/2006]**

1. Within the RS Zone, ECHO housing is permitted by special exception, subject to the following criteria.
2. The elder cottage may not exceed 900 square feet of floor area, except that an existing accessory structure may be converted for this use, but only during its qualified occupancy.
3. The total building coverage for the principal dwelling, any existing accessory structures and the elder cottage together shall not exceed the maximum requirement for the RS Zone.
4. The elder cottage shall be occupied by either an elderly (55 years or older) or challenged (mentally, physically, emotionally) person related to the occupants of the principal dwelling by blood, marriage or adoption.
5. The elder cottage shall be occupied by a maximum of two people.
6. Utilities.
  - A. For sewage disposal and water supply and all other utilities, the elder cottage shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used. All connections shall meet the applicable utility company standards and fees.
  - B. If on-site sewer or water systems are to be used, the applicant shall submit evidence to the Zoning Hearing Board showing that the total number of occupants in both the principal dwelling and the elder cottage will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the Sewage Enforcement Officer.

7. A minimum of one all-weather, off-street parking space, with unrestricted ingress and egress to the street, shall be provided for the elder cottage, in addition to that required for the principal dwelling.
8. Any new elder cottage shall be installed and located only in the side or rear yard and shall adhere to all side and rear yard setback requirements for principal uses.
9. Any new elder cottage shall be removed from that property within 90 days after it is no longer occupied by a person who qualifies for the use, and any existing accessory structures must revert to a permitted use.
10. Upon the proper installation of the elder cottage, the Zoning Officer shall issue a temporary use and occupancy permit. Such permit shall be reviewed every 12 months, until such time as the elder cottage is required to be removed. A fee, in the amount to be set by the City Council, shall be paid by the landowner upon each renewal of the temporary use and occupancy permit. Such fee shall be based upon the cost of the annual review of the permit.

**§ 426. Family Day-Care Facilities. [Ord. 227, 12/18/2006]**

1. Within the RS and RU Zones, family day-care facilities are permitted within detached dwellings by special exception, subject to the following criteria.
2. A family day-care facility shall offer care and supervision to no more than six different persons during any calendar day.
3. All family day-care facilities with enrollment of more than three persons shall furnish a valid registration certificate for the proposed use, issued by the Pennsylvania Department of Public Welfare.
4. An outdoor play area no less than 100 square feet for each person enrolled shall be provided. Such play area shall not be located within the front yard nor any vehicle parking lot. Outdoor play areas shall be set back at least 10 feet and screened from any adjoining RS-zoned property. A six-foot-high fence shall completely enclose the outdoor play area. Any vegetative materials located within the outdoor area shall be of a non-harmful type (poisonous, thorny, allergenic, etc.). All outdoor play areas must include a means of shade, such as a tree(s) or a pavilion(s).
5. Passenger drop-off and pickup areas shall be provided on site and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.

**§ 427. Farmers', Antique and/or Flea Markets. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, farmers', antique and/or flea markets are permitted by special exception, subject to the following criteria.

2. The retail sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape, which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales area shall include all indoor and/or outdoor areas as listed above.
3. The retail sales area shall be set back at least 20 feet from all property lines and shall be calculated as part of the maximum permitted lot coverage, regardless of its surface treatment.
4. Off-street parking shall be provided at the rate of one space per each 200 square feet of retail sales area.
5. Off-street loading shall be calculated upon the retail sales area described above and according to the schedule listed in § 313 of this chapter.
6. All outdoor display and sales of merchandise shall be completely enclosed within a minimum four-foot-high fence and shall begin no earlier than 6:00 a.m. and be completed no later than official sunset.
7. Any exterior amplified public-address system and lighting shall be arranged and designed so as to comply with § 318 of this chapter.
8. Exterior trash and recycling receptacles shall be provided amid any outdoor retail sales 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.
9. Vendors are permitted to park and remain with their vehicles overnight no earlier than one-day prior to, nor later than the next day after, the conduct of a sale. Such parking shall only occur within designated areas that are enclosed within a minimum four-foot-high fence.
10. A traffic impact report shall be prepared in accordance with § 320 of this chapter.

**§ 428. Funeral Homes. [Ord. 227, 12/18/2006]**

1. Within the RF, CB and HC Zones, funeral homes are permitted by special exception, subject to the following criteria.
2. Public sewer and water facilities shall be utilized.
3. Sufficient off-street parking shall be provided to prevent traffic backups onto adjoining roads.
4. No vehicular access to the site shall be from an arterial road.

5. The applicant shall furnish expert testimony that the disposal of human remains, and related chemicals and materials, shall be in accordance with applicable laws and standards.

**§ 429. Golf Courses. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, golf courses are permitted by special exception, subject to the following criteria.
2. Golf courses may include the following accessory uses, provided that such uses are reasonably sized and located so as to provide incidental service to the golf course employees and users:
  - A. A clubhouse, which may consist of:
    - (1) Restaurant, snack bar, lounge, and banquet facilities.
    - (2) Locker and rest rooms.
    - (3) Pro shop.
    - (4) Administrative offices.
    - (5) Golf cart and maintenance equipment storage and service facilities.
    - (6) Fitness and health equipment, including workout machines, spas, whirlpools, saunas, and steam rooms.
    - (7) Game rooms, including card tables, billiards, ping-pong, and other similar table games.
    - (8) Babysitting rooms and connected fence-enclosed play lots.
  - B. Accessory recreation amenities located outside of a building, including:
    - (1) Driving range, provided that all lighting shall comply with § 318, Subsection 2, of this chapter.
    - (2) Practice putting greens.
    - (3) Swimming pools.
    - (4) Tennis, platform tennis, handball, racquetball, squash, volleyball, and badminton courts.
    - (5) Bocce ball, croquet, shuffleboard, quoits, horseshoe pits, and washers courses.
    - (6) Picnic pavilions, picnic tables, park benches, and barbecue pits.

- (7) Hiking, biking, horseback riding, and cross-country ski trails.
      - (8) Playground equipment and play lot games, including four-square, dodgeball, tetherball, and hopscotch.
    - C. Freestanding maintenance equipment and supply buildings and storage yards.
  3. In no case shall the golf course design, permit or encourage a golf ball to be driven across any building, building lot, parking lot, street, access drive, or driveway.
  4. All golf course buildings shall be set back 75 feet from any adjoining roads and 100 feet from adjoining residential structures or parcels.
  5. Golf paths. Golf paths shall be graded so as to discharge stormwater runoff. Surface conditions of paths shall be adequately protected from an exposed soil condition.
    - A. The golf course design shall minimize golf path crossings of streets, access drives and driveways. Easily identifiable golf paths must be provided for crossings of streets, access drives or driveways. The golf course design shall both discourage random crossing and require use of the golf path crossings of streets, access drives and driveways. Golf path crossings shall conform with the following:
      - (1) Each crossing shall be perpendicular to the traffic movements.
      - (2) Only one street, access drive or driveway may be crossed at each location.
      - (3) No crossing is permitted between a point 15 feet and 150 feet from the cartway edge of a street, access drive or driveway intersection.
      - (4) The crossing must be provided with a clear sight triangle of 75 feet, measured along the street, access drive or driveway center line and the golf path center line, to a location on the center line of the golf path five feet from the edge of the roadway. No permanent obstruction over 30 inches high shall be placed within this area.
      - (5) Sight distance. Golf path intersections shall be designed to provide adequate sight distance with regard to both horizontal and vertical alignment. The required sight distance shall be governed by § 305 of this chapter.
      - (6) The golf cart path shall not exceed a slope of 8% within 25 feet of the cartway crossing.

- (7) Golf path crossings shall be signed, warning motorists and pedestrians and golfers. The surface of the golf path shall be brightly painted with angle stripes.
- (8) Golf path crossings of collector or arterial streets shall consist of a tunnel or bridge that is not located at street grade. The golf course design shall both prohibit on-grade crossing of collector or arterial streets and require the use of the tunnel. The construction of the collector or arterial roadway crossing of the tunnel shall comply with PennDOT standards.

**§ 430. Heavy Equipment Sales, Service and/or Repair Facilities. [Ord. 227, 12/18/2006]**

1. Within the LI, I and HC Zones, heavy equipment sales, service and/or repair service facilities are permitted by special exception, subject to the following criteria. **[Amended by Ord. 279, 1/21/2013]**
2. All service and/or repair activities shall be conducted within a completely enclosed building.
3. All uses involving drive-thru service shall provide sufficient on-site stacking lanes to prevent vehicle backups on adjoining roads.
4. All exterior storage and/or display areas shall be screened from adjoining residentially zoned properties. Within the LI Zone, all exterior storage/display areas shall be set back at least 50 feet from adjoining street lines; and within both zones such areas shall be covered in an all-weather, dust-free surface.
5. The storage of junked vehicles, boats, machinery, trucks, trailers, mobile homes, and heavy equipment vehicles, or any parts thereof, on the property is prohibited.
6. Any ventilation equipment outlets associated with the service/repair work area(s) shall not be directed toward any adjoining property within the RC, RS, RU, RF or MI Zone.
7. All vehicles shall be repaired and removed promptly from the premises.

**§ 431. Heavy Industrial Uses Not Permitted Within the Limited Industrial Zone. [Ord. 227, 12/18/2006]**

1. Within the I Zone, heavy industrial uses not permitted within the LI Zone are permitted by conditional use, subject to the following criteria.
2. The applicant shall provide a detailed description of the proposed use in each of the following topics:

- A. The nature of the on-site processing operations, the materials used in the process, the products produced, and the generation and methods for disposal of any by-products. Evidence shall be provided indicating that the disposal of all materials and wastes will be accomplished in a manner that complies with state and federal regulations. Such evidence shall, at a minimum, include copies of contracts with waste haulers licensed to operate within the county, which have been contracted to dispose of the materials and wastes used, or generated, on site or some other legal means of disposal. The building permit for this use 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.
- B. The general scale of the operation in terms of its market area, specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size.
- C. Any environmental impacts that are likely to be generated (e.g., noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, 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 ordinances.
- D. A traffic impact report prepared in accordance with § 320 of this chapter.

**§ 432. Helistops. [Ord. 227, 12/18/2006]**

- 1. Within the MI Zone, helistops are permitted by special exception, subject to the following criteria.
- 2. The helistop shall only be used for the emergency transport of patients to or from health-care-related uses permitted in the MI Zone.
- 3. The helistop shall not include auxiliary facilities, such as fueling and maintenance equipment.
- 4. The helistop shall be set back a minimum of 300 feet from any adjoining property and any street. In the event that the helistop use is located on the roof of a building which houses emergency health-care services, the minimum setback requirements for the applicable building shall supersede.

5. The applicant must demonstrate compliance, through a written statement, and continue to comply with applicable state and federal standards.

**§ 433. Home Improvement and Building Supply Stores. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, home improvement and building supply stores are permitted by special exception, subject to the following criteria.
2. All outdoor storage and display areas (exclusive of nursery and garden stock) shall be screened from adjoining properties.
3. If the subject property contains more than two acres, it shall front along an arterial or collector road.
4. The retail sales area shall be all areas open for public display, including but not limited to shelves, racks, bins, stalls, tables, and booths, plus any adjoining aisles or walkways from which consumers can inspect items for sale. The retail sales area shall include both interior and exterior areas, as listed above.
5. Off-street parking shall be provided at the rate of one space for each 200 square feet of interior retail sales area, plus one space for each 500 square feet of exterior retail sales area.
6. All exterior retail sales areas shall include a dust-free surface and a completely enclosed minimum six-foot-high fence.
7. (Reserved)<sup>30</sup>
8. The applicant shall furnish expert evidence that any exterior amplified public-address system and/or exterior lighting has been arranged and designed so as to comply with § 318 of this chapter.
9. Any drilling, cutting, sawing, mixing, crushing, or some other preparation of building materials, plus any testing or repair of motorized equipment, shall be conducted within a completely enclosed building.
10. The applicant shall submit a traffic impact report, as governed by § 320 of this chapter.
11. The applicant shall submit a working plan for the collection, recycling and disposal of litter and wastes.

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<sup>30</sup>Editor's Note: Former Subsection 7, requiring screening of exterior storage and retail sales areas, was repealed by Ord. 279, 1/21/2013.

**§ 434. Home Occupations. [Ord. 227, 12/18/2006]**

1. Within the RS, RU and RF Zones, home occupations are permitted by special exception, subject to the following criteria.



2. Only single-family, detached and semidetached dwellings may contain a home occupation.
3. Only residents may engage in a home occupation.
4. Such occupations shall be incidental or secondary to the use of the property as a residence and are limited to those occupations customarily conducted within a dwelling unit.
5. At least one off-street parking space, in addition to those required of residence units, shall be required. Within the RS Zone, such parking spaces shall be screened from adjoining properties.
6. No goods shall be visible from the outside of the dwelling.
7. The area used for the practice of a home occupation shall occupy no more than 25% of the total floor area of the dwelling unit or 500 square feet, whichever is less. All home occupation activities shall be conducted within the dwelling building.
8. No manufacturing, repairing, or other mechanical work shall be performed in any open area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference, or smoke shall be noticeable at or beyond the property line.
9. No external storage of materials or products shall be permitted. No storage in accessory structures or attached garages shall be permitted.
10. The exterior appearance of the structure or premises is constructed and maintained as a residential dwelling.
11. One nonilluminated sign, not to exceed four square feet in display area, shall be permitted.

**§ 435. Hotels (Including Related Dining Facilities). [Ord. 227, 12/18/2006]**

1. Within the CB Zone, hotels (including related dining facilities) are permitted by special exception, subject to the following criteria.
2. Both public sewer and public water shall be utilized.
3. The following accessory uses may be approved as part of the conditional use application:
  - A. Auditorium.
  - B. Barber and beauty shops.
  - C. Gift shop.

