

**PENN LAKE PARK BOROUGH  
ZONING ORDINANCE  
AS AMENDED**

**DATE OF ENACTMENT  
JULY 11, 1996**

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**1996 ZONING ORDINANCE, AS AMENDED**

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**ARTICLE 1**

**GENERAL PROVISIONS**

SECTION 101      TITLE

**The official title of this Ordinance is: Penn Lake Park Borough Zoning Ordinance.**

SECTION 102    INTERPRETATION AND CONFLICT

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

A.    PUBLIC PROVISIONS

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by the Borough which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of the Borough, the provisions of this Ordinance shall apply.

B.    PRIVATE PROVISIONS

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. The Borough shall not however be held responsible for knowledge and/or enforcement of any private deed restriction, private covenant or other form of private agreement which may be inconsistent with the provisions of this Ordinance and/or beyond the scope of regulations contained within this Ordinance.

SECTION 103      COMPLIANCE WITH ORDINANCE REQUIRED

Except as hereinafter provided, no land, building, structure or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted, altered or moved except in conformity with the regulations herein specified for the zoning district in which it is located.

SECTION 104      PURPOSE:

This Ordinance is enacted to accomplish the purposes enumerated in Section 604 of the Pennsylvania Municipalities Planning Code, Act 247, as amended. The provisions of this Ordinance are designed to achieve the following:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, emergency management preparedness, 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, 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 reservation of 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 agriculture 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 reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided however, that the zoning ordinance shall not be deemed invalid for the failure to provide any other specific dwelling type.
- 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.

SECTION 105      COMMUNITY DEVELOPMENT OBJECTIVES

The enactment of this Ordinance is intended to assist in achieving the following goals and objectives:

- A. To maintain existing patterns of low density development and the rural character of the Borough while allowing for new growth and development.
- B. To insure the use of land within the Borough is capable of providing for sufficient development of residential, nonresidential, recreational and public uses to meet the needs of the Borough in proper locations in relationship to available infrastructure.
- C. To preserve environmental areas of scenic and natural beauty and environmentally

sensitive areas from intensive or inappropriate development.

- D. To examine all proposed developments in relationship to its potential impact upon environmental resources and to avoid all forms of pollution within the Borough and region. It shall be the policy of the Borough to prevent developments which may result in the pollution of lakes, streams, air, and ponds and to insure the adequacy of drainage facilities to safeguard groundwater and other environmental resources, including the retention woodlands throughout the Borough.
- E. To provide for a variety of housing types to satisfy diverse housing markets, including those for the elderly, single persons, handicapped individuals and couples without children.
- F. To identify any recreational needs of the Borough and to locate any needed facilities in coordination with existing or planned regional, County or State Parks to foster a balanced recreational system.
- G. To provide an adequate transportation system for the safe movement of people and goods within all sectors of the Borough and areas beyond the Borough, with through traffic separated to the greatest extent possible from local neighborhood traffic.
- H. To continue to investigate the potential of providing sanitary sewers in the more compact areas of development within the Borough.
- I. To insure all new development provides adequate measures to control storm drainage and soils erosion and sedimentation.
- J. To coordinate Borough plans and programs with County, State and Federal plans, policies and programs with the intent of seeking such governmental funding when applicable to the Borough's plans.
- K. To continue to cooperate with other adjoining municipalities on intergovernmental issues of mutual concern.
- L. The Borough shall continue to conduct municipal affairs in an efficient, economical and fair manner for the welfare of all citizens of the Borough.

SECTION 106      REPEALING PROVISION

All Ordinance, or any parts thereof, which are inconsistent or in conflict with this Ordinance, including the Penn Lake Park Borough Zoning Ordinance enacted on March 8, 1978, including the Zoning Map, and any and all amendments thereto are hereby repealed in their entirety.

SECTION 107      EFFECTIVE DATE

This Ordinance shall become effective from the date of its approval and adoption, as provided for by law.

**APPROVED AND ENACTED BY THE BOROUGH COUNCIL OF THE  
BOROUGH OF PENN LAKE PARK ON THIS 11<sup>th</sup> DAY OF JULY, 1996**

**ARTICLE 2**

**DEFINITIONS**

SECTION 201      APPLICATION AND INTERPRETATION

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

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

SECTION 202      DEFINITION OF TERMS

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

ABANDONMENT:

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, subject to completion of the work within one year from the issuance of a zoning permit.

ABUTTING:

Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESS:

A way or means of approach to provide physical ingress and/or egress to a property.

ACCESSORY STRUCTURE:

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

ACCESSORY USE:

A use incidental to, and on the same lot as, a principal use.

ACRE: 43,560 square feet.

ACREAGE, GROSS:

The total area measured to the property lines of the parcel or lot.

ADULT USES:

Adult Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Entertainment: A nightclub, bar, restaurant, club or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. 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.

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered



human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth as an "Adult Use".

ALTERATION:

Any change, addition, or modification in construction or occupancy of an existing structure and/or the arrangement of structures upon a developed parcel of land, including but not limited to a mobile home park.

ALTERATION, STRUCTURAL:

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

AMENDMENT:

A change in the regulations and provisions of the Penn Lake Park Borough Zoning Ordinance, including changes to boundaries of Zoning Districts as provided upon the Zoning Map.

ANTENNA, COMMERCIAL :

A device used for collecting and/or transmitting telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise, which is regulated by the FCC.

ANTENNA SUPPORT STRUCTURE, COMMERCIAL :

A tower, pole, mast or similar structure which supports equipment used to transmit and/or receive telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise.

ANTENNA; HEIGHT OF ANTENNA SUPPORT STRUCTURE, COMMERCIAL:

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

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two adjacent land uses or properties from one another. For the purpose of this Ordinance the when a buffer area is required it shall be deemed represent a fence or wall, not less than six (6') feet in height with two staggered rows of evergreen trees planted in front of the fence or wall with the spacing distance between the trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than eight (8) feet in height at the time of planting.

BOROUGH:

Borough of Penn Lake Park, Luzerne County, Pennsylvania.

BUILDING:

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

Building, Accessory: A subordinate structure on the same lot as the principal or main building or use occupied or devoted to a use incidental to the principal use.

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

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

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

BUILDING SETBACK LINE:

The minimum distance as required in the Zoning Ordinance between any building or structure, to the front, rear, or side property line.

CARTWAY:

The paved portion of a street or alley designated, intended or capable of being used for vehicular travel.

CERTIFICATE OF ZONING COMPLIANCE:

The certificate (sometimes called "occupancy permit") issued by the Zoning Officer after he has inspected any structure, building, sign and/or land or portion thereof for which a zoning permit was issued in order to determine compliance with the terms of the permit

and the zoning ordinance before the structure, building, sign, and or land or portion thereof can be lawfully used and/or occupied.

CHANGE OF USE:

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

CHURCH: (SEE PLACE OF WORSHIP)

CLEAR SIGHT TRIANGLE:

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street center lines.

CLINIC (MEDICAL):

A facility comprised of professional offices, for the examination and treatment of persons as outpatients by physicians, dentists, or other licensed medical specialists in which said medical practitioners may be working in a cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and twenty-four (24) hour emergency services. A methadone clinic, as so defined in this Ordinance, shall be excluded within the scope of this definition.

CHILD CARE FACILITY:

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

"Day Care Facility" means a structure in which child care services are provided for seven (7) or more children at any one time, where the child care areas are located within a structure which is designed and utilized exclusively for the provision of child care services

"Family Child Care Home" means a residential structure in which child care services are provided for more than six (6) but less than twelve (12) children, at any one time, where the child care areas are also used as a portion of a family residence.

COMMERCIAL USE:

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMUNITY CENTER:

A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

CONDITIONAL USE:

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

CONVENIENCE STORE:

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

COUNTY PLANNING COMMISSION:

The Planning Commission of Luzerne County.

CRITICAL AREAS

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

DECISION:

Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this act to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be subject to appeal to the Court of Common Pleas of Luzerne County.

DEVELOPMENT:

Any man-made improvements to improved or unimproved real estate. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure, any mining, dredging, filling, grading, paving, excavation, drilling, land disturbance and any use or extension of the use of land shall be deemed to constitute a development.

DETERMINATION:

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

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

Determinations may be appealed only to the boards designated as having jurisdiction for such appeal.

DISTRICT:(See Zoning District)

DWELLING:

One or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

- A. DWELLING, SINGLE-FAMILY: A detached building arranged or used for occupancy by one (1) family.
- B. DWELLING, TWO FAMILY: A detached or semidetached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- C. DWELLING, MULTIPLE: A building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

EASEMENT:

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

EASEMENT, DRAINAGE:

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

ENVIRONMENTAL IMPACT STATEMENT

A report and/or series of reports on the effect of a proposed development or major action which may significantly affect the environment and associated features thereunder.

EXCAVATION, EXTRACTION AND/OR REMOVAL OF MINERALS :

Removal or recovery by any means whatsoever of minerals, as so defined in this Ordinance, from land or water on or beneath the surface thereof, or beneath the land surface whether exposed or submerged.

FAMILY:

One or more persons occupying a dwelling unit and living together as a single nonprofit housekeeping unit. Foster children placed into the care and custody of a family shall be deemed to be a member of the family. A group in excess of four (4) individuals who are not related by blood, marriage or legal adoption, shall not be deemed to constitute a family.

FLOOR AREA, GROSS:

The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FORESTRY ACTIVITIES:

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes which does not involve any land development. Forestry activities shall not include the production of processing of lumber mills or similar activities of timber whether grown on or offsite

FRONTAGE:

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

GENERAL NUISANCE:

Any use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare, including the following: fire and explosion hazards; electrical and radioactive disturbances; noise and vibration; dust, dirt, and fly ash; glare; smoke and odors; and other forms of air pollution.

GOVERNING BODY:

The Borough Council of Penn Lake Park Borough, Luzerne County, Pennsylvania.

GROUP RESIDENCE:

A dwelling unit which is shared under congregate living arrangements by more than four (4) persons, who are residents of the dwelling unit by virtue of their need to receive supervised services limited to health, social and/or rehabilitative services provided by a person or persons or their licensed or certified agents, a governmental agency or their licensed or certified agents, a responsible corporation or their licensed or certified agents, a partnership or limited partnership or their licensed or certified agents or any other legal entity. Such services shall be provided on a continuous basis in a family-like environment to persons who are in need of supervision and/or specialized services in a residential setting.

The following shall not be deemed to constitute a Group Residence:

A personal care boarding home.

A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.

A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

#### HAZARDOUS SUBSTANCES:

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

1. cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness.
2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

This definition shall be deemed to include radioactive material and medical waste.

#### HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation, the Luzerne County Road and Bridge Department or Penn Lake Park Borough which authorizes access from a parcel of land onto a highway, road or street which is under the respective jurisdiction of the above entities.

#### HOME OCCUPATION:

An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the existing residential character of the neighborhood.

#### IMPACT ANALYSIS:

A study and/or report, which may be required at the discretion of the Borough Council prior to approval of a conditional use or by the Zoning Hearing Board prior to approval a special exception use, to determine the potential impact of the proposed use on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, critical areas, the public health, safety and welfare and other factors directly, indirectly or potentially affected. The applicant shall be responsible for all costs related to the any and all reports and/or studies required by the Governing Body or Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS." The landowner and/or applicant shall also be responsible to fully reimburse Penn Lake Park Borough for any and all engineering and or other consulting

fees which are incurred for the review of any required impact studies or reports for a conditional use.

IMPERVIOUS SURFACE:

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

IMPROVEMENTS:

Man-made physical additions, alterations and/or changes which becomes part of, placed upon, or is affixed to real estate.

JUNK:

Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof. (please refer to definition of outdoor storage)

LAND DEVELOPMENT:

The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

- A) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively.
- (B) A single nonresidential building on a lot or lots with two (2) or more occupants regardless of their tenure.
- (C) A single nonresidential building, designed or intended for a single occupant, with a minimum gross floor area of not less than five thousand (5,000) square feet and/or other impervious surface areas, excluding agricultural buildings and/or structures.
- (D) Any nonresidential use of land, with or without structures, which encompasses 87,120 or more square feet of surface area of land, including grading and/or the backfilling of land, earth moving activities, and/or removal of vegetative cover. Agricultural uses of land and/or related agricultural activities shall be specifically excluded.
- (E) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.



- (F) the conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units. Any conversion, described above, which results in not more than three (3) residential units shall be deemed as a land development if the units are intended to be a condominium.
- (G) the development of a mobile home park or a campground or the expansion of an existing mobile home park or a campground.

The development of any accessory building, including farm buildings, on a lot or lots which are subordinate to an existing principal building shall not be classified as a "Land Development."

LAND DEVELOPMENT: MAJOR:

A land development which does not qualify or classify as a minor land development.

LAND DEVELOPMENT: MINOR:

A development of a parcel of land which contains not more than two(2) detached single family residential structures, whether developed initially or cumulatively.

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.

LAWN SHED:

A structure that is used for storage and does not have a door or other entranceway into a dwelling unit and that does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

LOT:

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

LOT AREA:

The total area within the lot lines of a lot, excluding any street right-of-ways.

LOT, CORNER:

A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT COVERAGE:

That portion of the lot that is covered by buildings and structures.

LOT DEPTH:

The distance measured from the front lot line to the rear lot line.

LOT FRONTAGE:

The length of the front lot line measured at the street right-of-way line.

LOT INTERIOR:

A lot other than a corner lot.

LOT LINE:

A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT:

The lot line separating a lot from a street right of way.

LOT LINE, REAR:

The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE:

Any lot line other than a front or rear lot line.

LOT, MINIMUM AREA OF:

The smallest lot area established by the Zoning Ordinance on which a use or structure may be located in a particular zoning district.

LOT, THROUGH:

A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

LOT WIDTH:

The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MEDIATION:

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

METHADONE TREATMENT FACILITY:

A facility licensed by the Pennsylvania Department of Health to use the drug methadone in the treatment, maintenance or detoxification of persons.

MINERALS:

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

MOBILE HOME:

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

MOBILE HOME LOT:

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

MOBILE HOME PARK:

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

MUNICIPALITY:

The Borough of Penn Lake Park, Luzerne County, Pennsylvania.

NET ACREAGE:

The total acreage of a lot, tract, or parcel of land excluding land in existing and proposed streets, street rights-of-way, easements and surface water.

NET RESIDENTIAL DENSITY:

The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, undevelopable lands (e.g., wetlands, flood plains, steep slopes or other environmentally sensitive areas) and the area in rights-of-way for streets, roads and/or easements

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 zoning district in which it is located by reasons of such adoption or amendment.

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, pick-up, delivery, or removal functions to or from the premises in excess with those normally associated with a residential use. The business or commercial activity must also comply with the supplemental requirements contained within Article 8 of this Ordinance.

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 to its location by reason of annexation.

OFFICE:

A building or portion of a building, wherein services are performed involving predominantly administrative, professional, or clerical operations.

OPEN SPACE:

An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OUTDOOR FUEL BURNING FURNACE:

An outdoor fuel burning appliance designed and constructed to burn wood, coal or other recognized fuel in compliance with the manufacturer's recommended specifications. An Outdoor Fuel Burning Furnace shall be deemed to be an accessory structure intended for heating a structure that may be detached and separate from the accessory structure which contains the Outdoor Fuel Furnace.

OUTDOOR STORAGE:

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

PARCEL:

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

PARKING SPACE:

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

PERSONAL SERVICES:

Any enterprise conducted for gain, which primarily offers services to the general public, including shoe repair, valet service, watch repairing, barber shops, and beauty parlors

PLACE OF WORSHIP:

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

PLANNING COMMISSION:

The Planning Commission of Penn Lake Park Borough.

PRINCIPAL USE:

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

PRIVATE:

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

PUBLIC:

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

PUBLIC HEARING:

A formal meeting held pursuant to public notice by the Governing Body, Planning Commission or Zoning Hearing Board, which is intended to inform and obtain public comment prior to taking action on a particular subject matter or development.

PUBLIC MEETING:

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

PUBLIC NOTICE:

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

PUBLIC USES:

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

PUBLIC UTILITIES FACILITIES:

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

RECREATIONAL FACILITIES, COMMERCIAL:

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

RECREATIONAL FACILITIES, PRIVATE:

Recreational facilities other than commercial or public, not operated for a profit, and only open to its members and their guests.

RECREATIONAL FACILITIES, PUBLIC:

Recreational facilities operated as a nonprofit enterprise by a governmental entity or a nonprofit organization, and open to the general public.

RECREATIONAL VEHICLE:

A vehicular type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes. Recreational vehicles include, but are not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

REPORT:

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

RESTAURANT:

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

RIGHT-OF-WAY:

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

SATELLITE DISH ANTENNA:

A device incorporating a reflective surface that 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 terrestrial and/or orbital based uses. This definition is meant to include but not be limited to what are commonly

referred to as satellite earth stations. TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

SCREENING:

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

SEATING CAPACITY:

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

SELF-SERVICE STORAGE FACILITY:

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual compartmentalized, and controlled access stalls or lockers which are leased to individuals for the storage of the individual's property, possessions or wares.

SERVICE STATION:

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted. Service stations shall not include service and maintenance activities which include or are comparable to those operated within a primary context of a repair garage.

SETBACK:

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

SIGN:

A structure or device designed or intended to convey information to the public in written or pictorial form.

SIGN AREA:

The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than 24 inches apart.



SITE PLAN:

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

SPECIAL EXCEPTION:

A use which may only be permitted in a particular zoning district, by special approval, granted by the Zoning Hearing Board in accordance with the applicable provisions of this Ordinance.

SOLID WASTE OR WASTE:

Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semisolid or contained in gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities, excluding "Hazardous Substances" as so defined by this Ordinance and "Hazardous Waste", as so defined by the Pennsylvania Department of Environmental Resources, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

SOLID WASTE FACILITY:

Any facility operated pursuant to the laws of the Commonwealth of Pennsylvania governing the management, processing, treatment, storage, transfer and/or disposal of solid waste or waste, as so defined by this Ordinance.

STORY:

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

STREET or ROAD:

A public (dedicated) or private (undedicated) right-of-way, whether or not improved, intended for use by vehicular and pedestrian traffic.

STRUCTURE:

Any man-made object, the use of which requires an ascertainable stationary location on land, whether or not it is affixed to the land.

SUBDIVISION:

The division or redividing of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for

the purpose , whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

- A. Subdivision; Major: Any subdivision which does not qualify or classify as a minor subdivision.
  