- D. Meeting facilities.
  - E. Recreational uses and swimming pools.
  - F. Sauna, spa or steam room.
  - G. Solarium.
  - H. Valet shop.
  - I. Other similar retail sales and personal services.
- 4. The above accessory uses (aside from outdoor recreational uses) shall be physically attached to the main hotel building.
  - 5. One restaurant or tavern shall be permitted on the same lot as a principal hotel, subject to the following:
    - A. The proposed restaurant, tavern or nightclub shall offer the preparation and serving of food and drink to be consumed on the premises; no drive-through or take-out services shall be permitted.
    - B. No additional freestanding signs (other than those permitted for the principal hotel use) shall be permitted.

**§ 436. Incinerators and Autoclaves. [Ord. 227, 12/18/2006]**

- 1. Within the MI Zone, incinerators and autoclaves are permitted by special exception, subject to the following criteria.
- 2. Only the processing of waste generated within the MI Zone in which the facility is located is permitted.
- 3. All processing and storage of waste shall be conducted within a completely enclosed building.
- 4. All storage of waste shall be in a manner that is leak- and vector-proof.
- 5. No storage of waste shall exceed seven days in length.
- 6. The incinerator shall be set back at least a distance equal to its height from all lot lines and the use must demonstrate compliance with § 231 of this chapter.
- 7. The applicant must demonstrate compliance, through a written statement, and continue to comply with all applicable state and federal standards and regulations.

**§ 437. Junkyards. [Ord. 227, 12/18/2006]**

1. Within the LI and I Zones, junkyards are permitted by conditional use, subject to the following criteria.
2. Minimum lot area: two acres.
3. The outdoor area devoted to the storage of junk shall be completely enclosed by a ten-foot-high, sight-tight fence which, within the LI Zone, shall be set back at least 100 feet from all property lines.
4. Within the LI Zone, all completely enclosed buildings used to store junk shall be set back at least 50 feet from all property lines.
5. No material may be stored or stacked so that it is visible from adjoining properties and roads.
6. All additional federal and state laws shall be satisfied.
7. The setback area between the fence and the lot lines shall be kept free of weeds and all scrub growth.
8. All junk shall be stored or arranged so as to permit access by fire-fighting equipment and to prevent the accumulation of water and with no junk piled to a height greater than eight feet.
9. No open burning of oil, grease, tires, gasoline, or other similar material shall be permitted at any time.
10. Any junkyard shall be maintained in such a manner as to cause no public or private nuisance, nor to cause any offensive or noxious sounds or odors, nor to cause the breeding or harboring of rats, flies or other vectors.
11. No junkyard shall be located on land with a slope in excess of 5%.
12. The applicant shall submit written evidence that all vehicles shall have all fuels and lubricants drained and properly disposed of prior to storage on the site.

**§ 438. Manufactured Home Parks. [Ord. 227, 12/18/2006]**

1. Manufactured home parks complying with all provisions of Chapter 14 of this Code are permitted in the RC, RU, and RF zones by special exception. **[Amended by Ord. 279, 1/21/2013]**
2. The minimum parcel size for any manufactured home park development shall be five acres.
3. The maximum number of manufactured home units shall be limited to seven per acre.

4. Each single manufactured home lot shall contain no less than 4,200 square feet and shall be at least 40 feet wide.
5. No manufactured home lot shall be within 25 feet of a park boundary nor within 50 feet of an outside street right-of-way. This area shall constitute the manufactured home park boundary area.
6. No manufactured home park office or service building shall be located within 30 feet of a park boundary or an outside street right-of-way; nor within 30 feet of the right-of-way of an interior park street or the paved edge of a common parking area or common walkway; nor within 30 feet of an adjacent structure or manufactured home.
7. Each manufactured home shall have a minimum front yard of 20 feet, a rear yard of 15 feet, and two side yards of 10 feet each. In no case shall the distance between any two manufactured homes be less than 20 feet.
8. A paved on-site walkway of a minimum width of four feet shall be provided to each manufactured home unit from an adjacent street.
9. Streets, curbs and sidewalks shall be constructed to City standards for private streets.
10. All roads in the park shall be private access drives and shall be paved with a bituminous or concrete surface at least 22 feet wide.
11. Each manufactured home lot shall abut on a park access drive with access to such access drive. Access to all manufactured home lots shall not be from public streets or highways.
12. Each manufactured home space shall contain no more than one manufactured home nor more than one family.
13. No less than 10% of the total manufactured home park area shall be set aside for recreation and open space purposes. Such area may not include any of the required manufactured home park boundary area. No service buildings or offices may be constructed within the required recreation and open space area.
14. Each manufactured home stand shall have attachments for waste disposal, water supply facilities and electrical service, and such facilities shall be properly connected to an approved method of sewage disposal and water and electrical supply.
15. Protective skirting shall be placed around the area between the stand surface and the floor level of each manufactured home so as to prevent that area from forming a harborage for rodents, creating a fire hazard, or exposing unsightly conditions.

16. No recreational vehicle, travel or vacation trailer or other form of temporary living unit shall be placed upon any manufactured home stand or used as a dwelling within the manufactured home park.
17. Service and accessory buildings.
  - A. Construction. All service and accessory buildings, including management offices, storage areas, laundry buildings, and indoor recreation areas, shall conform to the requirements of any applicable building code, and such shall be maintained so as to prevent deterioration caused by decay, corrosion, termites, or other destructive elements. Attachments to manufactured homes in the form of sheds and lean-tos are prohibited.
  - B. Manufactured home park office. Every manufactured home park shall have an office on site for the manufactured home park manager. Every manufactured home park containing 15 or more manufactured home spaces shall have a structure designed and clearly identified for such office.
  - C. Storage space. Occupants of each manufactured home unit shall be provided with a minimum of 150 cubic feet of storage space in an individual storage building placed to the rear of each manufactured home.
  - D. Use. Service and accessory buildings located in a manufactured home park shall be used only by the occupants of the same and their guests.
18. Each manufactured home shall be provided with a minimum of two paved parking spaces, which shall be located on the manufactured home space. If on-street parking is not provided, one additional off-street parking space per unit shall be provided in a common visitor parking compound. Such visitor parking compounds shall be sized, arranged, and located so that the spaces are within 300 feet, walking distance, to those units served.
19. Each manufactured home shall be placed on a six-inch-thick poured-concrete pad over a six-inch stone base, the length and width of which shall be at least equal to the length and width of the manufactured home it is to support. Every manufactured home shall be anchored to the manufactured home pad where it is located prior to the unit being occupied and no more than seven days from the arrival of the manufactured home. The anchoring system shall be designed by a registered professional engineer to prevent tilting of the unit and to resist a minimum wind velocity of 90 miles per hour.
20. All manufactured home parks shall be screened from adjoining properties and roads. Screening methods shall be described and graphically depicted as part of the conditional use application.

**§ 439. Mass Transportation Depots. [Ord. 227, 12/18/2006]**

1. Within the I Zone, mass transportation depots are permitted by conditional use, subject to the following criteria.
2. The applicant shall submit a traffic impact report in accordance with § 320 of this chapter.
3. The applicant shall present qualified expert evidence as to how the use will provide for the expected demand for needed off-street parking spaces for the proposed use. In addition, the applicant shall present evidence of the ability to provide additional off-street parking spaces if demand increases. The applicant shall also present credible evidence that the number of oversized off-street parking spaces provided for public transportation vehicles will be adequate to accommodate the expected demand generated by patrons. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods.
4. The subject property shall have a minimum of 200 feet of road frontage along an arterial road.
5. The subject property shall be located no closer than 200 feet from any RC, RS, RU, RF, or MI Zone and/or property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus.
6. All structures (including but not limited to air compressors, fuel pump islands, and kiosks) shall be set back at least 50 feet from any street right-of-way line.
7. Access driveways shall be a minimum of 24 feet and a maximum of 35 feet wide. All access drives onto the same road shall be set back at least 150 feet from one another, as measured from the closest points of cartway edges.
8. Trash and recycling receptacles shall be provided amid off-street parking areas, which shall be routinely emptied. Furthermore, a working plan for the regular cleanup of litter shall be furnished and continuously implemented by the applicant.
9. All vehicle service and/or repair activities shall be conducted within a completely enclosed building. No outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations shall be permitted.
10. The outdoor storage of unlicensed and uninspected vehicles is prohibited.
11. The applicant shall submit qualified evidence that the proposed use will comply with applicable air quality standards.

12. The demolition or junking of vehicles is prohibited. Demolished vehicles and/or parts thereof shall be removed within 30 days after arrival.
13. Any exterior public-address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the ambient noise levels of the use, as measured at each of the property lines.
14. The applicant shall furnish evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all applicable state and federal regulations.

**§ 440. Methadone Treatment Facilities. [Ord. 227, 12/18/2006]**

1. Within the I Zone, methadone treatment facilities are permitted by conditional use, subject to the following criteria.
2. The subject property of a methadone treatment facility shall be located no less than 500 feet from the property containing any existing school, public playground or park, residential zone, day-care facility, and church, meeting house or other regular place of worship.

**§ 441. Mining, Quarrying and Related Processing Facilities. [Ord. 227, 12/18/2006]**

1. Within the RC and I Zones, mining, quarrying and related processing facilities are permitted by conditional use, subject to the following criteria.
2. General. Mining operations:
  - A. Shall not substantially injure or detract from the lawful existing or permitted use of neighboring properties.
  - B. Shall not adversely affect any public or private water supply source.
  - C. Shall not adversely affect the logical, efficient and economical extensions of public services, facilities and utilities throughout the City.
  - D. Shall not create any significant damage to the health, safety or welfare of the City and its residents and property owners.
  - E. Shall not result in the land area subject to mining being placed in a condition which will prevent the use of that land for economically and ecologically productive uses upon completion of the mining operation.
  - F. Must demonstrate compliance with all applicable state regulations at all times.

3. Site plan requirements. As a part of each application, the applicant shall submit those materials required by Section 7(b) of the Noncoal Surface Mine Conservation and Reclamation Act (Act No. 1984-219),<sup>40</sup> which shall include, at a minimum, an accurately surveyed site plan on a scale no less than 1:2,400 (one inch equals 200 feet), showing the location of the subject property or properties to be affected by the operation. The surveyed site plan shall be certified by a registered professional engineer or a registered professional land surveyor, with assistance from experts in related fields, and shall include the following:
  - A. The boundaries of the proposed land affected, together with the drainage area above and below the subject property.
  - B. The location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the subject property.
  - C. The location of all buildings within 1,000 feet of the outer perimeter of the subject property and the names and addresses of the owners and present occupants.
  - D. The purpose for which each building is used.
  - E. The name of the owner of the subject property and the names of adjacent landowners, the Municipality, and the County.
4. Minimum lot area: 50 acres.
5. Fencing.
  - A. Operations that have a highwall, as defined herein, of five feet or higher shall be required to enclose the actual area of mining with a minimum eight-foot-high chain-link fence and like latching gates. Operations with no highwalls, or highwalls of less than 15 feet high, shall be required to enclose the area of mining with a minimum forty-seven-inch-high minimum 11-gauge woven-wire fence that has openings no larger than six inches in any direction and has posts at intervals of no more than 10 feet. All woven-wire fences shall be equipped with latching minimum six-bar tube or panel gates at vehicular access points.
  - B. All gates shall be latched at times when the site is unattended. The City will accept departures from the above-described fence/gate specifications only if the applicant can demonstrate that the proposed fence/gate will achieve an equal or higher level of protection.
  - C. Along all fences, the applicant will be required to post and maintain "No Trespassing" and/or "Danger" signs at intervals of no less than one sign per each 100 linear feet of fence/gate. Such signs shall be no

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<sup>40</sup>Editor's Note: See 25 Pa. Code, Chapter 209.

larger than two square feet per sign and shall not be posted higher than five feet above grade. All fences/gates shall be maintained in good condition and shall not be allowed to become deteriorated or unsightly.

D. There shall be no advertising placed upon the fencing/gate, except as may be permitted in § 315 of this chapter.

6. Setback. The following table identifies minimum setbacks imposed upon specific features of the mining and/or processing uses from adjoining and/or nearby uses.

<b>Mining-Related Feature</b>	<b>Any Occupied Building that is Not Part of the Mining and/or Processing Site (feet)</b>	<b>RC, RS, RU, RF and MI Zones (feet)</b>	<b>Adjoining Road (feet)</b>	<b>Public/Nonprofit Park (feet)</b>	<b>Cemetery or Stream Bank (feet)</b>	<b>Adjoining Property (feet)</b>
Stockpiles or spoil pipes	300	1,000	100	300	100	100
Mineral processing equipment (e.g., crushers, sorters, conveyors, dryers, etc.)	300	1,000	100	300	100	100
Open mine pit and highwall	300	1,000	100	300	100	100
On-site access roads and off-street parking, loading and vehicle storage and weighing facilities	300	1,000	100	300	100	100
Other operational equipment, structures and/or improvements	300	1,000	100	300	100	100

7. Access. Vehicular access shall be provided in accordance with § 311 of this chapter. All access drives serving the site shall have a paved, minimum thirty-five-foot-wide, cartway for a distance of at least 100 feet from the intersecting street right-of-way line. In addition, a fifty-foot-long gravel section of access drive shall be placed just beyond the preceding one-hundred-foot paved section to help collect any mud that may have attached to a vehicle's wheels.

8. Reclamation. The applicant shall demonstrate compliance with Section 7(c) of Pennsylvania Act No. 1984-219, as may be amended.<sup>41</sup> 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 subdivision approvals or remedies that would be necessary to accommodate the proposed use. A planting plan shall also be required for areas of the reclaimed site that are not to be underwater. Such plan shall demonstrate the covering of the site with sufficient arable soil that can stabilize the site with a vegetative ground cover that prevents excessive soil erosion and will support a mix of indigenous vegetation. Finally, the applicant shall provide written notification to the City within 30 days whenever a change in the reclamation plan is proposed to the PA DEP.
9. Screening and landscaping. All uses shall be screened from adjoining roads and properties. Such screening shall be comprised of an earthen berm at least 10 feet in height. Such berm shall be located on the subject property and placed so as to maximize the berm's ability to absorb and/or block views of, and the noise, dust, smoke, etc., generated by, the proposed use. The berm shall be completely covered and maintained in an approved vegetative ground cover. Along any adjoining property line and road shall be located a ten-foot-wide landscape screen. Such landscape screen shall consist of evergreen shrubs and trees arranged to form both a low-level and a high-level screen. The high-level screen shall consist of deciduous and evergreen trees of not less than five feet in height at the time of planting that shall be planted at intervals of not more than 10 feet. The low-level screen shall consist of evergreen trees and shrubs of not less than three feet in height at the time of planting that shall be planted at intervals of not more than five feet. The landscape screen shall be located outside of the fence required by § 441, Subsection 5, of this chapter and must be permanently maintained.
10. Operations progress report. Within 90 days after commencement of mining operations, and during the first 30 days of each calendar year thereafter, the operator shall file an operations progress report with the Zoning Officer, setting forth all of the following:
  - A. The name or number of the operation.
  - B. The location of the operation with reference to the nearest public road.
  - C. A description of the subject property or properties, including a site plan showing the location of all improvements, stockpile, quarry pits, etc.
  - D. The name and address of the landowner or his duly authorized representative.

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<sup>41</sup>Editor's Note: See 25 Pa. Code, Chapter 209.

- E. An annual report of the type and quantity of mineral produced.
  - F. The current status of the reclamation work performed in pursuance of the approved reclamation plan.
  - G. A maintenance report for the site that verifies that all required fencing, signage, and berming has been specifically inspected for needed repairs and/or maintenance and that such needed repairs and/or maintenance have been performed.
  - H. Verification that the proposed use continues to comply with all applicable state and City regulations and any conditions imposed at the time of approval. The operation shall furnish copies of any approved permits and/or any notices of violation issued by the PA DEP.
- 11. Water restoration. In accordance with Section 11(g) of the Pennsylvania Noncoal Surface Mine Conservation and Reclamation Act,<sup>42</sup> any mining/processing operation that affects a public or private water supply due to contamination, interruption, or diminution shall restore or replace the affected water supply with an alternate source of water adequate in quantity and quality for the purposes served by the affected supply.
  - 12. Maximum permitted height. No piling of spoiled materials and/or waste materials shall exceed a height of 50 feet above the natural unexcavated grade. Such pilings must be periodically and sufficiently covered with earth and the seed of a year-round ground cover in order to achieve a stable condition. Such use must demonstrate compliance with § 231 of this chapter.

**§ 442. Mini-Warehouses. [Ord. 227, 12/18/2006]**

- 1. Within the HC, LI and I Zones, mini-warehouses are permitted by special exception, subject to the following criteria.
- 2. Off-street parking spaces shall be provided according to the schedule listed in § 312, Subsection 19, of this chapter.
- 3. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least 30 feet wide when cubicles open onto one side of the lane only and at least 30 feet wide when cubicles open onto both sides of the lane.
- 4. Required parking spaces may not be rented as or used for vehicular storage. However, internal and external storage area may be provided for the storage of privately owned vehicles, travel trailers and/or boats, so long as any external storage area is screened from adjoining land within the RC, RS, RU, RF, and MI Zones and adjoining roads and is located behind the minimum

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<sup>42</sup>Editor's Note: See 25 Pa. Code, Chapter 209.

- front yard setback line. This provision shall not be interpreted to permit the outdoor storage of partially dismantled, wrecked, inoperative, unlicensed, or uninspected vehicles.
5. The storage of flammable, highly combustible, explosive, or hazardous chemicals is prohibited, unless contained within the fuel tanks of vehicles.
  6. A resident manager may live on the site. A manager, resident or not, shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval and all applicable ordinances. The actual dwelling of the resident manager shall comply with all of those requirements listed within the RU Zone and shall be entitled to all residential accessory uses provided in this chapter.
  7. No door openings for any mini-warehouse storage unit shall be constructed facing any property within the RC, RS, RU, RF, and MI Zones.
  8. These units shall be used solely for dead storage, and no processing, manufacturing, sales, research and development testing, service and repair, or other nonstorage activities shall be permitted.

**§ 443. Nursery and Garden Centers. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, retail sales of nursery and garden materials are permitted by special exception, subject to the following criteria.
2. All greenhouses and nurseries shall have vehicular access to an arterial or collector road.
3. The display and sale of items not grown on the premises shall be incidental to the nursery operation. The display area for these items shall not exceed 25% of the total gross display and sales area on the subject property. The display, sale or repair of motorized nursery or garden equipment shall not be permitted.
4. All outdoor display areas shall be set back at least 25 feet from the street right-of-way line.
5. All improvements (including parking and loading facilities, but not including a freestanding sign) shall be screened from adjoining residentially zoned properties.
6. One freestanding or attached sign may be permitted advertising the business. Such sign shall not exceed 12 square feet in size and must be set back at least 10 feet from all lot lines.

**§ 444. Nursing, Rest or Retirement Homes. [Ord. 227, 12/18/2006]**

1. Within the RC and RF Zones, nursing, rest or retirement homes are permitted by special exception, subject to the following criteria.
2. Minimum lot area: two acres.
3. The applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be utilized.
4. Off-street parking lots and loading areas shall be screened from adjoining lands within the RC, RS, RU, RF, and MI Zones.
5. No more than 18 occupants per acre shall be permitted, excluding the staff of the facility.

**§ 445. Office and Retail Conversions. [Ord. 227, 12/18/2006]**

1. Within the RU and RF Zones, office and retail conversions are permitted by special exception, subject to the following criteria.
2. Only single-family detached dwellings that existed on the effective date of this chapter and directly adjoin an arterial road may be converted to include a commercial shop, salon or office. Such commercial uses shall be limited to that area of the first floor of the building as it existed on the effective date of this chapter.
3. The applicant shall furnish evidence that any alterations, improvements or other modifications proposed to the building will be accomplished in a manner that complements its residential character.
4. The applicant shall furnish evidence of an approved means of water supply and sewage disposal.
5. The applicant shall obtain any necessary land development approvals.
6. All commercial off-street parking and/or loading areas shall be screened from adjoining residences and roads.
7. One sign shall be permitted which is no larger than 12 square feet and is affixed to the building.
8. The applicant shall demonstrate those measures employed to incorporate shared vehicular access, shared off-street parking and loading, and shared signage with adjoining properties. If the applicant cannot incorporate said features, the applicant shall describe what steps were taken to attempt such design and the specific reasons why the design is impossible and/or impractical. The applicant shall also suggest what measures could be taken by the City to facilitate such a design.

**§ 446. Off-Track Betting Parlors. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, off-track betting parlors are permitted by conditional use, subject to the following criteria.
2. An off-track betting parlor shall not be permitted to be located within 1,000 feet of any other off-track betting parlor.
3. No off-track betting parlor shall be located within 600 feet of any land within the RC, RS, RU, RF, or MI Zone.
4. No off-track betting parlor shall be located within 600 feet of any parcel of land which contains any one or more of the following specified land uses:
  - A. Amusement park.
  - B. Camp (for minors' activity).
  - C. Child-care facility.
  - D. Church or other similar location for religious congregation.
  - E. Community center.
  - F. Museum.
  - G. Park.
  - H. Playground.
  - I. School.
  - J. Other lands where minors congregate.
5. The distance between any two off-track betting parlors shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment. The distance between any off-track betting parlor and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior property line of the off-track betting parlor to the closest point on the property line of said land use.
6. No more than one off-track betting parlor may be located within one building or shopping center.
7. The applicant shall furnish expert evidence that the proposed use will not be detrimental to the use of adjoining properties due to hours of operation, light and/or litter.

8. The applicant shall furnish expert evidence as to how the use will be controlled so as to not constitute a nuisance due to noise or loitering outside the building.
9. A working plan for the cleanup and recycling of litter shall be furnished and implemented by the applicant.
10. Off-street parking shall be provided at the rate of one space per each 65 square feet of gross floor area, including related dining, restaurant and snack bar areas.
11. All off-track betting parlors shall comply with the Pennsylvania Horse and/or Harness Racing Commission's Rules and Regulations pertaining to Nonprimary Locations, as defined therein.

**§ 447. Outdoor Cafes. [Ord. 227, 12/18/2006]**

1. Within the CB Zone, outdoor cafes shall be permitted by special exception, subject to the following criteria.
2. Outdoor cafes shall only be provided as accessory uses to a principal restaurant or tavern.
3. Outdoor cafes located within a front yard shall be enclosed by a three-foot-high fence or wall with a lockable gate.
4. Outdoor cafes located within a side and/or rear yard shall be screened from adjoining properties.
5. During use, each outdoor cafe must be continuously supervised by an employee or owner of the restaurant.
6. Any lighting or music systems serving the outdoor cafe shall be located and designed so as not to constitute a nuisance to adjoining properties.
7. The applicant shall furnish and implement a working plan for the continuous cleanup of litter or other debris.
8. All outdoor seating shall be removed from the outdoor cafe during seasonal periods when not in use.

**§ 448. Principal Waste-Handling, Recycling, Processing and Disposal Facilities. [Ord. 227, 12/18/2006]**

1. Within the RC and I Zones, principal waste-handling, recycling, processing and disposal facilities are permitted by conditional use, subject to the following criteria.

2. All principal waste-handling, recycling, processing and disposal facilities for "municipal and residual wastes," as defined by the PA DEP, shall be operated by the Solid Waste Authority of Elk County.
3. Any processing and/or treatment of waste (including but not limited to incineration, composting, steaming, shredding, compaction, material separation, refuse-derived fuel, pyrolysis, etc.) shall be conducted within a wholly enclosed building.
4. No waste shall be deposited, stored or disposed of, and no building or structure shall be located, within 200 feet of any property line and 500 feet of any adjoining land within the RC, RS, RU, RF, or MI Zone.
5. Any external area used for the unloading, transfer, storage, or deposition of waste must be completely screened from view at the property line. (The use of an earthen berm is encouraged where practicable.) In addition, such areas must also be completely enclosed by an eight-foot-high fence with no openings greater than two inches in any direction.
6. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable state and federal standards and regulations.
7. The use shall be screened from all adjoining land within the RC, RS, RU, RF, and MI Zones.
8. All uses shall provide sufficiently long stacking lanes into the facility so that vehicles waiting to be weighed and/or unloaded will not back up onto public roads.
9. All access drives onto the site shall be paved for a distance of at least 200 feet from the street right-of-way line. In addition, if portions of on-site access drives are unpaved, then a fifty-foot-long gravel section of driveway shall be placed just beyond the preceding two-hundred-foot paved section to help collect any mud that may have attached to a vehicle's wheels.
10. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.
11. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the cleanup of litter shall be submitted to the City.
12. The unloading, processing, treatment, transfer, and disposal of waste shall be continuously supervised by a qualified facility operator.

13. Any waste that is to be recycled shall be stored in leak- and vector-proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely enclosed building.
14. All storage of waste shall be indoors in a manner that is leak- and vector-proof. During normal operation, no more waste shall be stored on the property than is needed to keep the facility in constant operation; but in no event for more than 72 hours.
15. A contingency plan for the disposal of waste during a facility shutdown shall be submitted to the City.
16. Leachate from the waste shall be disposed of in a manner in compliance with any applicable state and federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, pretreatment shall be required, and appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the Department of Environmental Protection's regulations.
17. All structures shall be set back at least a distance equal to their height.
18. Water.
  - A. The applicant shall submit an analysis of raw water needs (groundwater or surface water), from either private or public sources, indicating quantity of water required. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed.
  - B. In addition, if the facility is to rely upon nonpublic sources of water, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the City Engineer.
  - C. A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the City.
  - D. A water feasibility study shall include the following information:
    - (1) Calculations of the projected water needs.

- (2) A geologic map of the area, with a radius of at least one mile from the site.
  - (3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.
  - (4) The location of all existing on-lot sewage disposal systems within 1,000 feet of the site.
  - (5) The location of all streams within 1,000 feet of the site and all known point sources of pollution.
  - (6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.
  - (7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.
  - (8) A statement of the qualifications and the signature(s) of the person(s) preparing the study.
19. The applicant shall provide a qualified traffic analysis, as described in § 320 of this chapter.
  20. Within the RC Zone, a minimum one-hundred-foot-wide landscape strip shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this landscape strip.
  21. The applicant shall furnish expert testimony regarding emergency preparedness measures provided and/or otherwise available to respond to potential hazards regarding the spill of waste materials during transport to and from the site and potential hazards regarding fire-fighting of waste materials upon the site.
  22. No principal waste-disposal facility shall be located within one mile of another, as measured in a straight line between the closest property lines.

**§ 449. Recycling Stations for Paper, Plastic, Glass, and Metal Products.  
[Ord. 227, 12/18/2006]**

1. Within the LI and I Zones, recycling of paper, plastic, glass, and metal products is permitted by special exception, subject to the following criteria.
2. All operations, including collection, shall be conducted within a completely enclosed building.

3. There shall be no outdoor storage of materials processed, used or generated by the operation.
4. The applicant shall explain the scope of operation and offer expert testimony regarding the measures used to mitigate problems associated with noise, fumes, dust, and litter.
5. The applicant will be required to assure regular maintenance of the site to immediately collect stray debris.

**§ 450. Sawmills. [Ord. 227, 12/18/2006]**

1. Within the RC and I Zones, sawmills are permitted by conditional use, subject to the following requirements.
2. No material shall be deposited or stored, and no building or structure shall be located, within 200 feet of any property line and 500 feet of any land within an RC, RS, RU, RF, or MI Zone.
3. All uses shall provide sufficiently long stacking lanes into the facility so that vehicles waiting will not back up onto public roads.
4. Within the RC Zone, all access drives shall connect with an arterial or collector road and shall be paved for a distance of at least 100 feet from the street right-of-way line. In addition, if portions of on-site access drives are unpaved, then a one-hundred-fifty-foot-long gravel section of driveway shall be placed just beyond the preceding two-hundred-foot paved section, to help collect any mud that may have attached to a vehicle's wheels. The owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling to and from the site.
5. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the cleanup of litter shall be submitted.