- B. Subdivision; Minor: A subdivision of a parcel of land into not more than six (6) lots, which, has access, direct or indirect, to an existing public street or road and does not require any expenditures for the extension of any street or the extension or creation of any public improvements, does not adversely affect the remainder of the parcel or adjoining property and does not conflict with the objectives of this Ordinance as contained in SECTION 103 of this Ordinance Any proposed subdivision of a lot of record, which resulted from a minor subdivision shall be classified as a major subdivision, when the cumulative number of lots, from the original lot of record and/or any resulting lot, exceed six (6) lots within five (5) years from date of its approval under a minor subdivision classification. Information stating the above requirement shall be included upon all deeds for lots created under a minor subdivision

TRANSFER STATION:

A facility which receives and temporarily stores solid waste at a location other than the generation site, which facilitates the bulk transfer of accumulated solid waste to a another facility or site for further processing and/or disposal of said solid waste. Said use shall be classified and regulated as a " Solid Waste Facility".

VACANT LOT:

A lot which has no buildings, structures and/or approved active use.

VARIANCE:

A waiver granted by the Zoning Hearing Board from the terms and requirements of this Ordinance in accordance with Section 1509 of this Ordinance.

WETLANDS:

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

WIRELESS COMMERCIAL COMMUNICATION SITE:

A tract or parcel of land containing a commercial antenna, its support structure, accessory building(s) and parking.

YARD:

An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the Zoning Ordinance.

Front Yard: A space extending the full width of the lot between any building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

Rear Yard: A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Side Yard: A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT:

A portion of Penn Lake Park Borough illustrated upon the Official Zoning Map, within which certain uniform regulations and requirements apply under the provisions of the Zoning Ordinance.

ZONING HEARING BOARD:

The Zoning Hearing Board of Penn Lake Park Borough, Luzerne County, Pennsylvania.

ZONING MAP:

The official map which is part of the Zoning Ordinance and indicates and delineates the zoning districts of Penn Lake Park Borough, Luzerne County, Pennsylvania.

ZONING OFFICER:

The administrative officer appointed by the Governing Body to administer and enforce the Zoning Ordinance of Penn Lake Park Borough, Luzerne County, Pennsylvania.

## ARTICLE 3

### GENERAL REGULATIONS

#### SECTION 301 USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any Zoning District established under this Ordinance, a use is neither specifically permitted or denied and not addressed in any manner within the text of this Ordinance and any application is made by a property owner to the Zoning Officer for such a use, the Zoning Officer shall refer such applications to the Zoning Hearing Board which shall have the authority to permit or deny the proposed use within the context of a special exception use. In addition to the standards, procedures and criteria set forth for consideration of a special exception use, the Zoning Hearing Board shall consider if the proposed use is similar and compatible with permitted uses within the subject Zoning District and will not be in conflict with the purpose, intent and community objectives of this Ordinance.

#### SECTION 302 ONE PRINCIPAL BUILDING PER LOT

Not more than one principal building or use shall be permitted upon any lot of record throughout the Borough.

#### SECTION 303 ATTACHED ACCESSORY STRUCTURES

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

#### SECTION 304 UNATTACHED RESIDENTIAL ACCESSORY STRUCTURES

##### 304.1

Unattached accessory structures, excluding swimming pools, lawn sheds and outdoor fuel burning furnaces, shall be prohibited throughout the Borough.

##### 304.2

An unattached accessory structure shall be subject to securing a zoning permit prior to the start of work related to the installation of the structure.

##### 304.3

An unattached accessory lawn shed shall only be erected within the rear yard area of the lot subject to the following requirements:

- (A) The maximum height shall not exceed eleven (11) feet.

- (B) The maximum floor area shall not exceed one hundred ninety-two (192) square feet.
- (C) The minimum setback distance shall be ten (10) feet from any rear yard or side yard property line.

#### 304.4

For properties located upon the Lake, any area of a lot which has frontage along the Lake shall be deemed to be the front yard and any area of a lot having a roadside frontage shall be deemed to be the rear yard.

#### 304.5

Any play yard apparatus or similar structure shall be subject to the following requirements:

- A. Installation and/or placement shall be in the rear yard.
- B. The minimum setback distance shall be ten (10) feet from any rear yard or side yard property line.
- C. The maximum height shall not exceed twelve (12) feet.
- D. A zoning permit shall be secured prior to the start of work related to the installation of the structure.

#### SECTION 305 FRONT YARD OF A CORNER LOT

The front yard of a corner lot shall be determined by the orientation of a structure, existing or proposed, upon such a lot with the principal means of access to the structure deemed to be the front yard.

#### SECTION 306 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures may include attached decks, patios, noncommercial greenhouses, tool or lawn sheds, private garages or carports, private, noncommercial satellite antenna dishes and unattached noncommercial swimming pools. An accessory structure, used exclusively as shelter for household pets, shall be exempt from securing a zoning permit subject to the structure not exceeding fifty (50) gross square feet of area and a height not greater than four (4) feet.

#### SECTION 307 PRIVATE NONCOMMERCIAL SWIMMING POOLS

All swimming pools having a surface area of thirty (30) square feet or greater and capable of containing water to a depth, at any point, of twenty four (24) inches or greater, shall be governed by in accordance with the following subsections:

307.1      LOCATION AND SETBACK REQUIREMENTS

Swimming pools shall be located in the rear yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of ten (10) feet from any rear or side yard lot line.

307.2      IN-GROUND POOLS

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than six (6) feet in height, nor greater than eight (8) feet in height, which includes a gate secured with a lock.

307.3      ABOVE GROUND POOLS

An above ground pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 307.2 or in lieu of a fence, a barrier not less than four (4') feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4') feet. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck, shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall not project into any required yard setback for the pool.

SECTION 308    LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided. This provision shall be applied to those lots of record that are not greater than one (1) acre in total area.

SECTION 309    PROJECTIONS INTO REQUIRED YARDS

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

- (A) Terraces or Patios: provided that such terraces or patios are constructed at ground level and are not under roof, without walls or other form of enclosure and are not closer than ten (10') feet to any adjacent lot line.
  
- (B) Projecting Architectural Features: such as bay windows, cornices,

eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than two feet into any required setback.

- (C) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

## SECTION 310 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, skylights; nor to any accessory mechanical appurtenances usually located above the roof level.

## SECTION 311 REQUIRED ACCESS

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

## SECTION 312 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

### 312.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction between two and one-half (2.5') feet and eight (8) feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained within the triangle formed by the intersection of centerlines of intersecting street right-of-way lines adjacent to the corner lot and a line projected between points on each of those adjacent centerlines for a minimum distance of fifteen (15') feet from their intersection.

### 312.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2.5') feet and eight (8) feet in height, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of ten (10') feet along the centerline of the street right-of-way and a depth of ten (10') feet along the centerline of a private driveway.

## SECTION 313 FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed. Excluding the fencing requirements for an in-ground swimming pool, as set forth in Section 307.2, the maximum height of a fence shall not exceed four (4) feet above the adjacent ground level. All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence. Any retaining wall shall require review by the Borough's Engineer prior to the issuance of a zoning permit or building permit. The applicant shall be

responsible for the submission of the appropriate drawings which provide the proposed design and construction of the retaining wall. The applicant shall be responsible for all engineering costs incurred by Penn Lake Park Borough for the review of the drawings.

SECTION 314 PUBLIC UTILITIES

The provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended .

SECTION 315 VALIDITY/INVALIDITY PRIOR APPROVALS AND/OR PERMITS

315.1 VALID APPROVALS AND/OR PERMITS

Any use of land, structure and/or building approved prior to the enactment of this Ordinance shall be governed by the provisions and terms of approval under the Penn Lake Park Borough Zoning Ordinance of March 8, 1978, as amended, when all of the following conditions are met:

A. WORK IN PROGRESS

1. The approved use of land, structure and/or building displays conclusive visible evidence that the physical installation, development and/or construction of the use in question had commenced prior to the date of adoption and enactment of this Ordinance.
2. The physical installation, development and/or construction shall be completed within one (1) year from the date of adoption and enactment of this Ordinance.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Ordinance.

B. WORK NOT STARTED

1. The approval and/or zoning permit for the use of land, structure and/or building in question was granted not more than ninety (90) days prior to the date of the adoption and enactment of this Ordinance.
2. The physical installation, development and/or construction of the use in question shall commence within ninety (90) days from the date of adoption and enactment of the Ordinance and shall be completed within one (1) year from the date of adoption and enactment of this Ordinance.

Failure to comply with the above two requirements shall render any such prior approval and/or zoning permit as null and void. Any further consideration for the approval of such use shall be fully governed by the terms and provisions of this Ordinance.



SECTION 316 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development shall be consistent with the Borough's Act 537 Sewage Facility Plan. Any use or development, which proposes to utilize on-lot sewage disposal shall secure approval from the Borough's Sewage Enforcement Officer in accordance with the applicable regulations of the Pennsylvania Department of Environmental Protection.

SECTION 317 HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, shall be conditioned upon the applicant securing a Highway Occupancy Permit from the Pennsylvania Department Transportation.

SECTION 318 STEEP SLOPE LAND

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

SECTION 319 PLACEMENT OF MOBILE HOMES

The placement and/or use of a mobile home shall be constructed and anchored to a permanent foundation.

SECTION 320 SOIL EROSION AND SEDIMENTATION CONTROL PLAN

In accordance with the requirements of the Pennsylvania Code, Title 25, Chapter 102, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet and/or located upon a site having a slope of twenty-five (25%) percent or greater shall be required to prepare a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent edition of the Department of Environmental Protection Erosion and Sedimentation Control Manual. The owner or developer of the subject property shall be responsible to implement and maintain said plan to minimize the potential of accelerated erosion and sedimentation.

For stormwater discharges from construction activities, for any proposed development that will disturb between one (1) and up to five (5) acres of land over the life of the project, and has a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Luzerne County Conservation District. No zoning approval for development shall be issued by the Borough until written notification is received from the Luzerne County Conservation District verifying compliance in securing the NPDES Permit.

SECTION 321      OUTDOOR FUEL BURNING FURNACE

An outdoor fuel burning furnace shall be deemed to be an accessory structure permitted in all zoning districts, as a special exception use, thereby requiring approval from the Zoning Hearing Board and subject to the standards as set forth in Section 802.20.

SECTION 322      RECREATIONAL VEHICLES

- A. In all Zoning Districts, it shall be prohibited for any person or persons to allow, or to permit the placement of a Recreational Vehicle on Borough property which includes but is no limited to the Community House, Beaches, Recreational fields, Playground, Roadways.
- B. In all Zoning Districts, it shall be prohibited for any person or persons to allow or to permit the placement of a Recreational Vehicle on a vacant lot. If a developed lot, under the same ownership, is contiguous to the vacant lot, it shall not restrict the placement of a recreational vehicle upon the vacant lot when said vehicles are owned and registered to the property owner of the developed lot. The placement of any recreational vehicle shall meet the applicable setback distance to any property line.

SECTION 323      STORAGE ON VACANT LOTS

In any Residential District, it shall be prohibited for any person or persons to allow and/or use a vacant lot for the storage of commercial material, equipment, construction debris and/or the storage or parking of commercial vehicles.

SECTION 324      SETBACK EXEMPTION FOR STRUCTURAL REPLACEMENTS

Any exterior structural portion of a building, such as a deck, patio, porch or similar feature that does not meet the required setback requirements of this Ordinance and is need of repair to the point of replacement shall be exempt from complying with the applicable setback requirements when all of the following conditions exist:

- A. The use of the building represents a use permitted by right in the district in which it is located.
- B. There are no outstanding zoning or building code violations against the owner of the property.
- C. The exterior structural replacement shall be at the exact same location and shall be the same size, dimensions and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed Zoning Permit Application and applicable fee, along with any other information deemed necessary by the Zoning Officer to process the application.

- E. The provisions of this Section shall not be applied if the exterior structural portion of a building to be replaced that is presently located on the property line or extends beyond the property line, nor shall these provisions to be applied to for the purpose of reconstructing an entire building or structure.

**ARTICLE 4**

**ZONING MAP AND ZONING DISTRICTS**

SECTION 401      OFFICIAL ZONING MAP

Penn Lake Park Borough is hereby divided into zoning districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

SECTION 402      CHANGES TO OFFICIAL ZONING MAP

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

SECTION 403      INTERPRETATION OF BOUNDARIES

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

403.1   ZONING HEARING BOARD

If uncertainty exists as to the boundary of any zoning district shown upon the Official Zoning Map, the Zoning Hearing Board shall determine the location of such boundary according to the guidelines set forth in Section 403.2.

403.2   GUIDELINES

- (A) Zoning district boundary lines are intended to follow or parallel the center line of streets, streams and railroads; and the lot or property lines as they exist on a recorded deed or plan in the Luzerne County Recorder of Deeds Office at the time of adoption of this Ordinance, unless such zoning district boundary lines are fixed by dimensions as shown on the Official Zoning Map.
- (B) Where a zoning district boundary is not fixed by dimensions and where it approximately follows lot lines, and does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.

the (C) In accordance with Section 306 of this Ordinance, if a Zoning District boundary line divides a lot held in single and separate ownership prior to effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular Zoning District, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided, subject to the lot of record be not greater than one (1) acre.

(D) If the guidelines within this Section above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404      CLASSES OF ZONING DISTRICTS

For the purpose of this Ordinance, Penn Lake Park Borough is hereby divided into Zoning Districts as designated below:

- R-1            SINGLE FAMILY RESIDENCE DISTRICT
- R-2            RURAL RESIDENTIAL DISTRICT
- B-1            CONVENIENCE COMMERCIAL DISTRICT
- L-1            LAKE AREA DISTRICT
- S-1            SPECIAL PURPOSE DISTRICT
- C-1            CONSERVATION DISTRICT

**ARTICLE 5**

**ZONING DISTRICT REGULATIONS**

**SECTION 501 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

501.1 PERMITTED USES

Single-family Detached Dwellings  
No Impact Home-Based Business  
Forestry Activities  
Public Utility Facilities (excluding storage yards)  
Accessory Uses to the Above

501.2 USES PERMITTED BY SPECIAL EXCEPTION

Home Occupations  
Public Uses  
Community Center  
Place of Worship  
Accessory Uses and/or Structures to the above

501.3 CONDITIONAL USES (SEE ARTICLE 7)

Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative land disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 5,000 square feet of buildings, structures and/or other impervious surface area.

501.4 DIMENSIONAL REGULATIONS (SEE ARTICLE 8, SECTION 802.10 FOR REGULATIONS OF PROPERTIES WITH LAKE FRONTAGE)

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State or Federal regulations and supplementary regulations contained in Article 8 of this Ordinance.

A. Minimum Lot Area:

- 1. Sixty Thousand (60,000) square feet when serviced by central sewers.

2. Two (2) acres when serviced by on-lot sewage disposal and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.

- B. Minimum Lot Width: Two Hundred (200) feet, as measured from a depth of the required front yard setback.
- C. Minimum Lot Depth: One Hundred (100) feet, as measured from the front lot line to the rear lot line.
- D. Front Yard: Thirty (30) feet in depth as measured from the front lot line.
- E. Rear Yard: Thirty (30) feet in depth as measured from the rear lot line.
- F. Side Yard: Each side yard shall be not less than ten (10') feet on each side.
- G. Maximum Lot Coverage: Not more than forty (40%) percent of the lot area shall be covered with buildings or structures.
- H. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35) feet, whichever is the lesser.

501.5            SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

501.6            SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development" as so defined in Article 2 of the Penn Lake Park Borough Subdivision and Land Development Ordinance of August 12, 1997, including any subsequent amendments thereto, shall also be subject to the governing regulations and provisions of said Ordinance.

**SECTION 502      R-2 RURAL RESIDENTIAL DISTRICT**

**502.1            PERMITTED USES**

Single-Family Detached Dwellings  
Two Family Dwellings  
No Impact Home-Based Business  
Forestry Activities  
Public Utility Facilities (excluding storage yards)  
Accessory Uses to the Above

**502.2            USES PERMITTED BY SPECIAL EXCEPTION**

Home Occupations  
Public Uses  
Family Child Care Home  
Group Residence  
Place of Worship  
Community Center  
Accessory Uses to the Above

**502.3            CONDITIONAL USES (SEE ARTICLE 7)**

Townhouses

Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative land disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 5,000 square feet of buildings, structures and/or other impervious surface area.

**502.4            DIMENSIONAL REGULATIONS**

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State or Federal regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building, structure and/or use which shall be connected to central sewers shall be located upon a lot having a minimum lot area of not less than:
  - 1. One acre when serviced by central sewers.



2. Two (2) acre when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.

B. Minimum Lot Width: One Hundred (100') feet

C. Front Yard: The minimum front yard shall be not less than fifty (50') feet in depth as measured from the front lot line.

D. Rear Yard: The rear yard shall be not less than fifty (50') feet in depth as measured from the rear lot line.

E. Side Yard: Each side yard shall be not less than twenty (20) feet on each side.

F. Lot Coverage: Not more than thirty-five (35) percent of the lot area shall be covered with buildings or structures.

G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet, whichever is the lesser.

502.5            SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

502.6            SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development" as so defined in Article 2 of the Penn Lake Park Borough Subdivision and Land Development Ordinance of August 12, 1997, including any subsequent amendments thereto, shall also be subject to the governing regulations and provisions of said Ordinance.