**§ 451. Septage and Spent Mushroom Compost Processing and/or Commercial Mushroom Operations. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, septage and spent mushroom compost processing and/or commercial mushroom operations are permitted by conditional use, subject to the following criteria.
2. Any processing, loading, storage, and packaging operations must be conducted within a completely enclosed building that is leak- and vector-proof.
3. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable state and federal standards and regulations.

4. All uses shall provide sufficiently long stacking lanes into the facility so that vehicles waiting to be weighed or loaded/unloaded will not back up onto public roads.
5. All driveways onto the site must be paved for a distance of at least 100 feet from the street right-of-way line. In addition, a one-hundred-fifty-foot-long gravel section of driveway shall be placed just beyond the preceding one-hundred-foot paved section to help collect any mud that may have attached to a vehicle's wheels.
6. The unloading, processing and transfer of septage and spent mushroom compost shall be continuously supervised by a qualified facility operator, and such area shall be screened from all roads and adjoining properties.
7. Any leachate shall be disposed of in a manner in compliance with any applicable state and federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with the PA DEP regulations.
8. Water.
  - A. The applicant shall submit an analysis of raw water needs (groundwater or surface water), from either private or public sources, indicating the quantity of water required. If the source is from a municipal system, the applicant shall submit documentation that the public authority will supply the water needed.
  - B. In addition, a water feasibility study will be provided to enable the City to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility study shall be reviewed by the City and Authority engineers.
  - C. A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the Zoning Hearing Board.
  - D. A water feasibility study shall include the following information:
    - (1) Calculations of the projected water needs.
    - (2) A geologic map of the area, with a radius of at least one mile from the site.

- (3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.
  - (4) The location of all existing on-lot sewage disposal systems within 1,000 feet of the site.
  - (5) The location of all streams within 1,000 feet of the site and all known point sources of pollution.
  - (6) A determination of the long-term safe yield based on the geologic formation(s) underlying the site.
  - (7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.
  - (8) A statement of the qualifications and the signature(s) of the person(s) preparing the study.
9. A minimum one-hundred-foot-wide buffer strip shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this buffer strip. Any fences or other screening erected on the site must not be located within this buffer strip.
  10. The applicant shall provide an analysis of the physical conditions of the primary road system serving the proposed use. The analysis shall include information on the current traffic flows on this road system and projections of traffic generated by the proposed use. Improvements to the road shall be provided by the applicant to ensure safe turning movements to and from the site and safe through-movement on the existing road.
  11. Any structure used for the storage, loading, processing and/or packaging of spent mushroom compost shall be set back at least 300 feet from all property lines and 500 feet from any properties within the RC, RS, RU, RF, or MI Zone. In addition, any ventilation outlets must be oriented away from any land within said zones.

**§ 452. Shooting Ranges. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, shooting ranges are permitted by conditional use, subject to the following criteria.
2. Shooting range operations:
  - A. May not substantially injure or detract from the lawful existing or permitted use of neighboring properties.
  - B. May not substantially damage the health, safety or welfare of the City or its residents and property owners.

- C. Must comply with all applicable state and local laws, rules and regulations regarding the discharge of a firearm.
  - D. The storage of ammunition shall only occur in an approved secure vault.
  - E. Shall limit the number of shooters to the number of firing points or stations identified on the development plan.
  - F. Shall require all shooters to satisfactorily complete an orientation safety program given in accordance with the Pennsylvania Game Commission or show a valid hunting permit or gun permit before they are allowed to discharge firearms without supervision.
  - G. Shall prohibit the consumption of alcoholic beverages within the area approved as the shooting range.
  - H. Shall limit firing to the hours between one hour after official sunrise and one hour preceding official sunset, unless sufficient lighting is used, in which case all shooting shall cease by 11:00 p.m.
3. A development plan shall identify the safety fan for each firing range. The safety fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The safety fan configuration shall be based upon qualified expert testimony regarding the trajectory of the bullet and the design effectiveness of berms, overhead baffles, or other safety barriers to contain projectiles to the safety fan.
  4. The firing range, including the entire safety fan, shall be enclosed with a six-foot-high, non-climbable fence to prevent unauthorized entry into the area. Range caution signs with eight-inch-tall red letters on a white background shall be posted at a maximum of one-hundred-foot intervals around the range perimeter. Signs shall read "SHOOTING RANGE AREA, KEEP OUT!"
  5. Range flags shall be displayed during all shooting activities. Range flags shall be located in a manner visible from entrance drives, target areas, range floor, and the perimeter of the safety fan.
  6. All surfaces located within the safety fan, including the backstop, overhead baffles, berms, and range floor, shall be free of hardened surfaces, such as rocks or other ricochet-producing materials.
  7. All shooting range facilities, including buildings, parking, firing range, and safety fan, shall be set back a minimum of 100 feet from the property line and street right-of-way.
  8. The applicant shall present credible evidence that the sounds of shooting in the nearest residential zone do not exceed the ambient noise level.

9. Off-street parking facilities shall be provided with a ratio of 1 1/2 spaces per firing station, but not less than one space for each four seats.
10. No part of a shooting range property shall be located within one-quarter mile of any land within an RC, RS, RU, RF, or MI Zone.

**§ 453. Shopping Centers. [Ord. 227, 12/18/2006]**

1. Within the HC Zone, shopping centers are permitted by conditional use, subject to the following.
2. The subject property shall front on an arterial or collector road, and all access drives shall be set back at least 200 feet from the intersection of any street right-of-way lines.
3. Both public sewer and public water utilities shall be required.
4. The following tabulates required off-street parking and loading and interior landscaping standards for shopping centers:

Use	<b>Minimum Required Off-Street Parking Spaces Per 1,000 Square Feet of Gross Leasable Floor Area</b>	<b>Minimum Required Interior Landscaping as Described in § 312, Subsection 15B, of this Chapter</b>	<b>Minimum Required Off-Street Loading Spaces</b>
Shopping center, as defined herein, with up to 50,000 square feet of gross floor area	5	5%	1 per 25,000 square feet, or fraction thereof, of gross leasable floor area
Shopping center, as defined herein, with between 50,000 and 100,000 square feet of gross floor area	5	8%	3
Shopping center, as defined herein, with over 100,000 square feet of gross floor area	5	10%	4, plus 1 per 50,000 square feet, or fraction thereof, of gross leasable floor area over 100,000 square feet

5. In addition to vehicular access to the property, the applicant shall be required to design and construct pedestrian linkages with adjoining properties, even if they are not yet developed. Such pedestrian linkages shall be located so as to provide safe and convenient access to the shopping center from the nearby areas.
6. Any shopping center must provide an improved bus stop which would be conveniently accessible for patrons who would travel to and from the site by bus. Such bus stop must be provided even if current bus service is unavailable along the subject property. Such bus stop shall include a shelter, seating, a waste receptacle, and at least one shade tree.
7. A traffic impact report shall be submitted by the applicant, in accordance with § 320 of this chapter.
8. Signage shall be permitted in accordance with those regulations of § 315 pertaining to planned centers.
9. The proposed shopping center design shall comply with the applicable regulations contained within the following table.<sup>34</sup>

**§ 454. Slaughtering, Processing, Rendering, and Packaging of Food Products and Their By-Products. [Ord. 227, 12/18/2006]**

1. Within the I Zone, slaughtering, processing, rendering, and packaging of food products and their by-products are permitted as a conditional use, subject to the following criteria. **[Amended by Ord. 279, 1/21/2013]**
2. Minimum lot area: five acres.
3. The subject site shall have access to a collector or arterial road.
4. Public sewer and public water facilities shall be utilized.
5. All aspects of the slaughtering, processing, rendering, and packaging operation, excepting the unloading and holding of live animals, shall be conducted within a completely enclosed building.
6. All live animals held outside shall be within secure holding pens or runways, sufficiently large to accommodate all animals without crowding, and not located within the front yard.
7. The applicant shall furnish a working plan for animal containment and for the recovery of escaped animals which minimizes the potential for animals to enter traffic or cross property lines and which shall be continuously implemented.

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<sup>34</sup>**Editor's Note: The Shopping Center Design Requirements Table is included at the end of this chapter.**

8. All animal wastes shall be regularly cleaned up and properly disposed of so as not to be objectionable at the site's property line.
9. The unloading of live animals from trucks into holding pens and their movement into the plant shall be continuously supervised by a qualified operator, whose responsibility it shall also be to immediately identify and appropriately dispatch any obviously ill or injured animals.
10. The unloading of live animals and their movement into the plant shall be conducted in an orderly and calm manner so as to minimize noise levels.
11. The loading and unloading of trucks shall be restricted to the hours between 6:00 a.m. and 10:00 p.m.
12. No exterior animal holding pens and/or areas devoted to loading/unloading of animals shall be located within 200 feet of any property line nor 500 feet of any land within an RC, RS, RU, RF, or MI Zone.
13. All animal holding pens and/or areas used for the loading/unloading of animals shall be screened from all adjoining properties and shall include a minimum fifty-foot-wide landscape strip.
14. Sewer and water lines shall not meet within or beneath the plant and shall further be designed and installed to minimize the potential for leakage and contamination by maximizing the separation distance between lines and laying sewer lines at greater depth than water lines.
15. Where wastewater pretreatment is required by the EPA or local authority, wastewater shall be kept completely covered at all times to reduce the potential for release of odors. In no event shall wastewater be disposed of in a storm sewer, to the ground, or in any other manner inconsistent with PA DEP regulations.
16. Public water supplies shall be tested for water potability prior to approval, and annually thereafter, the results of which shall be regularly submitted to the USDA.
17. All unusable animal by-products shall be stored indoors in leak- and vector-proof containers. In the case of slaughtering or processing operations which do not do their own rendering, the applicant shall provide evidence of a written contract with a rendering operation for the daily disposal of such waste products. In no case shall any waste products remain on the site for more than 24 hours.
18. The applicant must demonstrate written compliance with, and continue to comply with, all applicable local, state and federal standards and regulations.
19. The use shall provide sufficiently long stacking lanes and on-site loading/unloading areas, so that trucks waiting to be loaded/unloaded will

- not back up onto public roads. No parking or loading/unloading shall be permitted on or along any public road.
20. 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 major collector or arterial roads.
  21. All access drives onto the site shall have a paved minimum thirty-five-foot-wide cartway for a distance of at least 100 feet from the street right-of-way. In addition, if portions of on-site access drives are unpaved, then a one-hundred-fifty-foot-long gravel section of driveway shall be placed just beyond the preceding two-hundred-foot paved section to help collect any mud that may have attached to a vehicle's wheels.
  22. The applicant shall furnish a traffic impact report prepared by a professional traffic engineer in accordance with § 320 of this chapter.

**§ 455. Truck or Motor Freight Terminals. [Ord. 227, 12/18/2006]**

1. Within the LI and I Zones, truck or motor freight terminals are permitted by conditional use, subject to the following criteria.
2. The applicant shall furnish a traffic impact report, prepared by a professional traffic engineer, in accordance with § 320 of this chapter.
3. The subject property shall have a minimum of 300 feet of road frontage along an arterial and/or collector road.
4. The subject property shall be located no closer than 500 feet from any RC, RS, RU, RF, or MI Zone and/or property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus.
5. All structures (including but not limited to air compressors, fuel pump islands, and kiosks) shall be set back at least 50 feet from any street right-of-way line. Unless the fuel pump islands are set back 200 feet from the street line, they shall be designed so that, when fueling, trucks must be parallel to the street.
6. Access driveways shall be a minimum of 28 feet and a maximum of 35 feet wide. All access drives onto the same road shall be set back at least 150 feet from one another, as measured from the closest points of cartway edges.
7. Off-street parking shall be provided at a rate equal to that required for each of the respective uses comprising the truck stop. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods.

8. All vehicle service and/or repair activities shall be conducted within a completely enclosed building. Outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations must be screened from adjoining roads and properties.
9. The outdoor storage of unlicensed and/or uninspected vehicles is prohibited.
10. The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof shall be removed within 30 days after arrival.
11. Any exterior public-address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the ambient noise levels of the use, as measured at each of the property lines.
12. The applicant shall furnish evidence that the storage and disposal of materials and wastes will be accomplished in a manner that complies with all applicable state and federal regulations.

**§ 456. Two-Family Conversions. [Ord. 227, 12/18/2006]**

1. Within the RU and RF Zones, a single-family detached dwelling may be converted into two dwelling units by special exception, subject to the following criteria.
2. The applicant shall furnish evidence that an approved system of water supply and sewage disposal will be utilized.
3. No modifications to the exterior of the building (except fire escapes) which would alter its residential character shall be permitted.
4. All units on floors above the first story and/or below grade shall have a permanently affixed direct means of escape to ground level and a hard-wired smoke alarm.
5. One off-street parking space shall be provided for the second dwelling unit.
6. Two-family conversions shall only be permitted within single-family detached dwellings that contained at least 3,000 square feet of habitable floor area on the effective date of this chapter.

**§ 457. Warehousing and Wholesale Trade Establishments. [Ord. 227, 12/18/2006]**

1. Within the LI and I Zones, warehousing and wholesale trade establishments are permitted by special exception, subject to the following criteria.