**SECTION 503      B-1 CONVENIENCE COMMERCIAL DISTRICT**

**503.1            PERMITTED USES**

**A.    RETAIL-ORIENTED BUSINESS INCLUDING OR SIMILAR TO**

Convenience Stores  
Clothing and Clothing Accessories  
Newspapers, Books and Stationery  
Sporting Goods  
Variety Goods  
Artist, Music and Hobby Supplies  
Accessory Uses and/or Structures to the above

**B.    SERVICE-ORIENTED BUSINESS INCLUDING OR SIMILAR TO:**

Personal Services  
Professional Offices  
Service Offices  
Banks,  
Public Uses  
Medical Clinics  
Day Care Centers  
Public Utility Facilities (excluding storage yards)  
Accessory Uses and/or Structures to the above

**C.    RECREATION AND ENTERTAINMENT RELATED BUSINESS INCLUDING  
OR SIMILAR TO:**

Public Recreational Facilities  
Nonprofit Social Halls, Clubs and Community Centers  
Accessory Uses and/or Structures to the above

**D.    RESIDENTIAL USES**

Single-family Dwellings  
Two-family Dwellings  
Dwelling over Business  
Accessory Uses and/or Structures to the above

**503.2    USES PERMITTED BY SPECIAL EXCEPTION**

Garden Supplies  
Restaurants  
Recreational Facilities  
Public Uses  
Accessory Uses and/or Structures to the above

503.3            CONDITIONAL USES (SEE ARTICLE 7)

1. Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:
  - (a) the initial or cumulative land disturbance which equals or exceeds 87,120 square feet of surface area.
  - (b) the initial or cumulative construction, placement or installation which equals or exceeds 5,000 square feet of buildings, structures and/or other impervious surface area.
2. Adult Uses (as defined in Article 2).
3. Methadone Clinic

503.4            DIMENSIONAL REGULATIONS

Each principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State or Federal regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area:
  1. Each principal building, structure and/or use shall have a minimum lot area of not less than fifteen thousand (15,000) square feet when serviced by central sewers.
  2. One (1) acre when serviced by an on-lot sewage disposal system and governed by the applicable standards of the Pennsylvania Department of Environmental Protection.
- B. Minimum Lot Width: One Hundred (100) feet as measured from a depth of the required front yard setback.
- C. Minimum Lot Depth: One Hundred and twenty-five (150) feet, as measured from the front lot line to the rear lot line.
- D. Front Yard: The minimum front yard shall be not less than forty (40) feet in depth as measured from the front lot line.
- E. Rear Yard: The rear yard shall be not less than thirty (30) feet in depth as measured from the rear lot line.
- F. Side Yard: The side yard shall be not less than twenty (20) feet on each side.

- G. Maximum Lot Coverage: Not more than fifty (50%) percent of the lot area shall be covered with buildings or structures.
- H. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35) feet, whichever is the lesser.

503.5            SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

503.6            SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development" as so defined in Article 2 of the Penn Lake Park Borough Subdivision and Land Development Ordinance of August 12, 1997, including any subsequent amendments thereto, shall also be subject to the governing regulations and provisions of said Ordinance.

**SECTION 504      L-1 LAKE DISTRICT**

**504.1      PERMITTED USES**

Boating and Water Related Recreational Activities

**NO PERMANENT STRUCTURES SHALL BE PERMITTED IN THE L-1, LAKE DISTRICT .**

**504.2      USES PERMITTED BY SPECIAL EXCEPTION**

NONE

**504.3      CONDITIONAL USES (SEE ARTICLE 7)**

Any use permitted by right or by special exception shall be deemed a conditional use if it involves the initial or cumulative construction, placement or installation which equals or exceeds 5,000 square feet of buildings, structures and/or other impervious surface area.

**504.4      DIMENSIONAL REGULATIONS**

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State or Federal regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A.    Minimum Lot Area: None
- B.    Minimum Lot Width: None
- C.    Front Yard: None
- D.    Rear Yard: None
- E.    Side Yard: The side yard shall be not less than ten (10) feet on each side.
- F.    Lot Coverage: None
- G.    Building Height: The maximum height of any building shall not exceed one story or twelve feet in height, whichever is the lesser.

**504.5      SUPPLEMENTARY REGULATIONS**

None

**504.6      SUBDIVISION AND LAND DEVELOPMENT**

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development" as so defined in Article 2 of the Penn Lake Park Borough Subdivision and Land Development Ordinance of August

12, 1997, including any subsequent amendments thereto, shall also be subject to the governing regulations and provisions of said Ordinance.

**SECTION 505      SPECIAL PURPOSE DISTRICT**

**505.1      PERMITTED USES**

Parks  
Recreational Facilities (Public and/or Private)  
Private/Association Owned Beaches Areas  
Public Utility Facilities (excluding storage yards)  
Accessory Uses to the Above

**505.2      USES PERMITTED BY SPECIAL EXCEPTION**

None

**505.3      CONDITIONAL USES (SEE ARTICLE 7)**

Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves either of the following:

- (a) the initial or cumulative land disturbance which equals or exceeds 87,120 square feet of surface area.
- (b) the initial or cumulative construction, placement or installation which equals or exceeds 5,000 square feet of buildings, structures and/or other impervious surface area.

**505.4      DIMENSIONAL REGULATIONS**

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State or Federal regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Two (2) acres for all permitted uses, excluding open beach areas which shall be exempt from any minimum lot area
- B. Minimum Lot Width: One hundred (100) feet, excluding open beach areas which shall be exempt from any minimum lot width.
- C. Front Yard: The minimum front yard shall be not less than fifty (50) feet in depth as measured from the front lot line, excluding open beach areas which shall be exempt from any minimum front yard.
- D. Rear Yard: The rear yard shall be not less than fifty (50) feet in depth as measured from the rear lot line, excluding open beach areas which shall be exempt from any minimum rear yard.

- E. Side Yard: The side yard shall be not less than fifty (50) feet on each side, excluding open beach areas which shall be exempt from any minimum side yard.
- F. Lot Coverage: Not more than twenty (20%) percent of a lot shall be covered by buildings. Total impervious cover shall not exceed thirty (30%) percent.
- G. Building Height: The maximum height of any building shall not exceed one story or fifteen (15) feet, whichever is the lesser.

505.5            SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

505.6            SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development" as so defined in Article 2 of the Penn Lake Park Borough Subdivision and Land Development Ordinance of August 12, 1997, including any subsequent amendments thereto, shall also be subject to the governing regulations and provisions of said Ordinance.



**SECTION 506      C-1 CONSERVATION DISTRICT**

**506.1      PERMITTED USES**

Single Family Detached Dwellings  
No Impact Home-Based Business  
Greenhouses, Nurseries, Orchards and Tree Farms (including the sale of produce, flowers, shrubbery, trees and related material)  
Forestry Activities  
Wildlife Preserves  
Mobile Homes  
Public Utility Facilities (excluding storage yards)  
Accessory Uses to the Above

**506.2      USES PERMITTED BY SPECIAL EXCEPTION**

Public Uses  
Home Occupations  
Outdoor Storage  
Self-Service Storage Facility  
Recreational Facilities (Public, Private and/or Commercial), excluding golf courses (see Section 506.3 (2)).  
Accessory Uses to the Above

**506.3      CONDITIONAL USES (SEE ARTICLE 7)**

1. Any nonresidential use permitted by right or by special exception shall be deemed a conditional use if it involves any of the following:
  - (a) the initial or cumulative land disturbance which equals or exceeds 87,120 square feet of surface area.
  - (b) the initial or cumulative construction, placement or installation which equals or exceeds 5,000 square feet of buildings, structures and/or other impervious surface area.
2. Golf Courses (Commercial and/or Private).
3. Wireless Commercial Communication Sites.
4. Excavation, Extraction and/or Removal of Minerals.

**506.4      DIMENSIONAL REGULATIONS**

A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Each principal building or use shall be located upon a lot having a minimum lot area of not less than two (2) acres.
- B. Minimum Lot Width: Each lot shall have a lot width not less than two hundred (200) feet.
- C. Front Yard: The minimum front yard shall be not less than fifty (50) feet in depth as measured from the front lot line.
- D. Rear Yard: The rear yard shall be not less than fifty (50) feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than fifty (50) feet on each side.
- F. Lot Coverage: Not more than twenty (20%) percent of a lot shall be covered by buildings. Total impervious cover shall not exceed thirty (30%) percent.
- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet, whichever is the lesser.

506.5            SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

506.6            SUBDIVISION AND LAND DEVELOPMENT

Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development" as so defined in Article 2 of the Penn Lake Park Borough Subdivision and Land Development Ordinance of August 12, 1997, including any subsequent amendments thereto, shall also be subject to the governing regulations and provisions of said Ordinance.

## ARTICLE 6

### SPECIAL EXCEPTIONS

#### SECTION 601      PURPOSE

The purpose of a use classified as a "special exception" is to provide expressed standards for regulating unique or special characteristics of certain uses which may otherwise allow such uses to be permitted by right within their respective zoning district, as provided in Article 5, Zoning District Regulations.

#### SECTION 602      GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted by special exception shall be vested in the Zoning Hearing Board in accordance with the provisions contained in Article 15. Decisions by the Zoning Hearing Board shall be made pursuant to the standards and criteria set forth in this Article (Section 1504), the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Borough and any applicable State and/or Federal regulations. A special exception application may be reviewed in an advisory capacity by the Penn Lake Park Borough Planning Commission,

#### SECTION 603      SITE PLAN

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

- A. The location and size of all buildings and structures, both principal and accessory.
- B. The location of all off-street parking areas and/or loading areas.
- C. The location of all open space areas, including buffer areas and fencing, if applicable.
- D. Traffic access to the site and internal traffic circulation within the site.
- E. All streets, both public and private which border the site.
- F. The location, nature and terms of any existing or proposed easements on the site and any easements both on-site and off-site which are used or intended to be used for access to the site.
- G. Streams, ponds, watercourses, wetlands or any other type bodies of water, including natural or man-made drainage swales, located on the

site.

- H. The Map, Block and Lot Number of the subject parcel.
- I. A location map indicating the relation of the site to its geographic proximity within the Borough based upon the Penn Lake Park Borough Zoning Map or portion thereof.
- J. A narrative outline which fully describes the proposed use of the site and the pertinent operational aspects and features of the proposed use.

SECTION 604      GENERAL STANDARDS

The general standards contained herein, in addition to all other applicable regulations, shall be utilized in the review of applications and plans for any use which is classified as a special exception:

- A. The proposed use shall not jeopardize the objectives of the "Community Development Objectives" of this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. The proposed use shall generate only minimal vehicular traffic on local roads and shall not create traffic congestion, unsafe access or parking needs that will cause inconvenience to adjoining properties.
- D. The proposed use shall be located, designed, maintained and operated in a manner to be compatible with the existing or intended character of the Zoning District in which it is located.
- E. The proposed use shall not depreciate or adversely affect the values of surrounding properties.
- F. The proposed use shall not be hazardous, detrimental or disturbing to surrounding properties and/or land uses due to noise, fumes, dust, smoke, vapors, gases, odors, heat, glare, vibration, lighting, electrical disturbances, general unsightliness, or other general nuisances, within the context of the definition of the term "General Nuisance" as so defined in Article 2 of this Ordinance.
- G. The design and site development of the proposed use shall preserve the site's natural and scenic features.
- H. The proposed use shall be subject to any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be imposed by the Zoning Hearing Board in the interest of protecting the

health, safety and welfare of the public.

SECTION 605      IMPACT ANALYSIS

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

**ARTICLE 7**

**CONDITIONAL USES**

SECTION 701      PURPOSE

The purpose of a use classified as a "Conditional Use" is to provide expressed standards to regulate uses classified as such in particular zoning districts, as provided in Article 5 of this Ordinance.

SECTION 702      GENERAL PROVISIONS

The authority for approving or denying applications for uses permitted as a conditional use shall be vested in the Borough Council, with the Borough Planning Commission having the authority to review and submit their recommendations to the Borough Council. Decisions by the Borough Council shall be made in accordance with standards and criteria set forth in this Article, any studies and reports required within the context of an Impact Analysis, as so defined in Article 2 of this Ordinance, the respective zoning district in which the use is located, all other applicable regulations of this Ordinance, other ordinances of the Borough and all applicable State and/or Federal regulations.

SECTION 703      PROCEDURE FOR SUBMISSION AND DECISIONS

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

- A. An application for a conditional use permit shall be submitted to the Zoning Officer with a site plan at a scale of not greater than:

One inch (1) equals fifty (50) feet for properties in excess of two (2) acres.

OR

One (1) inch equals twenty (20) feet for properties that equal or exceed two (2) acres or less.

Such plan shall, at minimum, indicate:

1. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
2. The location of all off-street parking areas and/or loading and unloading areas.
3. The location of all open space areas, including buffer areas and fencing, as applicable.
4. Traffic access to the site and internal traffic circulation including

the width and pavement of traffic lanes, and aisle widths.

5. All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cartway widths.
  6. Streams, ponds, watercourses, wetlands, or any other types of bodies of water, including natural or man-made drainage swales, located on the site or within two hundred (200) feet of the site.
  7. The location, nature and terms of any existing or proposed easements on the site, and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owners granting such easement.
  8. The location of any residential structures which border the site on an adjoining lot and/or those within two hundred (200) feet of any property boundary line of the subject site.
  9. The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Luzerne County Recorder of Deeds.
  10. A location map at a scale of not greater than one (1) inch equals two thousand (2,000) feet, indicating the relation of the site to its geographic proximity within the Borough.
  11. In cases when a proposed use includes new construction and/or grading of the site, contours of the site for each five (5) feet of change in elevation, based upon a field survey of the site, with the name of the person or firm who conducted the survey and the date of the survey shall be required. As applicable, the applicant shall be required to submit a Soil Erosion and Sedimentation Control Plan for review and approval by the Luzerne County Conservation District.
  12. The applicant shall submit with the site plan, a narrative that outlines and fully describes all proposed uses or development of the site, along with all pertinent operational aspects, features and/or activities related to the proposed uses or development of the site.
  13. The applicant shall supply any other information required by the Penn Lake Park Borough Council for determining the conformance of the conditional use with the regulations for that particular use.
- B. Prior to approving or denying an application for a conditional use, the Borough Council shall conduct a public hearing pursuant to public notice. The Borough Council shall submit the application for the proposed conditional use to the Borough Planning Commission, not less than thirty (30) days prior to the public hearing, to allow the Planning Commission to submit any such recommendations as they may deem appropriate.

- C. The public hearing shall be held and conducted in accordance with the same procedural guidelines which govern the Zoning Hearing Board under Article 15 of this Ordinance. The term "Borough Council" shall replace the term "Zoning Hearing Board" in relevant passages of said Article.
- D. The Borough Council shall convene a hearing on a conditional use application within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record.

The Borough Council shall render a final decision on a conditional use application within forty-five (45) days following the conclusion of the last public hearing. If the Borough Council fails to render a final decision within forty-five (45) days following the conclusion of the last public hearing the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time

If the Borough Council fails to conduct or complete the required hearing as provided for under Section 1506(D) of this Ordinance, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Borough Council to meet or render a decision as hereinabove provided, Borough Council shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by public notice. If the Borough Council fails to provide such notice, the applicant may do so.

- E. The Borough Council shall grant an approval for a conditional use upon its determination that adequate evidence and information has been provided, which indicates the applicant's proposal meets the general and specific requirements for the type of conditional use in question, and any additional conditions and safeguards deemed necessary to protect the public health, safety and general welfare.

#### SECTION 704      GENERAL STANDARDS

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

- A. The proposed use shall not jeopardize the objectives of the Community Development Objectives as provided for under Article 1 of this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.



- C. The proposed use shall generate only minimal vehicular traffic on local roads and shall not create traffic congestion, unsafe access or parking needs that will cause inconvenience to adjoining properties. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of location and size relative to the proposed operation and the nature and intensity of the operation involved.
- E. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of structures, buildings, walls and fences, so that the use, development, use and value of adjacent property is not impaired.
- F. The proposed use shall be located, designed, maintained and operated in a manner to be compatible with the existing or intended character of the Zoning District in which it is located. and shall not be hazardous, detrimental or disturbing to surrounding properties and/or land uses due to noise, fumes, dust, smoke, vapors, gases, odors, heat, glare, vibration, lighting, electrical disturbances, general unsightliness, or other general nuisances, within the context of the definition of the term "General Nuisance" as so defined in Article 2 of this Ordinance.
- G. The submission of an Environmental Impact Statement in accordance with Section 706 of this Ordinance, and all subsections thereunder.
- H. The submission of any reports and/or studies within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Borough Council including but not limited to the interest of protecting the health, safety and welfare of the public and environmental features and characteristics of the site and/or surrounding areas. In their review of an Impact Analysis, the Borough Council shall have the discretion to retain the services of firms or agencies which have expertise within the subject or subjects addressed therein. All fees and costs incurred for such consultation by the Borough shall be reimbursed by the applicant.

SECTION 705      CLASSIFIED CONDITIONAL USES

The following uses/developments are classified as conditional uses within Article 5 of this Ordinance:

1. Solid Waste Facilities, as defined in Article 2 of this Ordinance, including but not necessarily limited to Transfer Stations as so defined in Article 2.
2. Any nonresidential use permitted by right or special exception, involving the initial or cumulative land disturbance of 87,120 or more square feet of surface area, including but not limited to, a solid waste facility, the excavation of land,

grading and/or the backfilling of land not related to the extraction of natural resources.

3. Any nonresidential use permitted by right or special exception, involving the initial or cumulative construction, installation or placement of 5,000 or more square feet of buildings, structures and/or other impervious surface areas.
4. Adult Uses (as defined in Article 2).
5. Excavation, Extraction and/or Removal of Minerals
6. Golf Courses (Commercial and/or Private)
7. Methadone Treatment Facility
8. Mobile Home Park
9. Sewage Treatment Facilities
10. Wireless Commercial Communication Facility.

SECTION 706      ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any nonresidential use and/or development which are classified as a conditional use. However an exemption, in whole or in part, may be granted upon a written request from the applicant, upon a determination that certain information is not applicable to the proposed use and/or development. The burden of proof that certain information is not applicable to the proposed use and/or development shall rest with the applicant in addressing the basis for the requested exemption. The Borough Council shall not unreasonably withhold approval of such exemption when the applicant identifies the non applicability of such provisions to the applicant's particular development. A decision on any requested exemption shall be made at the outset of the public hearing for the proposed conditional use. In the event a request for an exemption, in whole or part, is denied, the public hearing may be continued to allow the applicant sufficient time to provide the required information. The purpose of the Environmental Impact Statement is to disclose the environmental consequences of a proposed action. This requirement is designed to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect water courses, air quality, aquifers and the quality of life throughout Penn Lake Park Borough and its environs. An Environmental Impact Statement shall include a response to the following items and said proposed use/development shall further comply with all other applicable standards and requirements of this Ordinance.

706.01.      SOIL TYPES

- a. U.S.D.A. Soil Types (illustrated upon map).

- b. Permeability of soil on the site.
- c. Rate of percolation of water through the soil for every five acres.

706.02      SURFACE WATERS

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

706.03      GROUND COVER INCLUDING TREES

- a. Extent of existing impervious ground cover on the site.
- b. Extent of proposed impervious ground cover on the site.
- c. Extent of existing vegetative cover on the site.
- d. Extent of proposed vegetative cover on the site.

706.04      TOPOGRAPHY

- a. Maximum existing elevation of site.
- b. Minimum existing elevation of site.
- c. Maximum proposed elevation of site.
- d. Minimum proposed elevation of site.
- e. Description of the topography of the site and all proposed changes in topography.

706.05      GROUND WATER

- a. Average depth to seasonal high water table.
- b. Minimum depth to water table on site.
- c. Maximum depth to water table on site.
- d. Documentation of the conical surface of water level created in the unconfined aquifer due to pumping, including the dates of commencement and completion of testing.

706.06      WATER SUPPLY

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

706.07      SEWAGE SYSTEM

- a. Sewage disposal system (description and location on the site of system).
- b. Expected content of sewage effluents (human waste, pesticides, detergents, oils, heavy metals, other chemicals).
- c. Projected daily volumes of sewage.
- d. Affected sewage treatment plants present capacity and design capacity.

706.08      SOLID WASTE

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

706.09      AIR QUALITY

- a. Expected changes in air quality due to activities at the site during and after construction.
- b. Plans for control of emissions affecting air quality.

706.10      NOISE

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

706.11      IMPACT OF PROPOSED USE/DEVELOPMENT

A description of the impacts on the environment and mitigating factors shall be provided for the following:

- a. Existing plant species, (upland and marine), and effects thereon.
- b. Existing animal species and effects thereon.
- c. Existing wild fowl and other birds and effects thereon.
- d. Effects of drainage and runoff.
- e. Effects on ground water quality.
- f. Effects on surface water quality.
- g. Effects on air quality.
- h. Alternatives to proposed use/development, consistent with the zoning of the site.
- i. Effects on sites of historic significance.
- j. Projected amount and type of traffic to be generated and the effects of the same on public roads and highways.

706.12      IMPACT UPON CRITICAL AREAS

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

706.13      OTHER GOVERNMENTAL JURISDICTION

The applicant shall provide a list of all licenses, permits and other approvals required by County, State or Federal law and the status of each.

706.14      REVIEW PROCEDURE OF ENVIRONMENTAL IMPACT STATEMENT

- A.    Upon receipt of an Environmental Impact Statement, the Borough Council shall promptly forward the Environmental Impact Statement to the Borough Planning Commission, the Borough Planning Consultant, the Borough Engineer and any other agency, firm or individual which the Borough Council may desire for their consultation and input.
- B.    The Planning Commission shall review the applicant's Environmental Impact Statement and provide the Borough Council with its comments and recommendations within thirty (30) days from the date of its submission to the Planning Commission.
- C.    The Borough Council shall have the discretion to retain the expertise of appropriate parties in their review of the Environmental Impact Statement. All fees and costs incurred for such consultation shall be paid and/or reimbursed by the applicant.
- D.    A determination by the Borough Council of a potential adverse impact which may result shall constitute sufficient basis for the denial of a conditional use permit.

SECTION 707      SUPPLEMENTARY REGULATIONS FOR CONDITIONAL USES

707.1      SOLID WASTE FACILITY

A solid waste facility shall conclusively demonstrate conformance to all of the following items:

- A.    The applicant shall provide a comprehensive soil analysis and groundwater report which shall conclusively demonstrate that the proposed design, construction and operation of the solid waste facility shall not pollute surface or groundwater, nor otherwise cause any potential health or environmental hazard. Said report shall be jointly signed and certified by the applicant and the consultant, who prepares the report, attesting to the accuracy of information and the validity of said report.
- B.    The applicant shall sign an agreement prepared by the Borough Solicitor, prior to final approval of the application for a Conditional Use Permit which shall specify all the terms and conditions of approval, including the Borough's authority to revoke the Permit for the violation of any terms and/or conditions under which the application was approved. Prior to formal action to revoke the Conditional Use Permit, the Borough Council shall convene a public hearing, pursuant to public notice, to consider testimony and evidence relative to the alleged violations. Based upon the testimony and evidence provided, the Borough Council shall render a decision.
- C.    The land area and/or parcel of land on which the solid waste facility is located

shall not exceed twenty (20) acres, whether developed initially or cumulatively.

- D. The applicant of a proposed solid waste facility shall provide conclusive evidence, based upon a mining report, soil analysis, test borings and any other appropriate technical data which conclusively demonstrates that the subsurface conditions beneath any area to be utilized as a landfill is capable of sustaining the bearing load of projected and/or planned quantity of material to be deposited and/or disposed of upon the site. The applicant and the person, party or firm providing such evidence shall jointly sign and certify the accuracy and validity of the information and data which is provided as conclusive evidence.
- E. Any application for a Conditional Use Permit for a solid waste facility, which includes the operation of a landfill, shall include a proposed reuse of the property and/or area utilized as a landfill upon the cessation of landfill activities. The proposed reuse of the property shall not be inconsistent with the Community Development Objectives provided for in Article 1 of this Ordinance and land uses, existing and planned, on property which adjoins the site of the Facility.
- F. The applicant shall be required to create an escrow fund to finance the proposed and planned reuse and development of any area utilized as a landfill based upon the projected life expectancy of any area within the solid waste facility which is utilized as a landfill. Such fund shall be funded while the property is still being used for a landfill with annual increment payments. The annual increment payment shall be based upon the estimated cost of the proposed reuse of the site divided by the number of years which the landfill is expected to operate. Such fund shall be separate and distinct from any funding and/or bonding requirement pursuant to closure activities.
- G. A solid waste facility may conduct and operate all approved functional aspects within the Facility from the hours of 7:00 A.M. to 3:00 P.M. from Monday through Friday. Said Facility shall not conduct and/or operate any approved functional aspects associated with the Facility on Saturdays, Sundays and all legally recognized holidays by the federal government and/or the Commonwealth of Pennsylvania.
- H. The entire site of a solid waste facility shall be enclosed with industrial type gauge fencing which shall be ten (10') feet in height. All gates shall be closed and locked at the end of business hours. There shall be no advertising of any kind displayed upon the fence.
- I. No operations and/or activities permitted within a solid waste facility shall be permitted within one thousand (1,000) feet of any property line boundary and/or within two thousand-five hundred (2,500) feet of any residences and/or zoning district in which residences are a permitted use.
- J. All solid waste facilities and staging areas which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or

solid waste in motor vehicles, trucks, trailers or other containers normally used to transport the materials shall not be permitted unless the aforesaid motor vehicles, trucks, trailers or other containers shall be stored within a completely enclosed building.

- K. A solid waste facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in treating and/or processing the solid waste. Any water discharge from the facility after being treated by the waste water treatment system shall meet all applicable regulations and requirements of the Pennsylvania Department of Environmental Protection.
- L. All storm water collected on the site shall be treated by the facility's waste water treatment system. Parking of motor vehicles containing solid waste or motor vehicles which have not been properly cleaned and washed shall only be permitted in completely enclosed buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.
- M. The owner and/or operator of any solid waste facility shall be required to reimburse Penn Lake Park Borough for monitoring the ground and surface water in the vicinity of the facility. Water testing by Penn Lake Park Borough shall be conducted every three (3) months on any stream within 500 feet of any areas used for the storage or disposal of solid waste, if water drainage from the facility is discharged into said stream. For each testing period two (2) testing samples shall be collected: one sample shall be taken from the stream at a point upstream of the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well location, if applicable, located on the premises shall also be sampled every three (3) months. All water samples shall be collected and analyzed by an independent party which is a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Borough Supervisors, and the results shall be provided to the owner and/or operator of the subject solid waste facility. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall immediately cease operation until such time as the source of the contamination has been identified and totally corrected.
- O. The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be entirely screened. Such screening shall consist of a variety of evergreen trees, approved by the Borough Council, planted not more than six (6') feet apart and being not less than eight (8') feet in height at the time of planting. Said screening shall be located not greater than three hundred (300') feet from the operations and/or activities which are subject to being screened. The applicant and/or operator of the Facility shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die or otherwise fail to grow.
- P. The applicant shall provide a detailed narrative which fully describes the daily operations of all permitted functions and activities within the proposed solid



waste facility, including the projected daily volume and tonnage of refuse being accepted for processing and/or disposal.

- Q. The applicant shall submit to the Borough Council, a copy of their commercial policy of liability insurance covering third party claims for property damage and personal injury.
- R. Vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads, constructed in accordance to the design standards of a collector street as so provided within Article 8 of the Penn Lake Park Borough Subdivision and Land Development Ordinance. Such private access roads shall only have access to a state legislative route with no permitted access to or from any local streets and/or roads.
- S. The owner and or operator of a solid waste facility shall provide an emergency response plan to address potential hazards associated with its operations. Said plan shall be submitted for review and comment to the local fire companies which serve Penn Lake Park Borough.
- T. Any solid waste facility which processes sludge, prior to its final disposal, shall be designed to include a liner in accordance with the applicable standards of the Department of Environmental Protection for the liner within a proposed landfill.
- U. Any solid waste facility which includes incineration shall be designed and operated in a manner to limit emissions by not less than ten (10%) percent below the applicable allowable emission standards of the Department of Environmental Protection or the Environmental Protection Agency, based upon the more restrictive regulations for reducing and/or limiting air pollution. Any emissions stack or similar structure shall not exceed one hundred (100) feet in height.
- V. The applicant shall in addition to other required information and data provide an "Impact Analysis" which addresses the impact of the proposed operation and activities of a solid waste facility in relationship to the following items:
  - 1. All streets and roads which shall and/or are likely to be utilized for means of access to and from the site, including projected truck traffic which shall be generated in relationship to the projected daily volume of waste being transported to the solid waste facility.
  - 2. The suitability of the site for the proposed operations and activities of the solid waste facility in relationship to the soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features which are located both on-site and off-site of the Facility.
  - 3. The impact, both on-site and off-site, of the proposed operations and activities of the solid waste facility on the soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features regarding the degree to which these are protected or destroyed, the tolerance of these resources to the proposed development and any

adverse environmental impacts.

4. The impact of the proposed operations and activities of the solid waste facility upon any locations and/or structures of historical and/or cultural significance within 3,000 feet to any property boundary line of the Facility.
5. The impact of the proposed operations and activities of the solid waste facility upon the preservation of agriculture and other land uses which are essential to the public health and welfare.

707.11      MITIGATION OF ADVERSE IMPACTS

In the event that any information, data, and/or "Impact Analysis" indicates a projected and/or potential adverse impact, the applicant shall fully mitigate such impact. A determination of a potential adverse impact which may result, based upon the Environmental Impact Statement or the Borough Council' review of the same shall constitute sufficient basis for the denial of a conditional use permit.

707.12      LAND DEVELOPMENT APPROVAL REQUIRED

In addition to the regulations contained within this Article, a solid waste facility shall be subject to the applicable regulations and provisions as contained within the governing provisions of the Penn Lake Park Borough Subdivision and Land Development Ordinance. The application process for a Conditional Use Permit and a land development may be submitted concurrently by the applicant.

707.13      HOST MUNICIPALITY FEE

A host municipality fee shall be executed between Penn Lake Park Borough and applicant, owner and/or operator of a solid waste facility prior to the commencement of construction of said Facility.

707.2      ADULT USES

No adult use, as so defined in Article 2 of this Ordinance, shall be located less than 1,000 feet from any of the following uses:

1. A residential dwelling.
2. A place of worship
3. A public or quasi-public use or structure.
4. A zoning boundary of any zoning district in which residences are permitted.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of an adult use, to the nearest property line

of the above noted uses. The structure and/or premises of an adult use, including all off-street parking areas shall be completely enclosed by a fence, not less than eight (8') feet in height and screened by a variety of evergreen trees which shall be planted not more than six (6') feet apart and being not less than eight (8') feet in height at the time of planting. The owner of the property shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die, removed by whatever means or otherwise fail to grow.

### 707.3            MOBILE HOME PARKS

The standards and regulations provided herein shall apply to both the development of new mobile home parks and the expansion of existing ones. The development of a mobile home park, including the expansion of an existing one, shall also be deemed as a subdivision or land development and shall be subject to applicable regulations of the Penn Lake Park Borough Subdivision and Land Development Ordinance. Customary accessory residential uses shall be permitted, along with common areas for use by residents of the mobile home park.

- A. All mobile home parks shall have a total land area of not less than twenty (20) acres.
- B. All mobile home parks shall be located on well drained land with the average natural slope not exceeding ten (10%) percent.
- C. All mobile home parks shall have access to public streets or roads.
- D. All mobile home parks shall be serviced by an off-site sewage disposal system and a central water supply and distribution system.
- E. Access to mobile home sites shall be from interior driveways, access drives, or private streets and shall not be from Public Street or roads. Interior roads within a mobile home park shall conform to the design standards for a local road as provided for under Penn Lake Park Borough Subdivision and Land Development Ordinance.
- F. Access to mobile home sites shall be from interior driveways, access drives, or private streets and shall not be from public street or roads. Entrance roads shall have a paved cartway width of at least twenty-four (24') feet.
- G. Every mobile home site shall be provided with a minimum of two (2) off-street parking spaces.
- H. All mobile home parks shall be provided with pedestrian walkways on at least one side of every street.
- I. The minimum area of land per mobile home site shall be not less than 7,200 square feet with the dimensions being sixty (60) feet by one hundred and twenty (120) feet. The minimum front, rear and side setback for any mobile home shall be twenty (20') feet to properties lines and/or the defined site on which the mobile home is located.

- J. Every mobile home park shall provide a defined recreational site or sites which shall contain an area of land not less than five (5%) percent of the total gross land area within the boundaries of the mobile home park. All recreational sites shall be located in areas which are readily accessible to all residents of the mobile home park. A recreational development plan shall be provided which identifies passive and active recreational features to be provided upon the site, including recreational equipment, play apparatus, benches, and all other features and facilities to be incorporated into the design of the recreational site. The location of the recreational site and the recreational development plan shall be subject to the review and approval of Borough Council. The recreational site must be identified and approved by the Borough Council prior to final approval of the development or expansion of a mobile home park.
- K. Each mobile home site shall be provided with a stand or pad consisting of two (2) concrete strips to accommodate the supporting base or foundation of the mobile home.
- L. Every mobile home in the park shall be enclosed from the bottom of the mobile home to the ground or stand using industry-approved skirting material compatible with the home.
- M. Every mobile home shall be securely anchored or tied-down on at least the four (4) corners and/or in accordance with the manufacturer's recommendations furnished with each home.
- N. The owner/operator of each mobile home park shall provide a refuse disposal plan.
- O. An approved soils erosion and sedimentation plan and a stormwater management plan shall be required prior to the unconditional approval for the development or expansion of a mobile home park.
- P. An approved Department of Environmental Protection Planning Module shall be required prior to the unconditional approval for the development or expansion of a mobile home park.

#### 707.4 SEWAGE TREATMENT FACILITIES

The location and operation of a public or private sewage disposal and/or sewage treatment plant shall be in full compliance with the applicable regulations of the Pennsylvania Department of Environmental Protection. Written approval from DEP shall be secured prior to the installation of such facilities. All sewage treatment facilities shall be completely screened from view on all sides by a buffer area as so defined in Article 2 of this Ordinance. No such facility shall be within two hundred (200) feet of any existing property line or within four hundred (400') feet of any existing residential use.

707.5      COMMERCIAL ANTENNA SUPPORT STRUCTURE

The following general provisions shall apply to all commercial antenna support structures:

A.    STRUCTURAL INTEGRITY AND SAFETY

1. A commercial antenna support structure shall be designed and constructed to meet or exceed all applicable standards of the American National Standards Institute, ANSI/EIA-222-E manual, as amended and also to FAA standards for marking and lighting requirements of obstructions to air navigation as set forth within the most recent edition of Advisory Circular AC 70/7460-1H, including any amendments thereto
2. A soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual, as amended, shall be submitted to document and verify the design specifications of the foundation for the commercial antenna support structure, and anchors for the guy wires, if used.
3. The operational use of a commercial antenna, as so defined within this Ordinance, including those mounted upon a support structure or to an existing structure, shall comply with all applicable rules and regulations of the FCC and the FAA.
4. The applicant or owner of a commercial antenna support structure shall provide a design certificate and an operational certificate, prepared by a professional engineer, which certifies compliance with the standards addressed in the above items A, B and C). The design certificate shall be submitted with the Zoning Application for the proposed commercial antenna support structure. The operational certificate, shall include “as-built” drawings and written certification from the applicant’s professional engineer that all applicable regulations have been met.

B.    HEIGHT AND SETBACK REQUIREMENTS

1. A commercial antenna which mounted upon an existing structure, including an existing building, shall not exceed the height of the existing structure by more than twenty (20) feet.
2. A commercial antenna support structure shall be setback from any property line to a distance that is not less than one hundred and fifty (150%) percent of the height of the antenna support structure measured in linear feet.
3. Any building utilized as a component of a commercial enterprise in the collection and/or transmission telecommunication signals, radio signals, television signals, wireless phone signals or similar signals shall be completely enclosed by a fence, eight feet in height, with such building

meeting the setback requirements for the zoning district in which it is located.

4. A commercial antenna support structure or an antenna mounted upon an existing structure, shall be removed by the owner of the same within six (6) months of the discontinuance of its use. The owner shall provide Penn Lake Park Borough with a copy of the notice to the FCC of intent to cease operations. The six month period for the removal of the antenna support structure or an antenna mounted upon an existing structure shall commence on the date indicated for ceasing operations.

C. SITE PLANS

1. A site plan, in conformance with Section 703 of the Penn Lake Park Borough Zoning Ordinance, as amended, shall be required for the development of a commercial communication site which includes a free-standing a commercial antenna support structure or a proposed antenna mounted to an existing structure.
2. A site plan in conformance with the governing standards of the Penn Lake Borough Subdivision and Land Development Ordinance, as amended, shall also be required when the location of a free-standing a commercial antenna support structure represents a described parcel of land subject to a lease, within an existing deed of record.
3. A new site plan shall not be required when a proposed antenna is to be located on an existing free-standing a commercial antenna support structure.

D. SUPPLEMENTAL STANDARDS AND CRITERIA

1. A wireless commercial communication site shall comply with the General Standards of Section 704 of the Penn Lake Park Borough Zoning Ordinance, as amended.
2. The applicant shall provide documentation to verify the wireless commercial communication site is designed in compliance with the standards addressed under Section 707.5 (A) and Section 707.5 (B) of this Ordinance.
3. The applicant shall demonstrate that the proposed antenna support structure complies with all applicable state and federal standards.
4. The applicant shall demonstrate that the proposed commercial antenna and its support structure are safe and the surrounding properties will not be negatively affected by support structure failure, falling ice or other debris. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

5. A commercial antenna support structure shall be designed with excess capacity beyond the initial intended use in order to encourage secondary users to lease the balance of the capacity at reasonable rates. When a new antenna support structure is proposed, the applicant must demonstrate that all alternatives to the construction of a new antenna support structure have been exhausted.
6. The applicant shall provide information on a proposed design of a commercial antenna support structure which shall minimize the visual impact for those residents in an immediate area and for those in the larger community who view it from a distance.