2. 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 types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.
  - B. The general scale of the operation, in terms of its market area, specific floor space requirements for each activity, the total number of employees on each shift, and an overall needed site size.
  - C. Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, 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 ordinances, including but not limited to those listed in § 318 of this chapter.
  - D. A traffic impact report prepared in accordance with § 320 of this chapter.
3. The subject property shall be located no closer than 500 feet from any RC, RS, RU, RF, or MI Zone and/or property containing a school, day-care facility, park, playground, library, hospital, nursing, rest or retirement home, or medical residential campus.
4. All structures (including but not limited to air compressors, fuel pump islands, and kiosks) shall be set back at least 50 feet from any street right-of-way.
5. Access driveways shall be a minimum of 28 feet and a maximum of 35 feet wide. All access drives onto the same road shall be set back at least 150 feet from one another, as measured from the closest points of cartway edges.
6. Any gates or other barriers used at the entrance to parking areas shall be set back and arranged to prevent vehicle backups onto adjoining roads during peak arrival periods.
7. All vehicle service and/or repair activities shall be conducted within a completely enclosed building. No outdoor storage of parts, equipment, lubricants, fuels, or other materials used or discarded in any service or repair operations shall be permitted.
8. The outdoor storage of unlicensed and/or uninspected vehicles is prohibited.

9. The demolition or junking of vehicles and machinery is prohibited. Demolished vehicles and/or parts thereof shall be removed within 30 days after arrival.
10. The applicant shall designate and reserve sufficient space on the site to accommodate staged or queued vehicles awaiting loading/unloading at a rate of no less than 5% of the projected maximum number of trips per day.

**§ 458. Wind Farms. [Ord. 227, 12/18/2006]**

1. Within the RC Zone, wind farms (as defined herein) are permitted by special exception, subject to the following criteria.
2. The applicant shall prepare and submit a narrative and mapping describing the proposed wind farm, including:
  - A. An overview of the project.
  - B. The project location.
  - C. The approximate generating capacity of the wind farm.
  - D. 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.
  - E. A description of accessory facilities.
  - F. An affidavit or similar evidence of agreement between the property owner(s) and the applicant demonstrating that the applicant has the permission of the property owner(s) to apply for necessary permits for construction and operation of the wind farm.
  - G. A listing and map of the properties on which the proposed wind farm will be located and the properties adjacent to where the wind farm will be located.
  - H. 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 farm 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.
3. The applicant shall demonstrate with credible expert evidence that:
  - A. To the extent applicable, the wind farm shall comply with the Pennsylvania Uniform Construction Code, 34 Pa. Code §§ 403.1 — 403.142.

- B. The design of the wind farm shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- C. Each of the proposed wind turbines 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. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- D. All electrical components of the wind farm shall conform to relevant and applicable local, state and national codes and relevant and applicable international standards.
- E. Wind turbines shall be a non-obtrusive color such as white, off-white, gray or some color similar to the background of the proposed wind turbine.
- F. Wind turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- G. Wind turbines shall not display advertising, other than an incidental insignia of the turbine manufacturer.
- H. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- I. A clearly visible warning sign concerning voltage must be placed at the base of all at-grade transformers and substations.
- J. Visible, reflective, colored objects, such as flags, reflectors, or tape, shall be placed on the anchor points of each guy wire and along each guy wire up to a height of 10 feet from the ground. The applicant shall also submit a working plan for the regular inspection of such guy wires and replacement of any needed flags, reflectors, or tape.
- K. Wind turbines shall be designed and constructed to be non-climbable up to 15 feet above the ground surface.
- L. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- M. Wind turbines shall be set back from the nearest principal building of a property owner who has agreed to locate the proposed wind farm

upon his/her property a distance of not less than 50 feet or 1.1 times the wind turbine height, whichever is greater. The setback distance shall be measured from the closest point of the wind turbine base to the nearest point of the principal building.

- N. Wind turbines shall be set back from the adjoining property line of a property owner who has not agreed to locate the proposed wind farm upon his/her property a distance of not less than 50 feet or 1.1 times the wind turbine height, whichever is greater. The setback distance shall be measured from the closest point of the wind turbine base to the nearest point of the adjoining property line.
  - O. Wind turbines shall be set back from the right-of-way of any street a distance of not less than 50 feet or 1.1 times the wind turbine height, whichever is greater. The setback distance shall be measured from the closest point of the wind turbine base to the nearest point of the street right-of-way.
- 4. The applicant shall be responsible for the prompt repair and maintenance of all roads used to transport equipment and parts for construction, operation or maintenance of the wind farm. The applicant shall prepare an engineering report that documents road conditions prior to construction and again within 30 days after construction is complete or as weather permits. Such reports shall be reviewed by the City Engineer; any discrepancies shall be mediated by a third engineer selected by mutual acceptance by the applicant's and the City's engineers. The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads, and the City may bond the road in compliance with state regulations.
  - 5. The applicant shall provide a copy of the project summary and site plan, as required in this § 458, to the City Emergency Management Coordinator. The applicant shall prepare and coordinate the implementation of an emergency response plan for the wind farm acceptable to the City Emergency Management Coordinator prior to the issuance of a zoning permit for the proposed use.
  - 6. Audible sound from a wind farm shall not exceed 55 dBA, as measured at the following minimum distances. Methods for measuring and reporting acoustic emissions from the wind farm shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 — 1989, titled "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems, Volume I: First Tier."
    - A. A distance of not less than 50 feet or 1.1 times the wind turbine height, whichever is greater, from the nearest principal building of a property owner who has agreed to locate the proposed wind farm upon his/her property.

- B. A distance of not less than 50 feet or 1.1 times the wind turbine height, whichever is greater, from the adjoining property line of property owner who has not agreed to locate the proposed wind farm upon his/her property.
  - C. A distance of not less than 50 feet or 1.1 times the wind turbine height, whichever is greater, from the right-of-way of any street.
- 7. The applicant shall make reasonable efforts to minimize shadow flicker and to avoid any disruption or loss of radio, telephone, television or similar signals. The applicant shall mitigate any such harm caused by the wind farm on any adjoining property whose owner has not agreed to locate the proposed wind farm upon his/her property.
  - 8. The applicant shall maintain a current general liability policy covering bodily injury and property damage, with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates of insurance coverage shall be made available to the City each year that the wind farm operates.
  - 9. The applicant shall be responsible for the decommissioning of the wind farm in accordance with the following requirements:
    - A. The applicant shall, at his/her expense, complete decommissioning of the wind farm, or individual wind turbines, within 12 months after the end of the useful life of the wind farm or individual wind turbines. The wind farm or individual wind turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months.
    - B. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
    - C. Disturbed earth shall be graded and reseeded, 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 City after the first year of operation and every fifth year thereafter.
    - E. The applicant shall post and maintain decommissioning funds in an amount equal to the net decommissioning costs, provided that at no point shall decommissioning funds be less than 25% 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 City.

- F. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guaranty or other form of financial assurance as may be acceptable to the City.
- G. If the applicant fails to complete decommissioning within the period prescribed by § 458, Subsection 9A, of this chapter, then the landowner shall have six months to complete decommissioning.
- H. If neither the applicant nor the landowner complete decommissioning within the periods prescribed by §§ 458, Subsection 9A and G, of this chapter, then the City may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the City in accordance with § 458, Subsection 2F, of this chapter shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the City may take such action as necessary to implement the decommissioning plan.
- I. The escrow agent shall release the decommissioning funds when the applicant has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed or upon written approval of the municipality in order to implement the decommissioning plan.

**§ 459. Oil and Gas Operations. [Added by Ord. 269, 11/7/2011; amended by Ord. 275, 7/2/2012]**

- 459.1. Qualified Oil and Gas Operations. Where an oil and gas operation is allowed as a permitted use under the provisions of this Chapter, the oil and gas operation must meet the following criteria:
- A. Well and pipeline location assessment operations, including seismic operations and related activities, must be conducted in accordance with all applicable federal and state laws and regulations relating to the storage and use of explosives.
  - B. Construction activities related to the oil and gas operations must be consistent with the conditions, requirements or limitations imposed on construction activities for other industrial uses permitted under this Chapter.

- C. Conditions, requirements or limitations on the heights of structures, screening and fencing, lighting or noise abatement for permanent oil and gas operations shall be consistent with the conditions, requirements or limitations imposed on other land development within the particular zoning district where the oil and gas operations are situated.
- D. In a residential zoning district, any wellhead must be at least 500 feet from any existing building.
- E. In any residential zoning district:
- (1) A well site may not be located so that the outer edge of the well pad is closer than 300 feet from an existing building;
  - (2) Except for the use and repair of oil and gas pipe lines, water pipe lines, access roads or security facilities, the oil and gas operations shall not take place within 300 feet of an existing building.
  - (3) The edge of any impoundment area shall not be located closer than 300 feet from an existing building.
  - (4) Any natural gas compressor station located in a Rural Conservation Zone or Industrial Zone shall meet the following standards:
    - (a) The natural gas compressor building shall be located not less than 750 feet from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and
    - (b) The noise emanating from the natural gas compressor building shall not exceed a noise standard of 60 dbA at the nearest property line or the applicable standard imposed by federal law, whichever is less.
- F. Where authorized as a permitted use, a natural gas processing plant shall meet the following requirements:
- (1) The natural gas processing plant building must be located not less than 750 feet from the nearest existing building and not less than 200 feet from the nearest lot line, unless waived by the owner of the building or adjoining lot; and
  - (2) The noise level of the natural gas processing plant building shall not exceed a noise standard of 60 dbA at the nearest property line or the applicable standard imposed by federal law, whichever is less.

- G. The oil and gas operations shall meet all of the setback requirements set forth in Chapter 32 of Act 13.<sup>35</sup>

459.2. Conditional Uses. Where an oil and gas operation is not qualified to be a permitted use but is allowed as a conditional use, the oil and gas operation must meet the following requirements:

- A. In the case of an impoundment area, the edge thereof shall not be located closer than 300 feet from an existing building.
- B. In the case of a natural gas compressor station, the compressor building meets the following standards:
- (1) The building is located 750 feet or more from the nearest existing building or 200 feet from the nearest lot line, whichever is greater, unless waived by the owner of the building or adjoining lot; and
  - (2) The noise level does not exceed a noise standard of 60 dbA at the nearest property line or the applicable standard imposed by Federal law, whichever is less.
- C. In the case of a natural gas processing plant, the following requirements are met:
- (1) The natural gas processing plant building is located at the greater of at least 750 feet from the nearest existing building or at least 200 feet from the nearest lot line unless waived by the owner of the building or adjoining lot.
  - (2) The noise level of the natural gas processing plant building does not exceed a noise standard of 60 dbA at the nearest property line or the applicable standard imposed by Federal law, whichever is less.

459.3. Prohibited Uses. Notwithstanding any other provision of this Chapter, no natural gas processing plant shall be allowed in any Residential Suburban (RS), Residential Flexible (RF), Residential Urban (RU), Highway Commercial (HC) or Medical Institutional (MI) Zoning District.

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<sup>35</sup>Editor's Note: See 58 Pa.C.S.A. § 3201 et seq.



**PART 5**  
**NONCONFORMITIES**

**§ 500. Continuation. [Ord. 227, 12/18/2006]**

Except as otherwise provided in this Part, any use, building or structure lawfully existing at the time of enactment of this chapter may be continued, although it is not in conformity with the regulations specified by this chapter.

**§ 501. Abandonment. [Ord. 227, 12/18/2006]**

If a nonconforming use of land or building or structure ceases or is discontinued for a period of two years or more, presumption of abandonment shall arise, and, unless the presumption is rebutted, resumption of the use of such building, structure or land shall be in conformity with the provisions of this chapter.

**§ 502. Extension of a Nonconforming Use of Land. [Ord. 227, 12/18/2006]**

Any lawful, nonconforming use of land, exclusive of buildings and structures, and the use contained therein, may be extended upon the lot on which it exists, provided that such extension shall be limited to a distance of a total of 100 feet in any one or a combination of directions from the existing nonconforming use or to an area equal to 50% of the existing nonconforming use, whichever is the lesser. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence at the time the use became nonconforming. Such extension shall also conform to area and lot regulations and to the design standards of this chapter.

**§ 503. Expansion or Alteration. [Ord. 227, 12/18/2006]**

1. Any nonconforming use may be expanded or altered and, any nonconforming setback may be laterally extended, by special exception, and subject to the following criteria, and those contained in § 604, Subsection 3: **[Amended by Ord. 279, 1/21/2013]**
  - A. Expansion of the nonconformity shall be confined to the lot on which it was located at the time the use became nonconforming.
  - B. The total of all such expansions or alterations of use shall not exceed an additional 50% of the actual area of those buildings, structures or land devoted to the nonconforming use, as they existed on the date on which such buildings, structures or land first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created. The above maximum increase shall be measured in aggregate over the entire life of the nonconformity. All expansions of the nonconforming use and/or building(s) that occurred since the use originally became nonconforming shall count toward the above maximum increase.

- C. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this chapter.
  - D. Provision for yards, building height and building area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located.
  - E. Appearance should be harmonious with surrounding properties; this feature includes but is not limited to landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control, and maintenance of all improvements and open spaces.
  - F. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings, and open spaces.
  - G. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.
  - H. No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this chapter shall be permitted in any floodplain.
  - I. Excluding expansion, any modification, alteration, repair, reconstruction, or improvement of any kind to a nonconforming use or structure located in a floodplain shall be permitted when either elevated above the base flood elevation or floodproofed. In no case shall any modification, alteration, repair, reconstruction or improvement cause unacceptable increases in flood height, velocities or frequencies.
2. Any dimensional nonconformity may be reduced as a permitted use, even if the reduction does not entirely eliminate the dimensional nonconformity. Furthermore, any structure that has one or more nonconforming setbacks may be extended along the same nonconforming setback(s) line up to a maximum of 50% or 100 feet, whichever is less, of the area of the building that follows the setback when it was originally made nonconforming. The diagram below illustrates this regulation. Nothing within this section shall be interpreted to allow an increase in any dimensional nonconformity.

**§ 504. Substitution or Replacement. [Ord. 227, 12/18/2006]**

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception if the Zoning Hearing Board determines that the proposed use is at least as equally compatible with, and not detrimental to, the surrounding area as the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities. The Zoning Hearing Board may attach reasonable conditions to the special exception to keep the use compatible within its surroundings.