#### 707.6 METHADONE TREATMENT FACILITY

- A. A methadone treatment facility shall be located upon a lot having an area of not less than one acre, applicable for either new construction or for adaptive reuse of an existing structure.
- B. Any proposed methadone treatment facility shall include with its submission of a zoning permit application, a development narrative which accurately describes the nature of medical services to be offered and the names of the medical practitioners providing said services. A licensed physician, an MD or a DO, shall be on duty at the facility during the methadone treatment facility's hours of operation
- C. Any existing structure proposed for adaptive reuse as a methadone treatment facility shall be brought into compliance with all current building codes and all other applicable Borough, County, State and Federal regulations prior to occupancy.
- D. Any methadone treatment facility with direct access and/or frontage along a State Legislative Route shall include with its submission of a zoning permit application, a traffic impact analysis prepared by a professional licensed engineer with expertise in transportation and traffic planning. Such analysis shall demonstrate the following:
  1. The number of vehicle trips expected to be generated during an average weekday and during both a.m. and p.m. peak hours of adjacent street traffic.
  2. The number and types of vehicles, with an origin or destination at the subject site, the need for which is generated by said use.
  3. The routes, roadways or streets to reach the methadone treatment facility.
  4. The impact of the levels-of service at intersections within one (1) mile of said methadone treatment facility.

5. Recommended traffic control devices designed to mitigate the documented impact on adjacent roadways.
- E. A methadone treatment facility shall demonstrate its compliance with supplying the required number of off-street parking spaces as provided for in Article 11 of this Ordinance. All off-street parking areas shall be adequately lighted, with a lighting plan included within the submission of the required site plan.
  - F. A methadone treatment facility, as so defined in Article 2 of this Ordinance, shall be located not less than five hundred (500) feet from any of the following uses:
    1. School
    2. Public playground
    3. Public Park
    4. Residential Housing Area
    5. Child-care Facility
    6. Church
    7. Meetinghouse, or other actual place of regularly stated religious worship established prior to the proposed methadone treatment facility.

Measurements of the required distance shall be made in a straight line, from the nearest portion of the structure or premises of a methadone treatment facility, to the nearest property line of the above noted uses.

If a methadone treatment facility is proposed to be located less than five hundred (500) feet from any of the above uses, the following procedure shall apply:

1. At least fourteen (14) days prior to voting on the conditional use application, one (1) or more public hearings regarding the proposed methadone treatment facility shall be convened by the Borough Council subject to public notice.
2. Not less than thirty (30) days prior to the date of the public hearing, the Borough Council shall provide written notice of said public hearing to all owners of real property located within five hundred (500) feet of the proposed location of the methadone treatment facility.

707.7 EXCAVATION, EXTRACTION AND/OR REMOVAL OF MINERALS

Excavation and extraction of minerals, as defined in Article 2, shall be considered a temporary use, subject to the following requirements:

- A. Project Narrative: A written report shall be submitted by the applicant that includes the type of minerals proposed to be excavated, extracted, and/or removed from the site, the volume of such material and the maximum length of time associated with the proposed operation based upon the stated volume of



material. Said narrative shall also describe normal, daily operational features performed upon the site, including but not limited to, proposed hours of operation, anticipated noise levels, and the type and volume of truck traffic to be generated with the proposed traffic routes to and from the site.

- B. Map: Submission of a map or maps at a scale of not greater than one (1) inch equals fifty (50) feet that outlines the entire property and the proposed area subject to excavation, extraction, and/or removal of minerals. Said map shall indicate existing contours prior to the start of work, and proposed final contours, including the proposed maximum depth of excavation at all points subject to excavation. Said map or maps shall also contain surface features showing the location of buildings, dwellings, places of worship, schools, railroads, highways and public uses within a distance of five hundred (500) feet from the perimeter of the proposed use.
- C. Bond, Backfilling and Fees: The applicant shall provide documentation that all applicable State requirements relative to providing a bond that guarantees the restoration and backfilling of any land proposed to be excavated or otherwise disturbed has been secured.
- D. Insurance: That a Certificate of Insurance with limits of \$500,000 per person and \$1,000,000 per accident for personal injuries, and \$1,000,000 for property damage, be filed with the Borough Council both for the benefit of all persons who might be injured or suffer property damage as a result of the operations, and to save Penn Lake Borough and its Officials harmless from any and all claims, suits or demands caused by any operations of the subject use.
- E. Distance Provisions: The perimeter of any excavation under this Section shall not be nearer than five hundred (500) feet from any building, property line or street, except that owned by the applicant.
- F. Timing: If blasting is proposed to be included as part of the excavation/extraction process, such approval must be specifically granted by the Penn Lake Borough Council as an element of the Conditional Use approval. Blasting, if permitted by the Borough Council, shall occur only between the hours of 9:00 A.M. and 4:00 P.M. local time and in accordance with regulations promulgated by and under the supervision of a representative of the Pennsylvania Department of Environmental Protection. The applicant shall provide the Borough with not less than a seventy-two (72) hours advance notice.
- G. Location of Processing Equipment: To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing and other operations shall be not less than one thousand (1000) feet from the right-of-way of any street, and/or one thousand (1000) feet from any residential building or the boundary of a residential zoning district.
- H. Drainage: All excavations both during operations and after completion shall be adequately drained to prevent the formation of pools of water. Adequate measures shall be taken prior to any excavation and fully documented prior to approval of the

operation.

- I. Limitation on Land Area: At any given time, the active excavation/extraction areas shall not exceed ten (10) acres in area on any lot or tract of land. Additional areas may be approved on the completion and cessation of previous approvals.
- J. Compliance With State Requirements: Final and/or unconditional approval for excavation, extraction and/or minerals under the provisions of this Ordinance shall not be issued until the applicant documents that all required licenses and/or permits have been properly secured from the applicable State and/or Federal agencies, including but not limited to the Pennsylvania Department of Environmental Protection.

SECTION 708      CONDITIONAL USE APPLICATION FEE

As part of the Conditional Use Application fee, which shall be established by resolution, the applicant shall be responsible to reimburse the Borough for all reasonable and necessary consulting fees which are incurred by the Borough to review plans, reports, data, studies and any other information related to an application for a Conditional Use Permit.

SECTION 709      TOWNHOUSES (ATTACHED SINGLE FAMILY HOUSING)

Townhouses shall be serviced by a central sewage system and shall be subject to the following provisions and all applicable provisions of the Penn Lake Park Borough Subdivision and Land Development Ordinance:

- A. The site shall have a minimum lot width of not less than 400 feet and a minimum area of not less than four (4) acres.
- B. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be 35%.
- C. The maximum number of residential units per structure shall not exceed six (6)
- D. Minimum lot width per dwelling unit shall be 25 feet.
- E. Minimum lot depth per dwelling unit shall be 100 feet.
- F. Minimum lot area per dwelling unit shall be 2,500 square feet.
- G. Minimum front yard setback shall be 40 feet.
- H. Minimum side yard setbacks shall be 25 feet. Side yard setbacks shall be required only at the ends of rows of attached dwellings.
- I. Minimum rear yard setback shall be 30 feet.
- J. Maximum net residential density shall be 1 dwelling unit per each 35,000 square

feet of land area.

- K. Minimum width of each dwelling unit shall be 25 feet.
- L. Maximum building height shall be 2 1/2 stories, but not in excess of 35 feet.
- M. Minimum distance between principal structures shall be 75 feet.
- N. Minimum front yard setback for off-street parking areas shall be 20 feet.
- O. Minimum side yard setbacks for off-street parking areas shall be 15 feet.
- P. Minimum rear yard setbacks for off-street parking areas shall be 20 feet.
- Q. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- R. Attached accessory structures shall have the same setbacks as required for principal structures.

Townhouses (Attached Single Family Housing) shall provide a site plan in conformance the following additional information:

The location, use, plan dimensions and height of each building and the total gross floor area.

The location, dimensions and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking areas, pedestrian ways, widths of streets and sidewalks.

The capacity and design of all areas to be used for vehicular access and parking.

The location, dimensions and arrangement of all areas devoted to planting, lawns, trees, shrubs and similar landscaping.

A Soils Erosion and Sedimentation Control Plan

The appropriate DEP Planning Module.

Stormwater management plan approved by DEP for the site

The provisions and design features of paved areas, infrastructure and other required site utilities.

**ARTICLE 8**

**SUPPLEMENTAL REGULATIONS**

SECTION 801 PURPOSE AND INTENT

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

SECTION 802 USE REGULATIONS

802.1. AUTOMOTIVE SALES:

Where the operation automotive sales use abuts on the side or rear property line of any R District, S-1 District or C-1 District, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the automotive sales facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. The provision of any outside lighting shall be directed away from adjacent properties.

802.02 BANKS

Banks and other similar financial offices shall provide sufficient space to accommodate parking, vehicular circulation areas for drive-in tellers, access areas for parking lots separated from drive-in areas, and areas for pedestrian traffic separated from vehicular traffic for safety. Access driveways shall be no more than twenty-five (25) feet in width. Canopies over drive-through areas shall meet all yard setback requirements.

802.03 CHILD CARE FACILITIES

A Child Care Facility, as so defined in Article 2 of this Ordinance, shall comply with the following:

- A. The applicant or owner shall provide evidence of certification of compliance with all appropriate regulations of any designated State agency whose approval is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected with such use shall be controlled to the extent that the operation of such use shall not unduly interfere with the use and enjoyment of properties in the surrounding area.
- C. All outdoor play areas shall be completely enclosed with a fence being not less than six (6) feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 4:00 P.M. local time.

- D. The applicant shall provide evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting children to and from the facility. Such "pick-up and drop-off points" shall not be located on any public right-of-way or be located in such a manner to impede the flow of traffic or otherwise cause congestion in the public right-of-way.

802.04      COMMUNITY CENTER

Buildings utilized for such purposes shall not be less than twenty (20) feet from any property line. Where the use abuts on the rear or side lot line on the side or rear property line of any R District, S-1 District or C-1 District, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. The provision of any outside lighting shall be directed away from adjacent properties.

802.05      CONVENIENCE STORE

Where the operation abuts on the rear or side lot line on the side or rear property line of any R District, S-1 District or C-1 District, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. The provision of any outside lighting shall be directed away from adjacent properties. A parking area accommodating all spaces required by Article 11 shall be provided. Access driveways shall be no more than twenty (20) feet wide at the street line, and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two roads, as measured from the right-of-way line. All lighting shall be directed away from adjoining property.

802.06      DWELLING OVER OR ATTACHED TO A BUSINESS ESTABLISHMENT

Dwellings units may be permitted over or attached to business establishments in a B-1 Zoning District. Such dwellings shall be designed as living quarters having adequate natural light and kitchen and bathroom facilities. Such dwellings shall also have private access and the required residence parking spaces in addition to commercial parking spaces as required by Article 11.

802.7      GOLF COURSES

A golf course shall not contain any outdoor lighting directed upon any portion of the course designed for illumination for evening use of the golf course. Related facilities of a golf course shall not include a driving range, a miniature golf course or any similar related commercial recreational activities.

802.8            GROUP RESIDENCE

Any party wishing to establish and/or operate a "Group Residence", in addition to all other applicable zoning regulations and/or requirements, shall be subject to the following supplemental requirements:

- A.    The maximum occupancy of a Group Residence shall not exceed eight (8) persons, excluding staff. The occupancy of said Group Residence shall be governed by the standards and requirements as provided for within the most recent housing code standards of the BOCA Code.
- B.    The Group Residence shall be under the jurisdictional and regulatory control of a governmental entity (County, State and/or Federal).
- C.    The applicant and/or operator of Group Residence shall provide written documentation from the applicable governmental entity which certifies said Group Residence complies with the location, supervised services, operation, staffing and management of all applicable standards and regulations of the subject governing program.
- D.    The applicable requirements and standards which govern off-street parking for a single family dwelling shall also govern for a Group Residence, however two additional off-street parking spaces shall be provided any if there is any required staffing associated with the management and operation of a Group Residence.

802.9            HOME OCCUPATIONS

A home occupation which is conducted within a dwelling unit or an existing accessory building to the dwelling shall be subject to the following provisions:

- A.    The occupation shall be carried on wholly indoors, within the principal building or within a building accessory thereto.
- B.    There shall be permitted a sign, not to exceed two (2) square feet in surface area, placed flat against the building as a wall sign, and shall not be permitted above the first story level. No other exterior display or exterior storage of materials or any other exterior indication of the home occupation shall be permitted.
- C.    There shall be no maintenance of a stock in trade or show windows or displays or advertising visible outside the premises.
- D.    There shall be no repetitive servicing by truck.
- E.    No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- F.    The home occupation shall be carried on only by members of the immediate family residing in the dwelling unit, plus not more than two (2) additional

employees. Licensed medical practitioners and attorneys may have more than two (2) additional employees, subject to approval by the Zoning Hearing Board.

- G. The floor area devoted to a home occupation, regardless of where located on a lot, shall be equivalent to not more than twenty (20%) percent of the floor area of the dwelling unit.
- H. Each home occupation shall have off-street parking as indicated below, in addition to that required for the dwelling unit:
  - (1) Four (4) spaces for each physician, dentist, or other licensed medical practitioner.
  - (2) Two (2) spaces for all other home occupations.

#### 802.10 LAKE FRONT PROPERTY - SPECIAL REGULATIONS

The following regulations apply to all properties, regardless of Zoning District classification, which have a common border with the easement that surrounds Penn Lake. The land areas of such properties shall not be altered or extended by any means, including but not limited to, the use of fill material and/or excavation, nor shall the grade or contours of such properties be altered by any means. A principal building, structure and/or use shall be governed by the following regulations, unless more restrictive standards are applicable, including but not limited to State or Federal regulations and supplementary regulations contained in Article 8 of this Ordinance.

- A. Minimum Lot Area: Four thousand (4,000) square feet for an existing lot of record when serviced by central sewers or by an existing on-lot system which is properly functioning.
- B. Minimum Lot Width: Forty (40) feet.
- C. Lakeside Yard Areas: Any property which has a yard area oriented toward the lake shall have a setback of not less than thirty (30) feet from the lake front line which shall be noted as the point of intersection between the property line and any easement of record which borders the lake.
- D. Roadside Yard Areas: The yard shall be not less than thirty (30) feet in depth as measured from the rear lot line.
- E. Side Yard: The side yard shall be not less than ten (10) feet on each side.
- F. Lot Coverage: Not more than twenty-five (25%) percent of a lot shall be covered by buildings. Total impervious cover shall not exceed thirty-five (35%) percent.

- G. Building Height: The maximum height of any building shall not exceed two and one-half (2.5) stories or thirty-five (35') feet.

802.11      OUTDOOR STORAGE

Outdoor storage, as defined in Article 2, when proposed as a principal use of land be enclosed with a chain link fence not less than six (6) feet in height. A Soil Erosion and Sedimentation Control Plan and Stormwater Drainage Plan shall be required for all areas of impervious surface to be provided for such storage. A complete listing of all types of machinery, material and items to be stored therein shall be attached to the required Zoning Application. No hazardous substances, as so defined in Article of this Ordinance, shall be permitted upon the site. A buffer area as so defined in Article 2 of this Ordinance shall be provided around the outdoor storage area. There shall be a roadway fourteen feet in width provided for in every forty linear (40) feet of stored materials. The roadway shall be kept passable for fire-fighting equipment. Where the operation abuts on the rear or side lot line on the side or rear property line of any R District, S-1 District or C-1 District, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the outdoor storage areas from adjoining properties, shall be constructed and maintained in good condition along such boundary. The provision of any outside lighting shall be directed away from adjacent properties.

802.12      PLACE OF WORSHIP:

A parking area shall accommodate all parking spaces as required in Article 11 of this Ordinance. Access driveways shall be not greater than twenty-five (25) feet in width. In the case of a corner lot, access driveways shall be not less than sixty (60) feet from the intersection of the two streets, as measured from the intersection of their right-of-way lines.

802.13      PUBLIC UTILITY BUILDINGS AND STRUCTURES

Public utility facilities as defined in Article 2, shall conform to the following regulations for properties containing such uses:

- A. Access and parking shall be provided only in relationship to the maintenance and servicing of such facilities.
- B. A chain-link fence and locked gate not less than eight (8) feet in height shall surround the building or structures of such facilities.
- C. A buffer area not less than ten (10') feet in depth and comprised of trees and/or shrubs designed to conceal such buildings or structures of such facilities.
- D. Outside lighting shall be directed away from adjacent properties.
- E. The location, design and operation of such facilities shall not adversely affect the character of any adjacent properties.



802.14      RECREATIONAL FACILITIES - (OUTDOORS)

All such facilities, whether public, private or commercial, shall conform to the following regulations:

- A. No outdoor recreation activity, excluding beaches or lake based activities, shall be conducted closer than fifty (50') feet to any property line.
- B. A buffer area, at least ten (10') feet in depth and planted with trees, shrubs or other landscaping, shall surround the property except for access drives.
- C. Access drives shall be not greater than twenty-five (25') feet in width; parking areas shall not be located within buffer areas.
- D. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.

802.15                      RESTAURANTS AND TAVERNS

All restaurants and taverns shall have a front, a rear and sideyard setbacks of not less than fifty (50) feet. All restaurants and taverns shall meet the parking requirements as set forth in Article 11 of this Ordinance as well as an interior. Access drives shall not exceed twenty-five (25) feet in width and for those establishments located on a corner lot, no access drive shall be located less than sixty (60) feet of an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Where the use abuts on the rear or side lot line on the side or rear property line of any R District, S-1 District or C-1 District, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the use from adjoining properties, shall be constructed and maintained in good condition along such boundary. The provision of any outside lighting shall be directed away from adjacent properties.