**§ 505. Restoration. [Ord. 227, 12/18/2006]**

Any lawful, nonconforming building or other structure which has been damaged or destroyed by fire, explosion, windstorm, or other cause may be reconstructed in the same location, provided that:

- A. The reconstructed building or structure shall not exceed the height, area or volume of the damaged or destroyed building or structure, and such reconstructed building or structure shall not increase any dimensional nonconformities.
- B. Reconstruction shall begin within one year from the date of damage or destruction and shall be carried on without interruption.

**§ 506. Previously Expanded Nonconforming Uses and Structures. [Ord. 227, 12/18/2006]**

It is the express intent and purpose of this chapter that, if a building, structure, sign, or use of land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said building, structure, sign, or land shall be authorized. In the event that a nonconforming building, structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion, if permitted by this chapter, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

**§ 507. Nonconforming Lots of Record. [Ord. 227, 12/18/2006]**

In any zone in which single-family detached dwellings are permitted, a single-family detached dwelling and accessory uses may be erected on any lot of record held in single and separate ownership on the effective date of this chapter, or amendment which rendered such lot nonconforming, and which has continued to be held in single and separate ownership. An undeveloped remainder of an agriculturally zoned parent tract from which all legally permitted lots have been subdivided shall not be considered a lot of record qualifying for an additional dwelling. Development on nonconforming lots of record shall comply with all yard, height and building area requirements, unless a variance is granted by the Zoning Hearing Board.

**PART 6**  
**ZONING HEARING BOARD**

**§ 600. Establishment and Membership. [Ord. 227, 12/18/2006]**

When used hereafter in this Part, the word "Board" shall mean the Zoning Hearing Board.

- A. There shall be a Zoning Hearing Board which shall consist of five members, who shall be appointed by resolution by the City Council. The membership of the Board shall consist of residents of the City. Their terms of office shall be five years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the City Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the City.
- B. Any member of the Board may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by a majority vote of the City Council taken after the member has received 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.
- C. The City Council may appoint, by resolution, at least one, but no more than three, residents of the City to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of § 601, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, 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 chapter and as otherwise provided by law. Alternates shall hold no other office in the City, including Zoning Officer and membership on the Planning Commission. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to § 602 unless designated as a voting alternate member pursuant to § 601 of this chapter.

**§ 601. Organization of Board. [Ord. 227, 12/18/2006; amended by Ord. 279, 1/21/2013]**

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all of the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board, as provided in § 603. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Board

shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation, according to declining seniority among all alternates. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the City and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the City, and shall submit a report of its activities to the City Council upon request.

**§ 602. Expenditures for Services. [Ord. 227, 12/18/2006]**

Within the limits of funds appropriated by the City Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the City Council. Alternate members of the Board may receive compensation, as may be fixed by the City Council, for the performance of their duties when designated as alternate members pursuant to § 601, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the City Council.

**§ 603. Hearings. [Ord. 227, 12/18/2006]**

1. The Board shall conduct hearings and make decisions in accordance with the following requirements:
  - A. Public notice shall be provided once each week for two successive weeks in a newspaper of general circulation in the City. The first publication shall be not more than 30 days, and the second publication shall be not less than seven days, from the date of the hearing. In addition, the Zoning Hearing Board shall provide written notice to the Zoning Officer, the City Secretary, each member of the City Council, the Secretary of the City Planning Commission, the applicant, and every other person or organization who shall have registered with the Zoning Hearing Board for the purposes of receiving such notices. Such written notice 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. No person shall remove or tamper with any notice posted under this subsection. **[Amended by Ord. 279, 1/21/2013]**
  - B. The City Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary

administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.



- C. The first hearing before the Zoning Hearing Board or its hearing officer shall be commenced within 60 days from the date of the 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 its hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to be the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon request of the applicant, the Board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided that the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application, provided that the applicant is granted an equal number of additional hearings for rebuttal.
2. The hearings shall be conducted by the Board, or the Board may appoint any member or an independent attorney as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the City, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
  3. The parties to the hearing shall be the City, any person affected by the application who has made timely appearance of record before the Board, and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
  4. The Chairman or Acting Chairman of the Board, or the hearing officer presiding, shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
  5. 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.
  6. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

7. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board, if the transcript is ordered by the Board or hearing officer; or shall be paid by the person appealing the decision of the Board, if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.
8. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the 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.
9. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Act or of this chapter, 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. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for substantive challenges to the validity of the Zoning Ordinance filed under Section 916.1 of the Act where the Board fails to render the decision within the period required by this subsection or fails to commence, conduct, or complete the required hearing as provided in § 603, Subsection 1C, of this chapter, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed, in writing or on the record, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision, in the same manner as provided in § 603, Subsection 1, of this chapter. If the 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 the decision to a court of competent jurisdiction.

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

**§ 604. Board's Functions. [Ord. 227, 12/18/2006]**

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 City Council pursuant to § 703, Subsection 5, of this chapter.
  - (1) If a challenge heard by the 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 Official Zoning Map.
    - (c) The suitability of the site for the intensity of use proposed, considering the site's soils, slopes, woodlands, 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 natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.

- (e) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
  - (2) Public notice of the hearing shall be provided as specified in § 703, Subsection 2A, of this chapter.
  - (3) The Zoning Hearing Board shall commence its hearings within 60 days after the request is filed, unless the landowner requests or consents to an extension of time.
  - (4) The Zoning Hearing Board shall render its decision within 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 30 days after the effective date of the ordinance.
- C. Special exceptions, as provided for in this chapter and subject to all applicable requirements, including but not limited to:
- (1) Filing requirements. In addition to the required building permit information (see § 701), each special exception application shall include the following:
    - (a) Ground-floor plans and elevations of 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 chapter.
    - (d) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this chapter.
  - (2) General criteria. Each applicant must demonstrate, by credible evidence, compliance with the following:
    - (a) The proposed use shall be consistent with the purpose and intent of this chapter.
    - (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, parks, solid waste disposal, vehicular access, etc.).
  - (e) The proposed use shall comply with those criteria specifically attached to it. In addition, the proposed use must comply with all other applicable regulations contained in this chapter.
  - (f) The traffic generated by the proposed use shall be safely and adequately accommodated during peak and non-peak periods, or improvements made by the applicant shall be made in order to effect the same.
  - (g) The proposed use shall be in and of itself properly designed with regard to internal circulation, parking, buffering, screening, and all other elements of proper design, as required by this chapter and any other federal, state or local ordinance, law or regulation.
  - (h) The proposed use will not have a deleterious impact on adjoining properties or the neighborhood due to impacts and/or by-products of the proposed use, such as noise, dust, odor, smoke, litter, glare, heat, radiation, electromagnetic interference, etc.
  - (i) The proposed use will not substantially impair the integrity of the Comprehensive Plan.
  - (j) For development within the Floodplain Zone, the application shall comply with those requirements listed in § 230 of this chapter. **[Amended by Ord. 279, 1/21/2013]**
- (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 zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this chapter and be subject to the penalties described in Part 7.
- (4) Site plan approval. Any site plan presented in support of the special exception pursuant to § 604C(1) 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 building permit. Any subsequent change made, after the issuance of a building permit, to the proposed use of the subject property which is not reflected on the approved site plan may, at the discretion of the Zoning Officer, require the obtainment of another special exception approval.

- D. Variances. The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application to the Zoning Officer, which shall at least include the following:
- (1) Filing requirements. In addition to the required building permit information (see § 701), each variance shall include the following:
    - (a) The names and addresses of adjoining property owners, including properties directly across a public right-of-way.
    - (b) A scaled drawing (site plan) with sufficient detail and accuracy so as to present the nature of the request and the unique site conditions that create hardship to strict compliance with this chapter.
    - (c) A written description of the requested variance, along with a description of the hardship that is being alleged, and all reasons why the variance should be granted.
  - (2) General criteria. The Board may grant a variance, provided that all of the following findings are made, where relevant in a given case:
    - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or zone in which the property is located.
    - (b) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable reasonable use of the property.
    - (c) That such unnecessary hardship has not been created by the appellant.

- (d) That the variance, if authorized, will not alter the essential character of the zone 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.
  - (e) 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.
  - (f) That variances within the Floodplain Zone shall comply with § 230, Subsection 11, of this chapter.
  - (g) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this chapter and be subject to the penalties described in Part 7.
- 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 therefor, the issuance of any cease-and-desist order, or the registration or refusal to register any nonconforming use, structure or lot.
  - F. Appeals from a determination by the City Engineer or the Zoning Officer with reference to the administration of any provisions contained within the Floodplain Zone.
  - G. Appeals from the Zoning Officer's determination under § 916.2 (and any subsequent amendments) of the Act.
  - H. Appeals from the determination of the Zoning Officer or City Engineer in the administration of any land use ordinance with reference to sedimentation and erosion control and/or stormwater management for applications not involving a subdivision/land development nor a planned residential development, as regulated in Parts V and VII of the Act, respectively.

**§ 605. Parties Appellant Before the Board. [Ord. 227, 12/18/2006]**

Appeals under §§ 604E, F, G, and H and proceedings to challenge this chapter under §§ 604A and B may be filed with the Board, in writing, by the landowner affected, any officer or agency of the City, or any person aggrieved. Requests for a variance under § 604D and for special exception under § 604C may be filed with the 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. If the landowner is not the appellant or applicant, the landowner's written permission shall be attached to the appeal.
- 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.
- E. A statement of the section of this chapter under which the request may be allowed and reasons why it should or should not be granted.

**§ 606. Time Limitations. [Ord. 227, 12/18/2006]**

1. If a variance or special exception is granted, or the issuance of a permit is approved, or other action authorized, the necessary permit shall be secured and the authorized action begun within two 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 authorized, and the building or alteration, as the case may be, shall be completed within four years of said date. For good cause, the Board may, upon application, in writing, stating the reasons therefor, extend either the two-year or four-year period.
2. Should the applicant fail to obtain the necessary permits within said two-year period or, having obtained the permit, should he fail to commence work thereunder within such two-year period, it shall be conclusively presumed that the 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 Board.
3. Should the applicant commence construction or alteration within said two-year period but should he fail to complete such construction or alteration within said three-year period, the Board may, upon 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.
4. No person shall be allowed to file any proceeding with the Board later than 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.
5. The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this chapter or

the Official Zoning Map pursuant to Section 916.2 of the Act, 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.

**§ 607. Stay of Proceedings. [Ord. 227, 12/18/2006]**

1. Upon filing of any proceeding referred to in § 605, and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer, or of any agency or body, and all official action thereunder shall be stayed, unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.
2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court. 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.
3. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order 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's fees incurred by the petitioner.

**§ 608. Appeals. [Ord. 227, 12/18/2006]**

Any person, taxpayer or the City aggrieved by any decision of the Board may, within 30 days after such decision of the 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 Article X-A of the Act, as amended.

**PART 7**  
**ADMINISTRATION**

**§ 700. Administration and Enforcement. [Ord. 227, 12/18/2006]**

1. Administration.
  - A. Zoning Officer. The provisions of this chapter shall be enforced by an agent, to be appointed by the City Council, who shall be known as the "Zoning Officer." The Zoning Officer shall receive such fees or compensation as the City Council may provide. The Zoning Officer shall not hold any elective office within the City. The City Council may, by resolution, designate an employee or employees of the City as Deputy Zoning Officers. The Deputy Zoning Officers shall exercise all the powers of the Zoning Officer during the Zoning Officer's temporary absence or disability, for time periods designated in writing by the Zoning Officer and delivered to the Deputy and to the Chair of the City Council at the City Office. In the event that the Zoning Officer is unable to give such written notice, the City Council may direct, in writing, a Deputy to act as Zoning Officer.
  - B. Duties. The Zoning Officer shall have the power and authority to perform all of the following functions:
    - (1) To receive, examine and process all applications and permits, as provided by the terms of this chapter. The Zoning Officer shall also issue building permits for special exception and conditional uses or for variances after the same have been approved.
    - (2) To record and file all applications for building permits or certificates of use and occupancy, and accompanying plans and documents, and keep them for public record. All information on all applications filed with the Zoning Officer shall be deemed to have been provided by the applicant.
    - (3) To inspect properties to determine compliance with all provisions of this chapter as well as conditions attached to the approval of variances, special exceptions, conditional uses, and curative amendments.
    - (4) To inspect nonconforming uses, structures and lots and to keep a filed record of such nonconforming uses and structures, together with the reasons why the Zoning Officer identified them as nonconformities, as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations.

- (5) Upon the request of the City Council, to present to such body facts, records and any similar information on specific requests to assist such body in reaching its decisions.
- (6) To be responsible for keeping this chapter and the Official Zoning Map up-to-date, including any amendments thereto.
- (7) Upon the approval by the Zoning Hearing Board of a special exception or upon the approval of a conditional use by the City Council for development located within the Floodplain Zone, written notice of the approval shall be sent by registered mail from the Zoning Officer to the Pennsylvania Department of Community and Economic Development.
- (8) To remain eligible for the National Flood Insurance Program, the Zoning Officer, as the Floodplain Administrator, shall submit a biannual report to the Federal Insurance Administration concerning the status of the program in the City (the report form shall be provided by the Federal Insurance Administration). **[Amended by Ord. 268, 11/7/2011]**
- (9) To render a preliminary opinion regarding a proposed land use in accordance with Section 916.2, of the Act.
- (10) To investigate alleged violations of this chapter. If a signed written complaint is received, said investigation shall be completed within 30 days of receipt of said complaint. A written report of all investigations of alleged violations of this chapter shall be prepared and properly filed, and a copy shall be sent to the City Council. If, after investigation, the Zoning Officer determines that a violation has occurred, he shall take action as provided in this chapter.
- (11) To revoke a permit or approval issued under the provisions of this chapter 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 chapter or otherwise permitted by law.
- (12) To issue stop-work orders when the Zoning Officer determines that a violation of this chapter exists or that construction is being commenced in a manner not authorized by a permit or in a manner violating any approvals issued under this chapter. This Zoning Officer may issue stop-work orders orally or in writing. If the Zoning Officer issues an oral stop-work order, the Zoning Officer shall subsequently confirm such oral stop-work order with a written notice within five business days.