802.16                      SEWAGE DISPOSAL AND SEWAGE TREATMENT PLANTS

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

802.17                      NO IMPACT HOME-BASED BUSINESS

A No Impact Home-Based Business, as defined in Article 2 of this Ordinance, shall be permitted by right in all Residential Zoning Districts and zoning districts in which residences are permitted as a principal permitted use, except that such permission shall not supersede any deed restriction, covenant, or agreement restricting the use of the land, nor any master deed, bylaw, or other document applicable to common interest ownership community. The following standards and criteria shall apply to a No Impact Home-Based Business:

- 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 the family members residing in the dwelling.
- C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- D. There shall be no outside appearance of a business, including, but not limited to, parking, signs or lights.
- E. The business activity shall not use any equipment or process which creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- F. The business activity shall not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with a residential use in the neighborhood.
- G. The business activity shall not occupy more than twenty-five (25%) percent of the habitable floor area.
- H. The business shall not involve any illegal activity.

802.18 FORESTRY ACTIVITIES

Forestry Activities, as defined in Article 2 of this Ordinance, shall be permitted by right in all Zoning Districts. The production or processing of lumber mills or similar activities of timber whether grown on or offsite shall be prohibited. If the area to be timbered equals or exceeds two (2) acres the use shall be classified as a conditional use and governed by the applicable provisions contained in Article 7 of this Ordinance.

802.19 OUTDOOR FUEL BURNING FURNACE:

Said furnaces shall be located upon a lot of not less than one acre and shall only be located within a rear yard of a property. An outdoor fuel burning furnace shall comply with the following standards:

- A. A safe flue or chimney shall be provided which has a minimum termination height of twenty-five (25) feet above the natural ground level upon which the furnace is located.
- B. A fan or blower attached to the appliance to increase the efficiency of the furnace.
- C. An outdoor fuel burning furnace shall be located not less than one hundred (100) feet from any property line and not less than twenty (20) feet to any principal structure or building located upon the property.

- D. All outdoor fuel burning furnaces are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
- E. All outdoor fuel burning appliances shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated within this Section shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- F. The owner of the outdoor fuel burning furnace shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Section.
- G. All outdoor fuel burning furnaces may only be utilized for the sole purpose of furnishing heat to a structure or building and/or providing hot water during the time period of September 1 through April 30; and subject to meeting the requirements of this Section.
- H. No homemade outdoor fuel burning appliances will be allowed.
- I. Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning in outside furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.
- J. All storage of materials to be burnt in the outdoor fuel burning furnace shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.
- K. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with the owner's trash.

**ARTICLE 9**

**NONCONFORMING LOTS, USES, STRUCTURES AND BUILDINGS**

SECTION 901      INTENT

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

SECTION 902      NONCONFORMING LOTS OF RECORD

In any zoning district, structures, both principal and accessory, maybe erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and side yard requirements for the zoning district in which such lot is located. Variances from the aforementioned yard requirements may be obtained only through action of the Zoning Hearing Board.

SECTION 903      CONTINUATION OF NONCONFORMITY

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

SECTION 904      REGISTRATION OF NONCONFORMING USES AND STRUCTURES

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

SECTION 905      CHANGES OF NONCONFORMING USES

The Zoning Hearing Board may grant a special exception to allow one (1) nonconforming use to be changed to another nonconforming use, if the Board finds that all of the following provisions will be met:

- A. No structural alterations are made.

- B. The proposed change shall be less objectionable in external effects than that of the previous or existing nonconforming use, and shall be more consistent with its physical surrounding.
- C. There shall be no increase in traffic generation or congestion, including both vehicular and pedestrian traffic.
- D. There shall be no increase in the danger of fire or explosion.
- E. There shall be no increase in noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, lighting or electrical disturbances.
- F. There shall be no increased threat to health by any reason, including that of rodent, vermin or otherwise.

SECTION 906      ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES

The Zoning Hearing Board may grant a special exception for the enlargement of a nonconforming use and/or structure, if the Board finds the following standards will be met:

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

SECTION 907      RESTORATION OF USE

Any voluntary and/or unintentional destruction of a nonconforming use and/or structure by fire, explosion, windstorm, flood or other similar act or cause to the extent of more than fifty (50%) percent of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the zoning district in which it is located.

When damage is less than fifty (50%) percent of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within eighteen (18) months of the date of such damage, unless a variance is secured from the Zoning Hearing Board..

A conforming residential use, which is constructed on a lot that is nonconforming with respect to lot area, lot width, and/or yard areas, may only be reconstructed on the same lot subject to receiving approval from the Zoning Hearing Board for any necessary variances.

SECTION 908      TERMINATION OF NONCONFORMING USE AND/OR STRUCTURE

908.1   CHANGE OF NONCONFORMING USE

Where a nonconforming use is changed into a conforming use, a nonconforming use shall not thereafter be resumed. A change of one (1) nonconforming use to another nonconforming use without approval by the Zoning Hearing Board shall be considered an abandonment of the prior nonconforming use, which shall not thereafter be resumed.

908.2   ABANDONMENT OF NONCONFORMING USE

The right to a nonconforming use shall be terminated and a nonconforming use shall not be resumed if a nonconforming use is abandoned. A nonconforming use shall be deemed abandoned, if it is changed as set forth in Section 908.1 of this Ordinance or if it is discontinued for a continuous period of one (1) year without:

- A. Providing documented intent of resuming operations.  
and/or
- B. The owner of said property fails to obtain a Certificate of Intention in accordance with Section 909 of this Ordinance which indicates his or her intent to resume the nonconforming use.

908.3   UNSAFE STRUCTURES

If a nonconforming structure, containing a nonconforming use, becomes physically unsafe due to lack of maintenance or repairs and has been legally condemned, it shall not thereafter be restored, repaired or rebuilt except in

conformity with uses permitted within the zoning district in which such structure is located.

SECTION 909      CERTIFICATE OF INTENTION FOR A NONCONFORMING USE

A Certificate of Intention shall be required in any instance when a nonconforming use of a structure, building and/or land is to be discontinued for a period of more than one (1) year and the owner or operator of the nonconforming use wishes to maintain a legal nonconforming status. A Certificate of Intention form shall be completed by the owner or operator of the discontinued nonconforming use. Said completed Certificate of Intention form shall be submitted to and approved by the Zoning Officer. The applicant shall indicate in writing the reason or basis for the discontinuation of the nonconforming use and the anticipated date on which the nonconforming use will resume.

A Certificate of Intention, as issued and approved by the Zoning Officer, shall be valid for a period of one year from the date of issuance. A Certificate of Intention may be renewed annually by the owner or operator of the nonconforming use. Failure to renew a Certificate of Intention shall constitute a deemed abandonment of the use and forfeiture of the legal nonconforming use status of the property.

## ARTICLE 10

### SIGN REGULATIONS

#### SECTION 1001     SIGNS

##### 1001.1     TYPE AND USE OF SIGNS

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

- A. IDENTIFICATION SIGN: A sign which communicates the name and/or address of an occupant or a permitted home occupation upon the zoning lot on which the sign is located.
- B. BUSINESS SIGN: A sign which communicates information concerning a business, profession, commodity, service, entertainment or development which is sold, offered, prepared, manufactured or conducted upon the zoning lot where the sign is located.
- C. BILLBOARD OR OFF PREMISE ADVERTISING SIGN: A sign which communicates information concerning a subject, business, profession, activity, commodity, service, entertainment or development not related to, sold, offered, prepared or manufactured on the zoning lot where the sign is located.
- D. REAL ESTATE SIGN: A temporary sign, having an area not greater than eight (8) square feet in area which advertises the sale, rental or development of the premises upon which the sign is located.
- E. CONSTRUCTION SIGN: A temporary sign erected on the premises on which construction is taking place, indicating the names of the firm or firms performing the construction activities, including names of any architectural firms and engineering firm associated with the project.
- F. SUBDIVISION/DEVELOPMENT SIGN: A temporary real estate sign, not greater than thirty (30) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- G. INSTITUTIONAL SIGN: A sign which identifies a use pertaining to a school, church, hospital or other institution of a similar public or semipublic nature.
- H. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: A sign commonly associated with, and limited to, information and directions necessary for visitors entering or exiting a property, including signs marking entrance and exits, parking areas, circulation direction, restrooms and pick-up and delivery areas. Such signs shall contain no advertising material.



SECTION 1002      CONSTRUCTION TYPES

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

- A. FREESTANDING SIGN: A sign not attached or applied to a principal building but supported by another structure, including structures designed for the sign itself and accessory structures.
- B. WALL SIGN: A sign attached, painted or affixed to the wall of a principal structure or accessory structure, not projecting over any public right-of-way and not extending more than two (2) feet from the building or structure.
- C. PROJECTING SIGN: A sign which projects outward or extends more than two (2) feet from the building or structure.

SECTION 1003      PERMITTED SIGNS BY ZONING DISTRICT

The establishment, erection or reconstruction of any sign shall be in accordance with the regulations as set forth herein:

- A. IDENTIFICATION SIGN: Such signs shall be permitted in all zoning districts.
- B. BUSINESS SIGNS: Such signs shall be permitted in a B-1 and C-1 Zoning Districts.
- C. REAL ESTATE SIGNS: Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT SIGNS: Such signs shall be permitted in all zoning districts.
- E. CONSTRUCTION SIGNS: Such signs shall be permitted in all zoning districts.
- F. INSTITUTIONAL SIGNS: Such signs shall be permitted in all zoning districts.
- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: Such signs shall be permitted in all zoning districts.
- H. BILLBOARD SIGNS: Such signs shall be permitted in a C-1 Zoning District.

SECTION 1004      AREA, HEIGHT AND SETBACK REQUIREMENTS

The establishment, erection or reconstruction of permitted signs shall be governed by the following regulations:

- A. IDENTIFICATION SIGN: An identification sign shall not exceed two (2) square feet in area. Such a sign shall be setback not less than ten (10) feet from the front lot line. The maximum height of an identification sign, if free standing, shall not

exceed ten (10) feet in height, or if attached to a building shall not be higher than the first story of the building to which it is attached.

- B. BUSINESS SIGN: A business sign shall not exceed area of twenty-four (24) square feet.

A business sign shall have a minimum front yard setback of not less than twenty (20%) percent of the required setback for a principal structure in the zoning district in which the sign is located. If an existing building has a front yard setback which is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign. A free-standing business sign shall have a side yard setback of not less than ten (10) feet.

The maximum height of any free-standing business sign shall not exceed fifteen (15) feet or if attached to a building shall not be higher than the first story of the building to which it is attached.

- C. REAL ESTATE SIGN: A temporary real estate sign shall not exceed eight (8) square feet in area and shall be located on the same lot on which the property is offered for sale or rental. The sign shall be setback not less than ten (10) feet from the front lot line and shall be removed from the premises within thirty (30) days after the sale or rental of the property.

- D. SUBDIVISION/DEVELOPMENT SIGN: A subdivision/development sign shall be considered a temporary real estate sign and shall not exceed thirty (30) square feet in area. The sign shall be located on the same property on which lots and/or homes in the subdivision are offered for sale. Not more than one (1) sign shall be erected in any subdivision, and such signs shall be setback not less than thirty-five (35) feet from the front lot line. The sign shall be removed from the premises within thirty (30) days after the last lot and/or home is sold.

- E. CONSTRUCTION SIGN: A construction sign shall not exceed twenty (20) square feet in area and shall be located upon the same property on which the construction activity is being conducted. An individual sign for each firm performing work upon the property shall be permitted. No sign shall be located within a public right-of-way or less than ten (10) feet from any public right-of-way. All construction signs shall be temporary in nature and removed within thirty (30) days following the completion of construction activity.

- F. INSTITUTIONAL SIGN: An institutional sign for public and semipublic facilities, such as schools, churches, hospitals, libraries, colleges or other institutions of a similar nature shall not exceed twenty (20) square feet in area. The maximum height of any free-standing institutional sign shall not exceed ten (10) feet or if attached to a building shall not be higher than the first story of the building to which it is attached. A free-standing institutional sign shall be not less than ten (10) feet from the front lot line or any side yard lot line.

- G. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN: An on-site

directional and/or informational sign shall not exceed six (6) square feet in area. A front, rear or side yard setback of not less than five (5) feet shall be required for such signs. The maximum height of such signs shall not exceed six (6) feet.

- H. BILLBOARD SIGN OR OFF PREMISE ADVERTISING SIGN: The following regulations shall apply to any billboard and/or off-premise advertising sign. The advertising surface area of any panel shall not exceed 300 square feet and not more than one double-faced panel shall be permitted on the same structure or standard.

Such a sign shall not be located within 200 feet of any residential structure or residential zoning district.

There shall be a minimum spacing distance of 500 feet between all such signs.

Such signs shall be setback not less than 200 feet from the center line of any limited access highway and/or a State Legislative Route.

Such signs shall not be attached to a building nor shall such signs be permitted to project above the maximum height limitation for the zoning district in which it is located.

- H. NUMBER OF SIGNS: Excluding on-site directional and/or informational signs, not more than two (2) signs shall be permitted on any property located in any zoning district. In the case of a property located upon a corner lot, a total of three (3) signs may be permitted.

#### SECTION 1005 REAR YARD SETBACK FOR FREESTANDING SIGNS

The minimum rear yard setback for any freestanding sign shall be the same as the minimum rear yard setback for a principal structure in the zoning district in which the sign is located.

#### SECTION 1006 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, which may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Article 10 and for the zoning district in which it is located.

SECTION 1007      AREA COMPUTATION OF SIGNS

The area of a sign shall be construed to include all lettering, wording and accompanying design and symbols, together with the background including border and trim, whether open or enclosed on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. Computation of the area for particular signs shall be in accordance with the following regulations:

- A. WALL SIGN: For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying design or symbols together with any backing associated with the sign.
- B. SEPARATE SYMBOLS: Where the sign consists of individual letters or symbols attached to or painted on a surface; building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- C. DOUBLE-FACE SIGN: With the exception of a billboard, when computing the area of a double-face sign, only one (1) sign shall be considered, provided both faces are identical.
- D. CYLINDRICAL SIGN: The area of a cylindrical sign shall be computed by multiplying one-half (.5) of the circumference by the height of the sign.

SECTION 1008      VERTICAL CLEARANCE

A freestanding sign and a projecting sign shall have a vertical distance of not less than nine (9) feet as measured from the lowest edge or point of the sign to the highest ground elevation located beneath the sign.

SECTION 1009      ILLUMINATED SIGNS

The light from any illuminated sign shall be confined to the surface area of the sign and be located and designed to prevent glare or reflection onto any adjacent street or roadway.

SECTION 1010      PROHIBITED SIGNS

The following types of signs shall not be permitted in any zoning district:

- A. Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B. Signs which by design and/or location may be confused with traffic signs or signals.
- C. Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.

- D. Any freestanding or projecting sign within an area bounded by the intersection of two (2) public or private streets, for a distance of twenty (20) feet along the centerline of the right-of-way of such streets from the point of their intersection.
- E. Freestanding or projecting signs over any type of public right-of-way, including sidewalk areas.
- F. Sequential, flashing or oscillating signs.
- G. Signs which due to their construction and/or location would constitute a hazard or a potential danger to the community.

SECTION 1011      PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign which excluding real estate signs and construction signs.

**ARTICLE 11**

**OFF-STREET PARKING AND LOADING**

SECTION 1101      PURPOSE

Off-street parking, loading and unloading facilities shall be provided to lessen traffic congestion in the streets. The facilities required by these provisions shall be available throughout the hours of operation for the particular business or use for which such facilities are provided. As uses herein, the term "parking space" includes covered garage or carport or uncovered parking lot space located off the public right-of-way.

SECTION 1102      SIZE OF OFF-STREET PARKING SPACES

Each off-street parking space shall have an area of not less than one hundred and eighty (162) square feet, being nine (9') feet in width and eighteen (18') feet in length, exclusive of access drives or aisles.

SECTION 1103      SIZE OF OFF-STREET LOADING SPACES

Each off-street loading space shall be not less than fifty (50') feet in depth, twelve (12') feet in width and provide an overhead clearance of not less than fourteen (14') feet. All loading areas shall be designed, constructed and used so that all vehicular maneuvering is contained within the lot and no vehicle shall be permitted to back into or out of the public right-of-way.

SECTION 1104      ACCESS TO OFF-STREET PARKING OR LOADING AREAS

There shall be adequate ingress or egress to all parking spaces. There shall be provided an access drive leading to off-street parking and/or loading areas. Such access drive shall not be less than ten (10') feet in width for residential uses and not less than twenty (20') feet, or greater than thirty (30') feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) along each front, side or rear lot lines. For corner properties, all access drives shall be not less than thirty-five (35') feet from the intersection of streets, as measured along the right-of-way lines.

SECTION 1105      LOCATION OF OFF-STREET PARKING AREAS

The required off-street parking spaces for any type of use shall be located on the same lot as the principal use to which it is accessory. The required off-street parking may be permitted on another lot subject to the following requirements:

- A.      The lot to be used for off-street parking and the lot on which the principal use is located shall be in the same zoning district.
- B.      The lot to be used for off-street parking and the lot on which the principal

use is located shall be held under the same ownership

- C. The lot to be used for off-street parking shall be not less than four hundred (400') feet to any lot line on which the principal structure is located.

SECTION 1106      DRAINAGE AND SURFACING OF OFF-STREET PARKING AREAS

Any off-street parking area shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface, such as gravel, concrete or bituminous concrete surface. The design, location and material for any proposed catch basins may be referred to the Borough Engineer for review and approval.

SECTION 1107      INTERIOR CIRCULATION

Interior access ways and aisles shall be designed so as to prevent the blocking of vehicles entering or exiting the site.

SECTION 1108      SCREENING

Nonresidential properties which contain off-street parking for five (5) or more vehicles and/or any amount of off-street loading, along a side yard or rear yard which abuts an R-1, R-2 or, C-1 Zoning District, shall be screened by a substantial, tight fence not less than six (6') feet in height and a planting strip not less than five (5') feet in depth, with shrubbery, plants or trees which are a minimum of three (3') feet in height at the time of planting.

SECTION 1109      LIGHTING

Any lighting used to eliminate off-street parking or loading areas shall be arranged to reflect the light away from adjoining properties and the public right-of-way.

SECTION 1110      PARKING IN YARD AREAS

Required parking shall be permitted within the required front or side yard setbacks, provided that the minimum setback distance to any area used for off-street parking is not less than five (5') feet to the nearest point of a side yard property line. Any off-street parking areas for a nonresidential use when abutting an R-1, R-2 or, C-1 Zoning District A-1, C-1 or an R-1 Zoning District, shall be have a minimum setback of not less than fifteen (15) feet from the rear yard and any side yard

SECTION 1111      EXISTING STRUCTURES AND USES

Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the off-street parking or off-street loading requirements, so long as a structure or use is not changed, altered or expanded. Existing off-street parking or off-street loading facilities provided prior to the adoption of this Ordinance shall not be reduced below the minimum required in this Ordinance.