2. **Enforcement.** This chapter shall be enforced by the Zoning Officer of the City. No building permit or certificate of use and occupancy shall be granted by him/her for any purpose except in compliance with the literal provisions of this chapter. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment.
3. **Violations.**
  - A. Failure to secure a building permit prior to a change in use of land or structure or the erection, construction or alteration of any structure or portion thereof shall be a violation of this chapter. It shall also be a violation of this chapter to undertake other deliberate actions which are contrary to the terms of this chapter and any conditions placed upon the approval of special exceptions, variances, and conditional uses. Each day that a violation is continued shall constitute a separate offense.
  - B. If it appears to the Zoning Officer that a violation of this chapter enacted under the Act or prior enabling laws has occurred, he/she shall initiate enforcement proceedings by sending an enforcement notice, as provided in the following:
    - (1) 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.
    - (2) An enforcement notice shall state at least the following:
      - (a) The name of the owner of record and any other person against whom the City intends to take action.
      - (b) The location of the property in violation.
      - (c) The specific violation, with a description of the requirements which have not been met, citing, in each instance, the applicable provisions of the chapter.
      - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
      - (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within 30 days.
      - (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning

Hearing Board, constitutes a violation, with possible sanctions clearly described.

4. Enforcement remedies. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter enacted under the Act or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by the City, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney's fees incurred by the City 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 City may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice, determining that there has been a violation, further determines that there was a good-faith basis for the person, partnership or corporation violating the chapter 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 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's fees collected for the violation of this chapter shall be paid over to the City.
5. Causes of action. In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, repaired, converted, maintained, or used in violation of this chapter enacted under the Act or prior enabling laws, the governing body or, with the approval of the governing body, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or 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. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

**§ 701. Permits. [Ord. 227, 12/18/2006]**

1. General requirements for building permits.
  - A. Building permit required.
    - (1) A building permit shall be required prior to:
      - (a) A change in use of land or structure.

- (b) The erection or construction of a structure or portion thereof, excluding fences for gardens, swimming pools, tennis courts, and athletic fields and temporary signs conforming to the requirements of this Chapter. **[Amended by Ord. 279, 1/21/2013]**
  - (c) The improvement or alteration of any existing structure where such improvement or portion thereof increases the amount of space which the structure encloses.
  - (d) The demolition or removal of any structure.
  - (e) The alteration or development of any improved or unimproved real estate, including but not limited to mining, dredging, filling, grading, paving, excavation, or drilling operations.
  - (f) The erection or alteration of any signs specified in § 315 of this chapter as requiring a building permit.
  - (g) The construction or installation of animal waste impoundments, lakes, ponds, dams, or other water-retention basins.
- (2) No building permit shall be required for repairs or maintenance of any structure or land, provided that such repairs do not change the use or the exterior dimensions of the structure or otherwise violate the provisions of this chapter.
- B. Application for building permits shall be made in writing to the Zoning Officer on a form specified for such purpose.
  - C. Application for a 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 an agent of the owner or lessee, the application shall note that the agent is acting on behalf of the owner or lessee. The full names and addresses of the owner, lessee, agent, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
  - D. Application for a permit shall be accompanied by a fee as prescribed by the City Council pursuant to resolution. No application shall be considered complete nor permit issued without payment of the required fee. The payment of fees under this section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this chapter or by another ordinance or law.
  - E. Such building permits shall be granted or refused within 90 days from the date of submission of evidence of compliance with all applicable local, county, state and federal requirements. For permits involving oil

and gas operations, the permit shall be granted or refused within 30 days from the date of submission of a complete application for the permit. **[Amended by Ord. 275, 7/2/2012]**

- F. No building permit shall be issued except in conformity with the regulations of this chapter, except after written order from the Zoning Hearing Board or the courts.
- G. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all the requirements of this chapter, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the building permit will be denied.
- H. The Zoning Officer may call upon other City staff and/or City-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 chapter 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 chapter.
- J. Issuance of permits.
  - (1) Upon receipt of the application, the Zoning Officer shall examine the application and supporting information to determine compliance with this chapter and other applicable City and County ordinances, statutes and regulations. The Zoning Officer shall determine if any applicable conditional use or special exception approvals have been obtained, if state sanitation inspection requirements have been met, and, in the case of public buildings, the required permits have been issued by the Department of Labor and Industry. No building permit shall be issued unless the applicant presents the Zoning Officer with proof that any applicable subdivision and/or land development approval has been granted, a sewage permit has been issued by the City Sewage Enforcement Officer for the lot, a highway occupancy permit from the Department of Transportation has been issued, if applicable, in order that access may be gained to the lot, and all other required City and Authority approvals and permits have been granted or issued. In addition, no building permit shall be issued for any property with an existing zoning violation.
  - (2) No building permit shall be issued for any activity that is required to have an improvement guaranty until an

improvement guaranty is accepted by resolution of the City Council. The definitions, requirements and procedures of the



improvement guaranty shall be in compliance with the prevailing Subdivision and Land Development Ordinance.<sup>45</sup>

- (3) The Zoning Officer shall mark the application as either approved or disapproved and shall return one copy of the application to the applicant. The other copy shall be retained by the Zoning Officer for the City files. If disapproved, the Zoning Officer shall attach a statement to the application explaining the reasons for such disapproval and informing the applicant of his right to appeal to the Zoning Hearing Board.
- K. 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 that all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met.
- L. Expiration of permit. The permit shall expire after one year from the date of issuance; provided, however, that the same may be extended every six months, for a period not to exceed an additional one year, upon good cause shown to the Zoning Officer by written application.
- M. Compliance with this chapter. 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 of this chapter, except as stipulated by the Zoning Hearing Board or, where applicable under this chapter, where the City Council so stipulates.
- N. 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.
- O. Display of building permit. All approved building 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 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 occupancy.
- P. Temporary use permits. It is recognized that it may be in accordance with the purpose of this chapter to permit temporary activities for a limited period of time under a condition of emergency, which activities may be prohibited by other provisions of this chapter.
  - (1) The Zoning Officer shall issue a temporary use permit when the use:

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<sup>45</sup>Editor's Note: See Ch. 22, Subdivision and Land Development.

- (a) In no way exerts a detrimental effect upon the uses of land and activities normally permitted in the zone; or
  - (b) Contributes materially to the welfare of the City, particularly in a state of emergency, under conditions peculiar to the time and place involved.
- (2) The permit shall be issued for a period not to exceed six months. Such permits may be extended not more than once for an additional period of six months.

2. Filing requirements.

- A. Applications shall contain a general description of the proposed work, development, use or occupancy of all parts of the structure or land and shall be accompanied by plans, in duplicate, drawn to scale and showing the following:
- (1) Actual dimensions, shape and acreage of the lot to be developed.
  - (2) Exact location and dimensions of any structures to be erected, constructed and altered, or use to be established.
  - (3) Other existing structures and uses, including the number of occupied units, businesses, etc., all structures are designed to accommodate.
  - (4) Current land use, general topographic features, general type and extent of existing vegetation, and any site development limitations.
  - (5) Off-street parking and loading spaces.
  - (6) Utility systems affected and proposed, including locations of any primary and alternate on-lot sewage disposal systems and required isolation distances imposed thereupon.
  - (7) Other proposed alteration of any improved or unimproved real estate.
  - (8) Copies of any applicable subdivision/land development plan.
  - (9) Letters of credit.
  - (10) Improvement guaranties.
  - (11) Highway occupancy permit.
  - (12) Pennsylvania Department of Labor and Industry permit.

- (13) Sewage permits.
  - (14) Driveway permits.
  - (15) Letter from the Authority for valid connection permits.
  - (16) Workers' compensation certificates.
  - (17) Stormwater management plans in accordance with applicable City ordinances.
  - (18) Any other information that may be required by the Zoning Officer to determine compliance with this chapter.
- B. If the proposed development, excavation or construction is located within the Floodplain Zone, the following information is specifically required to accompany all applications:
- (1) The accurate location of the floodplain, floodway, and base flood elevations. **[Amended by Ord. 268, 11/7/2011]**
  - (2) The elevation, in relation to the North American Vertical Datum of 1988 (NAVD 1988), of the lowest floor, including basements. **[Amended by Ord. 268, 11/7/2011]**
  - (3) The elevation, in relation to the NAVD 1988, to which all structures and utilities will be floodproofed or elevated. **[Amended by Ord. 268, 11/7/2011]**
  - (4) Prior to the issuance of any building permit, the Zoning Officer shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended);<sup>46</sup> the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended);<sup>47</sup> the Pennsylvania Clean Streams Act (Act 1937-394, as amended);<sup>48</sup> and the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1344. No building permit shall be issued until this determination has been made.
- C. Applications for permits for agricultural or nonagricultural uses involving earth disturbance of 5,000 square feet or more, where any of the following conditions apply, shall require submission of written evidence that the proposed activity/use has an erosion and sediment pollution control plan that meets with the approval of the Elk County Conservation District:

<sup>46</sup>Editor's Note; See 35 P.S. § 750.1 et seq.

<sup>47</sup>Editor's Note; See 32 P.S. § 693.1 et seq.

<sup>48</sup>Editor's Note; See 35 P.S. § 691.1 et seq.

- (1) Excavation involving the piping of stormwater or the construction of man-made watercourses.
  - (2) Excavation on a site that possesses slopes exceeding 10%.
  - (3) Excavation within 50 feet of a stream or other body of water.
  - (4) The proposed earthmoving activity presents the potential for sedimentation to nearby bodies of water.
3. Additional commercial/industrial zone filing requirements:
- A. A location plan showing the tract to be developed, zone boundaries, adjoining tracts, significant natural features, and streets for a distance of 100 feet from all tract boundaries.
  - B. A plot plan of the lot, showing the location of all existing and proposed buildings, driveways, parking lots showing access drives, circulation patterns, curb cut accesses, parking stall access from streets, screening fences and walls, waste disposal fields 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. Engineering plans for treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
  - E. Engineering plans for the handling of 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.
  - F. Designation of the manner by which sanitary sewage and stormwater 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.
4. Certificate of use and occupancy.

- A. It shall be unlawful to use and/or occupy any structure, building, sign, and/or land or portion thereof for which a permit is required herein until a certificate of use and occupancy for such structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer. The application for issuance of a certificate of use and occupancy shall be made at the same time an application for a building permit is filed with the Zoning Officer as required herein.
- B. The application for a certificate of use and occupancy shall be in such form as the Zoning Officer may prescribe and may be made on the same application as is required for a building permit.
- C. The application shall contain the intended use and/or occupancy of any structure, building, sign and/or land or portion thereof for which a building permit is required herein.
- D. The Zoning Officer shall inspect any structure, building, or sign within 30 days upon notification that the proposed work that was listed under the 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 occupancy for the intended use listed in the original application.
- E. The certificate of use and occupancy or a true copy thereof shall be kept available for official inspection at all times.
- F. Upon request of a holder of a building permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign and/or land, or portion thereof, before the entire work covered by the permit shall have been completed, provided that such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life or public welfare. Such temporary certificate shall be for a period of time to be determined by the Zoning Officer; however, in no case for a period exceeding six months. Should the holder of a temporary certificate of use and occupancy for a non-temporary use not complete all work covered by the building permit within said six-month period, the temporary certificate of occupancy is considered to be expired and the applicant in violation of this chapter.
- G. A certificate of use and occupancy shall not be issued for structures and buildings located in subdivisions requiring improvement guaranties, unless the structure or building abuts either a roadway which has been accepted by the City for dedication or abuts upon a street which has curbing, if required, and a mud-free stone base.
- H. In commercial and industrial zones in which operation standards are imposed, no certificate of use and occupancy shall become permanent

until 30 days after the facilities are fully operational when, upon a reinspection by the Zoning Officer, it is determined that the facilities are in compliance with all operation standards.

**§ 702. Fees. [Ord. 227, 12/18/2006]**

1. Determination. The City Council may, by resolution, establish fees for the administration of this chapter. All fees shall be determined by a schedule that is made available to the general public. The City Council may reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this chapter and may be adopted at any public meeting of the City Council.

**§ 703. Amendments. [Ord. 227, 12/18/2006]**

1. Power of amendment. The City Council may, from time to time, amend, supplement, change, or repeal this chapter, including the Official Zoning Map. Any amendment, supplement, change, or repeal may be initiated by the City Planning Commission, the City Council or by a petition to the City Council by an interested party.
2. Hearing and enactment procedures for zoning amendments.
  - A. Public hearing. Before hearing and enacting Zoning Ordinance and/or Official Zoning Map amendments, the City 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 City 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 the City. 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 30 days, and the second publication shall not be less than seven 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 City Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:
      - (a) A copy of the full text shall be supplied to a newspaper of general circulation in the City at the time the public notice is published.

- (b) An attested copy of the proposed ordinance shall be filed in the County Law library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
  - (2) For Official Zoning Map amendments, public notice shall also include the posting of notice of said hearing at conspicuous points deemed sufficient by the City along the perimeter of the tract, so as to notify potentially interested citizens. The affected tract or area shall be posted at least one-week prior to the hearing and will exhibit the nature, date, time, and location of the hearing. In addition, notice of the public hearing shall be mailed by the municipality at least 30 days prior to the date of the public hearing, by first class mail, to the addressees to which real estate tax bills are sent for all property to be rezoned. Such notice shall include the location, date and time of the public hearing. This mail-out hearing notice requirement shall not apply to comprehensive rezoning proposals.
  - (3) For curative amendments, public notice shall also indicate that the validity of the ordinance and/or Official 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.
  - (4) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially or is revised to include land previously not affected by it, the City Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- C. Enactment notice. In addition to the public notice requirements defined herein, the City Council must publish a reference to the time and place of the meeting at which passage of the ordinance or amendment will be considered and a reference to a place within the City where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. Enactment notice shall be published at least once in one newspaper of general circulation in the City, not more than 60 days nor less than seven days prior to passage. The published content of the enactment notice shall be the same as that required for public notice described in the preceding Subsection 2B.
- D. City Planning Commission referrals.
  - (1) For amendments proposed by parties other than the City Planning Commission, the City Council shall submit each

amendment to the City Planning Commission at least 30 days prior to the public hearing on such amendment.