SECTION 1112      CHANGES OF STRUCTURES OR USES

Whenever the existing use of a building, structure or land shall hereafter be changed to a new use, off-street parking and/or off-street loading facilities shall be provided as required for such new use. However, if said building or structure was erected or the use of the land established prior to the effective date of this Ordinance, additional off-street parking or off-street loading facilities shall be mandatory only in the amount by which the requirements for the new use would exceed those for the existing use.

SECTION 1113      FRACTIONAL SPACE

When required parking computation results in fractions, any fraction less than one-half (.50) shall be disregarded and any fraction equal to or greater than one-half (.50) shall be construed to require a full space.

SECTION 1114      MULTIPLE ACTIVITIES OR USES

In any instance where a nonresidential structure, building or use of land contains more than one (1) defined use, the required parking for each specific use shall be provided.

SECTION 1115      OFF-STREET PARKING REQUIREMENTS

Any structure, building or use of land hereafter erected, converted, enlarged or placed into use shall comply with the minimum off-street parking spaces as provided herein:

1.      Residential Structure: One (1) space for each dwelling unit.
2.      Churches and Similar Places of Worship: One (1) space for every four (4) seats in the main assembly room or one (1) space for each twelve (12) feet of bench length.
3.      Places of Public or Private Assembly, including Auditoriums or Meeting Halls: One (1) space for every four (4) seats or one (1) space for each fifty (50) square feet of floor area when there is no fixed seating.
4.      Educational Facility: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
5.      Child Care Facility: One (1) space for each employee, plus one (1) space for every five (5) children, based upon the maximum number of children which the facility is licensed to serve.
6.      Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or other licensed medical practitioner.
7.      Community Center: One (1) space for every two hundred (200) square feet



of gross floor area.

8. Public Uses: One (1) space for every two hundred (200) square feet of gross floor area, excluding storage area for vehicles and/or equipment.
9. Public Utility Facilities: Two (2) spaces per facility.
10. Outdoor Recreational Facilities: In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is swimming and an additional two (2) spaces if there is playground equipment.
11. Retail Businesses: One (1) space for every two hundred (200) square feet of gross floor area.
12. Restaurants and Taverns: One (1) space for every three (3) seats, plus two (2) spaces every three (3) employees based upon the maximum working shift.
13. Personal Services: As defined in Article 2 of this Ordinance, such establishments shall provide one (1) space for every three hundred (300) square feet of gross floor area; the following exceptions include:
  14. Group Residence: One (1) space for each two employees based upon the maximum working shift and one (1) space for each two residents who are eligible to operate a vehicle.
15. Professional Offices: One (1) space for every two hundred (200) square feet of gross floor area.
16. Self Storage Warehouse: One (1) space for every ten (10) stalls or lockers available for rental, plus one (1) for each employee on the maximum working shift.

#### SECTION 1116      PARKING FOR OTHER COMMERCIAL USES

Any commercial use or nonresidential use of a structure, building or land, not specifically listed within Section 1115 of this Ordinance shall provide one (1) off-street parking space for every two hundred (200) square feet of gross floor area or lot area.

SECTION 1117      OFF-STREET LOADING REQUIREMENTS

All commercial and industrial establishments shall provide off-street loading, unloading and commercial vehicle storage space adequate for their needs. In no case shall a public right-of-way be used for the loading, unloading or storage of such vehicles.

SECTION 1118      PROVISION OF HANDICAPPED PARKING SPACES

Any business, individual or corporation that owns, leases or operates a facility which includes the provision of public accommodations and/or commercial facilities shall be governed by the provision of this section. A facility which provides public accommodations shall include, but may not be limited to the following:

- places of lodging
- establishments serving food or drink
- places of exhibition or entertainment
- places of public gathering
- sales or rental establishments
- service establishments, stations used for specified public transportation.
- places of public display or collection
- places of recreation
- places of education
- social service center establishments, and places of exercise or recreation.

A commercial facility shall include any business whose operations are open to the general public.

SECTION 1119      DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

The following provisions shall apply for required handicapped parking spaces:

1. An area not less than five (5) feet in width shall be provided between each handicapped parking space. Said area shall be marked and/or designed to prevent parking therein.
2. An area not less than eight (8) feet in width shall be provided between each van accessible parking space. Said area shall be marked and/or designed to prevent parking therein.

3. Vehicular access to handicapped parking areas shall have a minimum vertical clearance of not less than nine and one half (9.5) feet.
4. An off-street parking area shall be designed to provide accessible routes from the handicapped parking areas to an accessible building entrance and to public streets and sidewalks which adjoin the off-street parking area.

Handicapped accessible spaces, serving a particular facility, shall be located on the shortest accessible route of travel from the parking area to an accessible entrance.

SECTION 1120      SIGNAGE FOR HANDICAPPED PARKING

Handicapped accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Parking spaces designed for vans shall have an additional sign reading "Van-Accessible" mounted below the accessibility sign. Such signs shall be located in a manner so they cannot be obscured by a vehicle.

SECTION 1121      MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

When parking spaces are provided for self-parking by employees or visitors, or both, within the total number of off-street parking spaces required under Section 1115 and/or Section 1116 of this Ordinance, the following table shall be used to determine the required number of handicapped accessible spaces.

<u>TOTAL NUMBER OF SPACES</u>	<u>REQUIRED NUMBER OF ACCESSIBLE SPACES</u>
1 TO 25	1
26 TO 50	2
51 TO 75	3
76 TO 100	4
101 TO 150	5
151 TO 200	6
201 TO 300	7
301 TO 400	8
401 TO 500	9
501 TO 1000	2 PERCENT OF TOTAL

**ARTICLE 12**  
**FLOOD PLAIN MANAGEMENT**

SECTION 1201      STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry.

SECTION 1202      INTENT

The intent of the regulations as set forth in this Article to:

- Promote the general health, welfare, and safety of the community.
- Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- Minimize danger to public health by protecting water supply and natural drainage.
- Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- Comply with federal and state floodplain management requirements.

SECTION 1203      APPLICABILITY

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within Penn Lake Park Borough unless a Permit has been obtained from the Floodplain Administrator. A Permit shall not be required for minor repairs to existing buildings or structures.

SECTION 1204      ABROGATION AND GREATER RESTRICTIONS

The regulations within this Article supersede any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

SECTION 1205      SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Article shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Article, which shall remain in full force and effect, and for this purpose the provisions of this Article are hereby declared to be severable.

SECTION 1206      WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection sought by the provisions of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or

natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

This Article shall not create liability on the part of Penn Lake Park Borough or any officer or employee thereof for any flood damages that result from reliance on the provisions of this Article or any administrative decision lawfully made there under.

## SECTION 1207      DEFINITIONS

Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give this Article its most reasonable application.

### Specific Definitions

1.      Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2.      Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").
3.      Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
4.      Basement - any area of the building having its floor below ground level on all sides.
5.      Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
6.      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.
7.      Existing manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
8.      Expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the

lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

9. Flood - a temporary inundation of normally dry land areas.
10. 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 hazards and the risk premium zones applicable to the community.
11. 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.
12. Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
13. Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
14. 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 water surface elevation more than one foot.
15. Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
16. Historic structure – any structure that is:
  - Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - 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;
  - Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or

- Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:

By an approved state program as determined by the Secretary of the Interior

or

Directly by the Secretary of the Interior in states without approved programs.

17. Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article.
18. 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 the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
19. Manufactured home park or subdivision – a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
20. 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 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.
21. New construction - structures for which the start of construction commenced on or after **December 5, 1980**, includes any subsequent improvements thereto.
22. New manufactured home park or subdivision – a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
23. Permit – the term permit as used throughout this Article shall mean a Zoning Permit which is required by the Penn Lake Park Borough Zoning Ordinance for the use of property as set forth in Section 1402 of Penn Lake Park Borough Zoning Ordinance. The regulations contained within this Article shall be deemed to be supplemental as an overlay to the underlying regulations contained in the Zoning District in which a property is located.

24. 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.
25. Recreational vehicle - a vehicle which is built on a single chassis; not more than 400 square feet, measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
26. Regulatory flood elevation - the base flood elevation (BFE) plus a freeboard safety factor of one and one-half (1 ½) feet.
27. Repetitive loss – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
28. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
29. Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 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.
30. Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the 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 manufacture 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/or 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 on the property of accessory buildings, 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.
31. Structure – a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.



32. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.
33. Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
34. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage or "repetitive loss." regardless of the actual repair work performed. The term does not, however include either:
- 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;
  - Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
35. Uniform Construction Code (UCC) – The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
36. Violation - means the failure of a structure or other development to be fully compliant with the applicable flood plain management regulations of Penn Lake Park Borough as set forth in this Article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4) or (e)(5) and within this Article is presumed to be in violation until such time as that documentation is provided.

SECTION 1208      DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Zoning Officer is hereby appointed to administer and enforce this the provisions of this Article and is referred to herein as the Floodplain Administrator.

SECTION 1209      PERMITS REQUIRED

A Permit shall be required before any construction or development is undertaken within any area of Penn Lake Park Borough.

SECTION 1210      DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

- A. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this Article and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Floodplain Administrator 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); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.
- D. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- E. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article.
- F. In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to Borough Council for whatever action it considers necessary.

- G. The Floodplain Administrator shall maintain all records associated with the requirements of this Article including, but not limited to, permitting, inspection and enforcement.
- H. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2006 IBC and the 2006 IRC or latest revisions thereof. Application Procedures and Requirements

SECTION 1211      APPLICATION PROCEDURES AND REQUIREMENTS

- A. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by Penn Lake Park Borough. Such application shall contain the following:
  - 1. Name and address of applicant.
  - 2. Name and address of owner of land on which proposed construction is to occur.
  - 3. Name and address of contractor.
  - 4. Site location including address.
  - 5. Listing of other permits required.
  - 6. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
  - 7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
  - 1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this Article and all other applicable codes and ordinances;
  - 2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  - 3. adequate drainage is provided so as to reduce exposure to flood hazards.
  - 4. structures will be anchored to prevent floatation, collapse, or lateral movement.

5. building materials are flood-resistant.
  6. appropriate practices that minimize flood damage have been used.
  7. electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and/or located to prevent water entry or accumulation.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
1. A completed Zoning Permit Application Form.
  2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
    - a. north arrow, scale, and date;
    - b. topographic contour lines, if available;
    - c. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
    - d. the location of all existing streets, drives, and other access ways; and
    - e. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
  3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - a. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
    - b. the elevation of the base flood;
    - c. supplemental information as may be necessary under 34 PA Code, the 2006 IBC or the 2006 IRC.
  4. The following data and documentation:
    - a. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood elevation; and

- b. detailed information concerning any proposed floodproofing measures and corresponding elevations.
- c. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an Special Floodplain Area (See Section 1220(B) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point.
- d. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

- e. detailed information needed to determine compliance with Section 1225 (F). Storage, and Section 1226, Development Which May Endanger Human Life, including:
  - i. the amount, location and purpose of any materials or substances referred to in Sections 1225 (F). and 1226 which are intended to be used, produced, stored or otherwise maintained on site.
  - ii. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 1226 during a base flood.
- f. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- g. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

- 5. Applications for Permits shall be accompanied by a fee, payable to Penn Lake Park Borough based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

SECTION 1212      REVIEW BY COUNTY CONSERVATION DISTRICT

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the

Floodplain Administrator to the County Conservation District for review and comment prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.

SECTION 1213      REVIEW OF APPLICATION BY OTHERS

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

SECTION 1214      CHANGES

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

SECTION 1215      PLACARDS

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit the date of its issuance and be signed by the Floodplain Administrator.

SECTION 1216      START OF CONSTRUCTION

Work on the proposed construction and/or development shall begin within 180 days after the date of issuance and shall be completed within twelve (12) months after the date of issuance of the Permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request.

SECTION 1217      ENFORCEMENT

A. Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. be in writing;
2. include a statement of the reasons for its issuance;
3. allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
4. be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
5. contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

#### B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Article or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a misdemeanor and upon conviction shall pay a fine to Penn Lake Park Borough of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Article. The imposition of a fine or penalty for any violation of, or noncompliance with, this Article shall not excuse the violation or noncompliance or permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Article may be declared by the Borough Council to be a public nuisance and abatable as such.

#### SECTION 1218      APPEALS

- A. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Article, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- B. Upon receipt of such appeal the Zoning Hearing Board convene a hearing in accordance with the procedures set in Article 15, SECTION 1506, HEARINGS.
- C. Any person aggrieved by any decision of the Zoning Hearing Board may seek relief there from by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

SECTION 1219 IDENTIFICATION OF FLOODPLAIN AREAS

The identified floodplain area shall be any areas of Penn Lake Park Borough, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated **December 5, 1980**, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Penn Lake Park Borough and declared to be a part of this ordinance.

SECTION 1220 DESCRIPTION AND SPECIAL REQUIREMENTS  
OF IDENTIFIED FLOODPLAIN AREAS

Identified floodplain area shall consist of the following specific areas:

**A. Floodway Area**

1. Description - the area identified as Floodway in the FIS which represents the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than one (1) foot at any point.

This term shall also include floodway areas which have been identified in other available studies or sources of information for those special floodplain areas where no floodway has been identified in the FIS.

2. Special Requirements:
  - a. Any encroachment that would cause any increase in flood heights shall be prohibited.
  - b. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection Regional Office.

**B. Special Floodplain Area**

1. Description - the areas identified as Zones AE and A1-30 in the FIS which are subject to inundation by the 1-percent-annual chance flood event determined by detailed methods and have base flood elevations (BFEs) shown.
2. Special Requirements:
  - a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.



- b. In Special Floodplain Areas without a designated floodway, no new development shall be permitted unless it can be demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one (1) foot.

### **C. Approximate Floodplain Area**

1. Description - the areas identified as Zone A in the FIS which are subject to inundation by the 1-percent-annual-chance flood event determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown.

2. Special Requirements:

- a. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- b. When available, information from other Federal, State, and other acceptable sources shall be used to determine the BFE, as well as a floodway area, if possible. When no other information is available, the BFE 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 Borough may require the applicant to determine the elevation with hydrologic and 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 Penn Lake Park Borough.

### SECTION 1221      CHANGES IN IDENTIFICATION OF AREA

The identified floodplain area may be revised or modified by the Penn Lake Park Borough Board where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data.

### SECTION 1222      BOUNDARY DISPUTES

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Penn Lake Park Borough Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Penn Lake Park Borough Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1223      TECHNICAL PROVISIONS

Section 1223.1      General

A. Alteration or Relocation of Watercourse

1. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office.
2. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
3. In addition, the FEMA and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

B. Technical or scientific data shall be submitted to FEMA for a Letter of Map Revision (LOMR) within six (6) months of the completion of any new construction, development, or other activity resulting in changes in the BFE.

C. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Article and any other applicable codes, ordinances and regulations.

SECTION 1224      ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

1. In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard.
2. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the regulatory flood elevation in accordance with Section 1221.C.2.b of this Article.
3. The design and construction standards and specifications contained in the 2006 International Building Code (IBC) and in the 2006 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

## B. Non-residential Structures

1. In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated to the base flood elevation plus one and one-half (1 ½) foot of freeboard or be designed and constructed so that the space enclosed below the regulatory flood elevation:
  - a. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
  - b. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
2. In A Zones, where there no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated one and one-half (1 ½) feet of above the regulatory flood elevation or completely floodproofed to the regulatory flood elevation in accordance with 1221.C.2.b of this Article.
3. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
4. The design and construction standards and specifications contained in the 2006 International Building Code (IBC) and in the 2006 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

## C. Space Below the Lowest Floor

1. 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 flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
2. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

- b. the bottom of all openings shall be no higher than one (1) foot above grade.
- c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d.

#### D. Accessory Structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- 1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- 2. floor area shall not exceed 100 square feet.
- 3. The structure will have a low damage potential.
- 4. the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- 5. power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
- 6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- 7. sanitary facilities are prohibited.
- 8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - b. the bottom of all openings shall be no higher than one (1) foot above grade.
  - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;
2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage 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.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
4. The design and construction provisions of the UCC and FEMA #348, Protecting Building Utilities From Flood Damages and The International Private Sewage Disposal Code shall be utilized.

#### D. Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

#### E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

#### F. Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 1226, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

#### G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwater.

#### H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

#### I. Floors, Walls and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
2. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
4. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

J. Paints and Adhesives

1. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
2. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the base flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

1. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

N. Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Article, to the extent that they are more restrictive and/or supplement the requirements of this Article.

International Building Code (IBC) 2006 or the latest edition thereof:  
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2006 or the latest edition thereof:  
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

SECTION 1226      DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE

- A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic

Development as required by the Act, any new or substantially improved structure which:

1. will be used for the production or storage of any of the following dangerous materials or substances; or,
2. will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
3. will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited.

C. Within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

D. Where permitted within any floodplain area, any new or substantially improved structure of the kind described in Subsection A., above, shall be:

1. elevated or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation,



2. designed to prevent pollution from the structure or activity during the course of a base flood elevation.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

SECTION 1227      SPECIAL REQUIREMENTS FOR SUBDIVISIONS

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

SECTION 1228      SPECIAL REQUIREMENTS FOR MANUFACTURED HOMES

- A. Within any FW (Floodway Area), manufactured homes shall be prohibited.
- B. Within Approximate Floodplain or Special Floodplain Area, manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
  1. placed on a permanent foundation.
  2. elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation.
  3. anchored to resist flotation, collapse, or lateral movement.
- D. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2006 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.

- E. Consideration shall be given to the installation requirements of the 2006 IBC, and the 2006 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units(s) proposed installation.

SECTION 1229      SPECIAL REQUIREMENTS FOR RECREATIONAL VEHICLES

1. Recreational vehicles in Zones A, A1-30, AH and AE must either:
  - a. be on the site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use, or
  - c. meet the permit requirements for manufactured homes in Section 1228.

SECTION 1230      PROHIBITED USES

The development of the following uses and/or activities including new construction, expansion, enlargement, and/or substantial improvement, is hereby prohibited in any area of a designated One Hundred (100) Year Flood Plain:

- a. Hospitals
- b. Nursing Homes (Public or Private);
- c. Jails, Prisons, or any similar detention facility; and
- d. Manufactured home park or manufactured home subdivision.