- (2) A report of the review by the City Planning Commission, together with any recommendations, may be given to the City Council within 30 days from the date of said referral. The recommendation of the City Planning Commission may include a specific statement as to whether or not the proposed action is in accordance with the intent of this chapter and any officially adopted Comprehensive Plan of the City.
- E. Elk County Planning Commission referrals. All proposed amendments shall be submitted to the Elk County Planning Commission at least 45 days prior to the public hearing on such amendments. The Commission may submit recommendations to the City Council; however, if the Elk County Planning Commission fails to act within 45 days, the City Council may proceed without its recommendations.
- F. Adjournment of public hearing. If, during the public hearing process, the City Council needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may adjourn the public hearing to a time and place certain.
- G. Within 30 days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Elk County Planning Commission.
3. Amendments initiated by the City Planning Commission. When an amendment, supplement, change, or repeal is initiated by the City Planning Commission, the proposal shall be presented to the City Council, which shall then proceed in the same manner as with a petition to the City Council which has already been reviewed by the City Planning Commission.
4. Amendment initiated by the City Council. When an amendment, supplement, change, or repeal is initiated by the City Council, such amendment, supplement, change, or repeal shall follow the procedure prescribed for a petition under § 703, Subsection 2.
5. Amendment initiated by a petition from an interested party. A petition for amendment, supplement, change, or repeal of a portion of this chapter 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 to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the City 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 City 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 the Zoning 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 City Council.
  - A. Such applications shall include:
    - (1) A written description of the reasons supporting the request to be considered.
    - (2) Plans and explanatory materials describing the proposed use or development that would not be permitted by the challenged ordinance, in sufficient detail to demonstrate the need for approval of the request and evaluation of the challenged ordinance or map.
    - (3) An amendment or amendments to this Zoning Ordinance or Zoning Map that would cure its alleged defect.
  - B. Public hearing. Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the City Council shall commence a public hearing, within 60 days of the request, 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.
  - C. Public notice. Before conducting a public hearing, the City 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 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 30 days, and the second publication shall not be less than seven 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 Municipal Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included, a copy of the full text shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published, and an attested copy of the proposed ordinance shall be filed in the County Law Library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances. 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.

- (2) 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-week prior to the hearing and will exhibit the nature, date, time and location of the hearing. In addition, notice of the public hearing shall be mailed by the municipality at least 30 days prior to the date of the public hearing, by first class mail, to the addressees to which real estate tax bills are sent for all property to be rezoned. Such notice shall include the location, date and time of the public hearing. This mail-out hearing notice requirement shall not apply to comprehensive rezoning proposals.
  - (3) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially or is revised to include land previously not affected by it, the City Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- D. Enactment notice. In addition to the public notice requirements defined herein, the City Council must publish a reference to the time and place of the meeting at which passage of the ordinance or amendment will be considered and a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. Enactment notice shall be published at least once in one newspaper of general circulation in the municipality not more than 60 days nor less than seven days prior to passage. The published content of the enactment notice shall be the same as that required for public notice described above.
- E. The City Council may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary and members of the City Council, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the City Council, expenses for engineering, architectural or other technical consultants or expert witness costs.
- F. The hearings shall be conducted by the Council, or the Council may appoint any member or an independent attorney as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Council; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision

of the hearing, waive decision or findings by the Council and accept the decision or findings of the hearing officer as final.

- G. The parties to the hearing shall be the City, any person affected by the application who has made timely appearance of record before the City Council, and any other person, including civic or community organizations, permitted to appear by the City Council. The City Council shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the City Council for that purpose.
- H. The Chairman or Acting Chairman of the City Council 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.
- I. 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.
- J. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- K. The City Council 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 City Council. The cost of the original transcript shall be paid by the City Council if the transcript is ordered by the City Council or hearing officer, or shall be paid by the person appealing the decision of the City 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.
- L. The City Council or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the 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.
- M. City Planning Commission referrals. For amendments proposed by parties other than the City Planning Commission, the City Council shall submit each amendment, at least 30 days prior to public

hearing, to the City Planning Commission for review and comment. The City Planning Commission shall submit a report of its review, together with any recommendations, to the City Council within 45 days from the date of said referral. The recommendation of the City Planning Commission may include a specific statement as to whether or not the proposed amendment is in accordance with the intent of this chapter and any officially adopted Comprehensive Plan of the City. The City Council cannot act upon the amendment until it has received a recommendation from the City Planning Commission; however, should the City Planning Commission fail to submit its recommendation within 45 days, the City Council may proceed without its recommendation.

- N. Elk County Planning Commission referrals. All proposed amendments shall be submitted to the Elk County Planning Commission at least 30 days prior to public hearing on such amendments. The Elk County Planning Commission may submit recommendations to the City Council within 45 days of such referral. The City Council cannot act upon the amendment until it has received a recommendation from the Elk County Planning Commission; however, should the Elk County Planning Commission fail to submit its recommendation within 45 days, the City Council may proceed without its recommendation.
- O. The Municipal Solicitor shall represent and advise the City Council during the hearings. Additionally, the City Council may retain an independent attorney to defend the challenged ordinance or map and present suitable witnesses for that purpose.
- P. In reviewing the curative amendment, the City Council may deny the request, accept the request as submitted, or may adopt an alternative amendment which will cure the challenged defects. The City 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 environmental impacts.
  - (5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- Q. The City Council shall render its decision within 45 days after the conclusion of the last hearing.
- R. If the City Council fails to act on the landowner's request within the time limits referred to in the above Subsection 6P, a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.
- S. The challenge shall be deemed denied when:
- (1) The City Council fails to commence the hearing within 60 days;
  - (2) The City Council notifies the landowner that it will not adopt the curative amendment;
  - (3) The City Council adopts another curative amendment which is unacceptable to the landowner; or
  - (4) The City Council fails to act on the request 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 Municipality.
- T. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the City Council not later than the last day of the hearing, the City Council 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.
- U. Adjournment of public hearing. If, during the public hearing process, the City Council needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may adjourn the public hearing to a time and place certain.
- V. Within 30 days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Elk County Planning Commission.

- W. Where, after the effective date of the Act, a curative amendment proposal is approved by the grant of a curative amendment application by the City Council pursuant to this section or a validity challenge is sustained by the Zoning Hearing Board pursuant to § 604, Subsection 1, 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 years from the date of such approval to file an application for preliminary or tentative 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 Section 508 (4) of the Act shall apply.
- X. 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,<sup>49</sup> the developer shall have one 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 the 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 purpose of awarding such supplemental relief as may be necessary.
- Y. At such time as the City officially adopts a Multi-Municipal Comprehensive Plan but has not adopted a joint municipal ordinance, and all municipalities participating in the Multi-Municipal Comprehensive Plan have adopted and are administering zoning ordinances generally consistent with the provisions of the Multi-Municipal Comprehensive Plan, and a challenge is brought to the validity of this chapter involving a proposed use, then the City Council shall consider the availability of uses under zoning ordinances within the municipalities participating in the Multi-Municipal Comprehensive Plan within a reasonable geographic area and shall not limit its consideration to the challenge of this chapter.
7. Curative amendment by the City Council.
- A. The City Council, by formal action, may declare this chapter or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days following such declaration and proposal, the City Council shall:

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<sup>49</sup>Editor's Note: See Ch. 22, Subdivision and Land Development.

- (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 revisions.
    - (2) Begin to prepare and consider a curative amendment to the ordinance to correct the declared invalidity.
  - B. Within 180 days from the date of the declaration and proposal, the City Council shall enact a curative amendment to validate or reaffirm the validity of this chapter, pursuant to the provisions required by Section 609 of the Act, in order to cure the declared invalidity of the ordinance.
  - C. Upon the date of the declaration and proposal, the City 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 under § 604, Subsection 1, 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 chapter, 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 City Council proposes to prepare a curative amendment.
  - D. The City Council, having utilized the procedures as set forth in this section, may not again utilize said procedures for a thirty-six-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 City by virtue of a decision by any court of competent jurisdiction, the City 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 zone or a reclassification of the zone adopted in accordance with the above, the change on the Official Zoning Map shall be made and

shall be duly certified by the City Secretary and shall thereafter be refiled as part of the permanent records of the City.

9. Any applicant requesting an amendment to the Zoning Ordinance and/or Map shall submit information about such request that complies with this chapter and justifies the request. In addition, the applicant must submit, in a format that can be adopted by the City Council, the necessary amendments that make the Comprehensive Plan generally consistent with the requested amendment.

**§ 704. Conditional Uses. [Ord. 227, 12/18/2006]**

1. Filing of conditional use. For any use permitted by conditional use, a conditional use must be obtained from the City Council. In addition to the information required on the building permit application, the conditional use application must show:
  - A. Ground-floor plans and elevations of proposed structures.
  - B. Names and addresses of adjoining property owners, including properties directly across a public right-of-way.
  - C. A clear and legible site plan, drawn at a scale of 10 feet, 20 feet, 30 feet, 40 feet, or 50 feet to the inch.
  - D. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this chapter.
2. General criteria. Each applicant must demonstrate compliance with the following:
  - A. The proposed use shall be consistent with the purpose and intent of this chapter.
  - B. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties.
  - C. The proposed use will not effect a change in 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. For development within the Floodplain Zone, that the application complies with those requirements listed in City of Saint Marys Floodplain Overlay Zone, as regulated by § 230 of this chapter.

- F. The proposed use shall comply with those criteria specifically listed in Part 4 of this chapter. In addition, the proposed use must comply with all other applicable regulations of this chapter.
  - G. The proposed use will not substantially impair the integrity of the Comprehensive Plan.
3. Conditions. The City 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 zone. These conditions shall be enforceable by the Zoning Officer, and failure to comply with such conditions shall constitute a violation of this chapter and be subject to the penalties described in this Part.
  4. Site plan approval. Any site plan presented in support of the conditional use pursuant to § 704, Subsection 1, 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 building permit. Any subsequent change made after the issuance of a building permit to the proposed use on the subject property, which is not reflected on the approved site plan, may require the obtainment of another conditional use approval.
  5. Hearing procedures.
    - A. Before voting on the approval of a conditional use, the City Council shall hold a public hearing thereon, pursuant to public notice. As an alternative, the City Council may appoint any one of its members or an independent attorney to act as a hearing officer. The City Council shall submit each such application to the City Planning Commission at least 30 days prior to the hearing on such application, to provide the City Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the City Council or hearing officer shall hold another public hearing, pursuant to public notice, before proceeding to vote on the application.
    - B. Public notice, as defined herein, and written notice shall be given to the applicant, the Zoning Officer, such other persons as the City 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 provision, by rules of the City Council. 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 City 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 City, any person affected by the application who has made timely appearance of record before the City Council or hearing officer, and any other person, including civic or community organizations, permitted to appear by the City Council or hearing officer. The City Council or hearing officer shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the City Council or hearing officer for that purpose.
- E. The Chairman or Acting Chairman of the City Council or hearing officer 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.
- 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 City Council or hearing officer may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the City Council. The cost of the original transcript shall be paid by the City Council if the transcript is ordered by the City Council or hearing officer; or shall be paid by the person appealing the decision of the City Council or hearing officer 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 City Council or 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 solicitor, unless the 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 City Council shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the City Council. However, the applicant and the Municipality may, prior to the decision of the hearing, waive the decision or findings by the City Council and accept the decision or findings of the hearing officer as final. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this chapter 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.
- K. The first hearing before the City Council or its hearing officer shall be commenced within 60 days from the date of the receipt of the applicant's application, unless the applicant has agreed, in writing, to an extension of time. Each subsequent hearing before the City Council or its hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to be the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon request of the applicant, the City Council or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided that the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and Municipality, be granted additional hearings to complete their opposition to the application, provided that the applicant is granted an equal number of additional hearings for rebuttal.
- L. Where the City Council or hearing officer fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as required by this subsection, 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 City Council or hearing officer to meet or render a decision as hereinabove provided, the City Council or hearing officer shall give public notice of the decision within 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 chapter. If the City Council or hearing officer shall fail to provide such notice, the applicant may do so.

- M. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. 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 no later than the day following its date.
- N. Notwithstanding the provisions contained in this § 704.5, an application for conditional use for an oil and gas operation shall be deemed denied if City Council fails to render a decision on the application within 120 days of the date of filing of a complete application. **[Added by Ord. 275, 7/2/2012]**
6. Time limitation.
- A. If a conditional use is granted, the necessary permit shall be secured, and the authorized action begun, within two 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 four years of said date. For good cause, the City 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-year period or, having obtained the permit, should he fail to commence work thereunder within such two-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 City Council.
- C. Should the appellant commence construction or alteration within said two-year period but should he fail to complete such construction or alteration within said four-year period, the City Council may, upon 10 days' notice, in writing, rescind or revoke the granted conditional use, if the City Council finds that no good cause appears for the failure to complete within such four-year period, and if the City 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 Council, the granting of a timetable associated with the request which would supersede the deadlines imposed in §§ 704, Subsection 6A through C. 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 Council must establish and bind a definite time-frame for issuance of a building permit and completion of construction of the project.

**§ 705. Repealer. [Ord. 227, 12/18/2006]**

Any resolution, ordinance or part of any resolution or ordinance inconsistent herewith, and any amendments thereof, are hereby expressly repealed.

**§ 706. Severability. [Ord. 227, 12/18/2006]**

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**§ 707. Effective Date. [Ord. 227, 12/18/2006]**

This Zoning Ordinance shall become effective immediately upon its enactment by the City Council of City of Saint Marys, County of Elk, Commonwealth of Pennsylvania.