SECTION 1231      EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 1231.1 Existing Structures

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 1232.2 shall apply.

Section 1231.2 Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the base flood elevation.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Floodplain Area that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its

market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article.

- D. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2006 IBC and the 2006 IRC.
- E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Article

## SECTION 1232      VARIANCES

### Section 1232.1 General

If compliance with any of the requirements of this Article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board of Penn Lake Park Borough may, upon request, grant relief from the strict application of the requirements.

### Section 1232.2 Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board of Penn Lake Park Borough in accordance with the procedures contained in Section 1218 of this Article and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any indentified floodplain that would cause any increase the BFE.
- B. No variance shall be granted for any use, activity and/or development that is prohibited under Section 1230 of this Article
- C. Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Section 1226, Development Which May Endanger Human Life.
- D. If granted, a variance shall involve only the least modification necessary to provide relief.
- E. In granting any variance, the Zoning Hearing Board of Penn Lake Park Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article.
- F. Whenever a variance is granted, the Zoning Hearing Board of Penn Lake Park Borough shall notify the applicant in writing that:
  - 1. The granting of the variance may result in increased premium rates for flood insurance.
  - 2. Such variances may increase the risks to life and property.

G. In reviewing any request for a variance, the Zoning Hearing Board of Penn Lake Park Borough shall consider, at a minimum, the following:

1. That there is good and sufficient cause.
2. That failure to grant the variance would result in exceptional hardship to the applicant.
3. That the granting of the variance will
  - a. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
  - b. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

H. A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board of Penn Lake Park Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 1% annual chance flood.

**ARTICLE 13**

**ENFORCEMENT AND ADMINISTRATION**

SECTION 1301      ZONING OFFICER

1301.1      APPOINTMENT

A Zoning Officer, who shall not hold any elected office within Penn Lake Park Borough, shall be appointed by the Borough Council. The Zoning Officer shall meet qualifications established by Penn Lake Park Borough, which shall at minimum include a working knowledge of municipal zoning.

1301.2      DUTIES AND POWERS OF THE ZONING OFFICER

It shall be the duty of the Zoning Officer to enforce the provisions of this Ordinance in accordance with its literal terms and said Officer shall not have the power to permit any construction, alteration or any use or change of use to land or structure which does not conform to the applicable provisions within this Ordinance. The Zoning Officer's duties shall include but are not limited to the following:

- (A) Receive and review all applications for zoning permits and to approve and issue zoning permits, when warranted.
- (B) Keep an official record of all business and activities, including all complaints of zoning violations of any of the provisions of this Ordinance and the resulting action of said complaints.
- (C) Conduct inspections of properties as required to fulfill his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure, subject to the consent of approval of the owner and/or tenant of the property.
- (D) Issue permits as authorized by the Zoning Hearing Board or Governing Body pursuant to the requirements and applicable procedures of this Ordinance or by written order of a Court of proper jurisdiction.
- (E) Issue Certificates of Zoning Compliance in accordance with the terms and provisions of this Ordinance.
- (F) Issue Certificates of Nonconformity to nonconforming uses and/or structures and to maintain a listing of such as required.
- (G) Maintain the Zoning Map, showing the current zoning districts of all land and the zoning text, including amendments thereto.

- (H) Notify the Zoning Hearing Board of required and/or requested hearings based upon the completion of his review and processing of applications for a zoning permit. The submission of an application for a zoning permit to the Zoning Officer and his determination that a hearing before the Board is either required or requested shall be a prerequisite for any application being forwarded to the Zoning Hearing Board for consideration.
- (I) Participate in proceedings before the Zoning Hearing Board, the Planning Commission and the Borough Council, and at their request, furnish such facts, records and similar information which may assist them in rendering decisions.

## SECTION 1302      ZONING PERMIT

### 1302.1    ISSUANCE OF PERMIT

No building, structure or sign shall be erected, constructed, moved, added to or structurally altered, nor shall any land, structure or building be put to any use without first obtaining a zoning permit from the Zoning Officer. No application shall be submitted to or considered by the Zoning Hearing Board until the Zoning Officer has received an application for a Zoning Permit and has determined that an approval and/or review by the Zoning Hearing Board is required or requested by the applicant. No such permit shall be issued except in conformity with the provisions of this Ordinance or upon written order from the Zoning Hearing Board in the form of a Special Exception, Variance or as otherwise provided for by this Ordinance or any Court of proper jurisdiction. Normal and routine maintenance and repairs to a structure shall be exempt from obtaining a zoning permit. Interior remodeling of a structure shall also be exempt from obtaining a zoning permit provided that such remodeling does not include structural alterations or result in a change in the use of the structure.

### 1302.2    FORM OF APPLICATION

All applications for permits shall be made in writing by the owner, his authorized agent or equitable owner and shall be filed with the Zoning Officer on forms prescribed by the same. All applications shall be accompanied by two sets of plans and information which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner. If the zoning permit includes the proposed construction of a principal structure or an addition to a principal structure a survey drawing shall be required. Open decks, patios, porches or other similar types of improvements which are unenclosed and unroofed, shall be exempt from the provision of a survey drawing. The survey drawing shall be prepared by a registered professional land surveyor, bearing the seal of the surveyor, certification of accuracy and the date on which the field survey was performed.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.

- (C) The number and type of dwelling units, if applicable.
- (D) The amount and location of parking and/or loading facilities.
- (E) The existing use and/or proposed use of the property.
- (F) The height of the building, structure and/or sign.
- (G) A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- (H) Existing and/or proposed access to the site, including all street right-of-ways which adjoin the property.
- (I) Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

#### 1302.3 PROCESSING APPLICATIONS

The Zoning Officer shall return one copy of the plans and accompanying information to the applicant upon marking such copies approved or denied and attested to the same by his signature. One copy of the plans and accompanying information shall be retained by the Zoning Officer and kept on file.

#### 1302.4 TIME PERIOD FOR PROCESSING APPLICATION

A zoning permit shall be approved or denied within forty-five (45) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable and associated fees are paid in full. In cases of denial, the applicant shall be informed of his/her rights of appeal as prescribed within this Ordinance. Such notice shall be in writing under the signature of the Zoning Officer.

#### 1302.5 START OF WORK NOTICE

The applicant shall provide the Zoning Officer with not less than a forty-eight (48) hour notice prior to the commencement of work at the property for a subject zoning permit has been issued.

#### 1302.6 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire one year from the date of issuance, if the work and/or use of the property as described in said permit, based upon the footprint of proposed improvements and/or the proposed use of the property has not commenced, including permits authorized to be issued by the Zoning Hearing Board or Governing Body. If the zoning permit includes physical improvements to a property and the work to undertake those improvements has commenced within the prescribed one year period,

the permit shall expire two years from the start of construction. If the subject work is not completed within two years from the start of construction the following procedures shall be applicable:

- An extension of time may be granted at the discretion of the Zoning Officer if a determination is rendered that the work will be completed within an additional one year from the date of the requested time extension.
- or
- The applicant may submit an application for a new zoning permit for the portion of the work not completed within two years from the start of construction.

If the subject work and/or proposed use of a property as described in the approved zoning permit has not commenced within one year from the date of issuance, a new zoning permit application shall be required to undertake the proposed work or use subject to the governing regulations in effect at that time.

### 1302.7 REVOCATION OF PERMITS

The Zoning Officer may revoke a permit or approval issued in error under the provisions of this Ordinance, or in the case of any false statements or misrepresentation of fact in the application or on the plans on which the permit or approval was based, or for any other just cause as set forth in this Ordinance.

## SECTION 1303 CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance, issued by the Zoning Officer, shall be required prior to the occupation for the use or change of use of any building, structure or land. It shall be unlawful to use and/or occupy any structure, building and/or land or portions thereof in any manner until a Certificate of Zoning Compliance has been issued and obtained from the Zoning Officer. Residential accessory structures uses shall be exempt from securing a Certificate of Zoning Compliance.

### 1303.1 APPLICATIONS

All applications for a Certificate of Zoning Compliance shall be made in writing on forms prescribed by the Zoning Officer and shall include all information necessary for the Zoning Officer to ascertain compliance with the subject zoning permit and this Ordinance.

### 1303.2 ISSUANCE OF CERTIFICATE OF ZONING COMPLIANCE

A Certificate of Zoning Compliance shall not be issued until the Zoning Officer has certified the proposed use complies with all provisions and regulations of this Ordinance or upon written order from the Zoning Hearing Board or any Court of proper jurisdiction.

### 1303.3 TIME LIMITATION



An application for a Certificate of Zoning Compliance shall be approved or denied within thirty (30) days after the Zoning, Officer has been officially notified of either the completion of construction or the request to occupy and use land where no construction is involved.

## SECTION 1304      ENFORCEMENT PROCEDURES

### 1304.1   NOTICE OF VIOLATION

If in the judgment of the Zoning Officer, it appears that a violation of this Ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending a cease and desist order and/or a violation notice to the owner of record of the parcel of land on which the violation has occurred, to any person who has filed a written request to receive violation notices regarding the parcel of land and to any other person requested in writing by the owner of record. The violation notice shall include, but may not be limited to the following:

- (A) The name of the owner of record and any other person against whom Penn Lake Park Borough intends to take action.
- (B) The location and/or address of the property in violation.
- (C) The specific violations with a description of the requirements which have not been met, citing in each instance the applicable sections and provisions of this Ordinance.
- (D) The date by which the steps for compliance must be commenced and the date by which the steps for compliance must be completed.
- (E) That the recipient of the notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty days from the issuance of the violation notice and that any filing fees paid by the recipient of the notice to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.
- (F) Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

### 1304.2   CAUSES OF ACTION

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, Borough Council or, with the approval of the Borough Council, an officer or agent of Penn Lake Park Borough, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the

alleged violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation of this Ordinance. When such action is instituted by a landowner or tenant, notice of that action shall be served upon Penn Lake Park Borough at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Borough Council. No action may be taken until such notice has been given.

### 1304.3 JURISDICTION

District justices shall have initial jurisdiction over proceedings brought under Section 1304.4 of this Ordinance.

### 1304.4 ENFORCEMENT REMEDIES

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceedings commenced by Penn Lake Park Borough or the Zoning Officer, shall pay a judgment of not more than five hundred dollars, plus all court costs, including reasonable attorney fees incurred by Penn Lake Park Borough as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, Penn Lake Park Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Penn Lake Park Borough.

The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than Penn Lake Park Borough the right to commence any action for enforcement pursuant to this Section.

### SECTION 1305 SCHEDULE OF FEES, CHARGES AND EXPENSES

The Borough Council shall establish by resolution a schedule of fees and collection procedures for zoning permits, certificates of zoning compliance, certificates of nonconformity, appeals to the Zoning Hearing Board, applications for conditional

uses, amendments to the Zoning Ordinance, Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees shall be available for public inspection and may be altered or amended by resolution of the Borough Council. No action shall be taken on any application, appeal or certificate until all related fees, charges and expenses have been paid in full. An application shall not be deemed as filed until completed and submitted with payment in full of appropriate fees. The payment of any fee shall represent a nonrefundable expense for administrative functions on the part of the Borough.

**ARTICLE 14**

**AMENDMENTS**

SECTION 1401      AMENDMENT PROCEDURE

The provisions of this Ordinance and the boundaries of the zoning districts as set forth upon the Zoning Map, may from time to time be amended by the Borough Council in accordance with the provisions as set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended. Prior to adopting any amendment to this Ordinance or to the Zoning Map, the following procedures shall be met:

- (A) Any proposed amendment, not initiated by the Planning Commission, shall be referred to the Planning Commission at least thirty (30) days prior to a public hearing before the Borough Council to provide the Planning Commission an opportunity to submit any comments or recommendations regarding the proposed amendment.
- (B) Prior to voting on the enactment of any proposed amendment, the Borough Council shall hold a public hearing pursuant to public notice. If, after any public hearing held upon a proposed amendment, said amendment is substantially changed, or is revised to include land not previously affected by the proposed amendment, the Borough Council shall hold another public hearing before proceeding to vote on the amendment.
- (C) Any recommendation of the Planning Commission shall be submitted to the Borough Council in writing.
- (D) At least thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Luzerne County Planning Commission for its comments and recommendation. In addition to the proposed amendment, the Borough Council shall submit the required fees charged by the Luzerne County Planning Commission for its review.
- (E) Proposed action shall not be taken until the Planning Commission and the Luzerne County Planning Commission comments and recommendations are submitted to the Borough Council. If either Commission fails to act within thirty (30) days, from its receipt of the proposed amendment, the Borough Council may proceed without such recommendation.
- (F) When a proposed amendment involves a Zoning Map change, the following procedures shall be applicable:
  - 1. Notice of the public hearing shall be conspicuously posted by Penn Lake Park Borough at points deemed sufficient along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted not less than one (1) week prior to the date of the public hearing.

2. Notice of the public hearing shall be mailed by Penn Lake Park Borough, at least thirty (30) days prior to the date of the public hearing, by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area proposed to be rezoned, and to those within two hundred (200) feet of the area proposed to be rezoned, as evidenced by tax records within the Luzerne County Tax Assessment Office. The party requesting the zoning boundary amendment shall be responsible for securing such information and providing the same to the Borough. The notice shall include the location, time and date of the public hearing. A good faith effort and substantial compliance shall be deemed to satisfy this requirement. While it shall be the intent of Penn Lake Park Borough to provide written notice to such owners, failure to do so shall not invalidate an otherwise duly enacted ordinance that provides for a change in the Zoning Map.
3. The above requirement shall not apply when the rezoning constitutes a comprehensive rezoning.

SECTION 1402      APPLICATIONS FOR AMENDMENTS TO THE TEXT OR MAP

The application for a proposed amendment, which is not submitted as a curative amendment, to the text of this Ordinance or to the Zoning Map, shall be submitted in writing to the Zoning Officer, who shall process said application in accordance with Section 1401 of this Ordinance. An application shall contain the following information when applicable:

- (A) The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- (B) A signed statement by the owner of record attesting to the truth of the facts of all information contained within the application.
- (C) A scaled plan of the area proposed to be rezoned, which indicates abutting streets, the zone classification of adjoining properties and the names and addresses of property owners within two hundred feet of the area proposed to be rezoned.
- (D) Plans, drawings and explanatory material, which describes in detail the applicant's proposed use and/or development of the property.
- (E) Specify those Sections of this Ordinance or areas upon the Zoning Map which will be affected by the proposed amendment.

SECTION 1403      CURATIVE AMENDMENTS

1403.1      INITIATED BY LANDOWNER

A landowner who desires to challenge on substantive grounds the validity of this

Ordinance or the Zoning Map, or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment to cure the alleged defect, be heard and decided by the Borough Council. In addition to the written request and proposed amendment, the landowner shall also submit plans, drawings and explanatory material, which describes in detail his proposed use or development. The Borough Council shall commence a public hearing pursuant to public notice within sixty days of the landowner's request. The sixty day period shall not commence until all required information and material is submitted, along with all related fees.

The curative amendment and supporting information shall be referred to the Planning Commission and the Luzerne County Planning Commission for their review and comment at least thirty (30) days prior to the public hearing.

The public hearing before the Borough Council shall be conducted in accordance with the procedures contained in Section 1506 of this Ordinance and all references therein to the Zoning Hearing Board shall, for the purposes of this Section, be references to the Borough Council. Public notice of the required public hearing shall include notice of the validity of those particular provisions of this Ordinance and/or the Zoning Map which are in question, along with the place where the proposed amendment, plans, drawings, explanatory material and any other pertinent information may be examined by the public.

If the Borough Council determines that a validity challenge has merit, it may accept a landowner's curative amendment, with or without revisions, or it may adopt an alternative amendment which will cure the challenged defects. The Borough Council shall consider in addition to the proposed curative amendment, plans, drawings and explanatory material the following items:

- (A) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
- (B) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units if a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- (C) The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- (D) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.

- (E) The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare.

The proposed curative amendment shall be deemed denied in accordance with any of the following:

- (A) When the Borough Council fail to commence a public hearing within sixty (60) days from the date the curative amendment and request for a public hearing is filed.
- (B) When the Borough Council notifies the landowner that it will not adopt the curative amendment.
- (C) When the Borough Council adopts another curative amendment which is unacceptable to the landowner.
- (D) When the Borough Council fails to act on the request within forty-five (45) days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Council.

1403.2      INITIATED BY MUNICIPALITY

If the Borough Council determines this Ordinance or the Official Zoning Map, or any portion thereof, to be substantially invalid, it shall declare such by a formal action and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following said declaration, the Borough Council shall by resolution make specific findings setting forth the declared invalidity which may include:

- (A) References to specific uses which are either not permitted or not permitted in sufficient quantity.
- (B) Reference to a class of use or uses which require revision.
- (C) Reference to the entire Ordinance and/or Map which requires revisions.

Within 180 days from the date of the declaration and proposal as set forth in this Section, the Borough Council shall enact a curative amendment to correct those portions deemed invalid or reaffirm the validity of those portions initially deemed to be invalid. Upon the initiation of procedures as set forth in this Section, the Borough Council shall not be required to entertain or consider any landowner's curative amendment, nor shall the Zoning Hearing Board be required to give a report pursuant to Section 1508(A) of this Ordinance, based upon grounds identical to or substantially similar to those specified in the Borough Council' resolution.

The Borough Council, having utilized the procedures as set forth in this Section, may not again utilize said procedure for a thirty-six month period following the date of the enactment of a curative amendment or reaffirmation of the validity of this Ordinance and/or Zoning Map. However, if after the date of declaration and

proposal, there is a substantially new duty or obligation imposed upon Penn Lake Park Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Penn Lake Park Borough may utilize the provisions of this Section to prepare a curative amendment to fulfill said duty or obligation.

SECTION 1404      ENACTMENT OF AMENDMENTS

A proposed amendment to this Ordinance or to the Zoning Map shall be enacted in conformance with the following:

- (A) The Borough Council shall conduct a public hearing pursuant to public notice and in accordance with the procedures as contained within Section 1401 of this Ordinance.
- (B) Public notice shall include the time, place and date of the meeting at which enactment will be considered and a place within Penn Lake Park Borough where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
- (C) Public notice shall include either the full text of the amendment or the title and a brief summary of the amendment as prepared by the municipal solicitor. If the full text is not included, then a copy of such shall be supplied to the newspaper in which the public notice is published, and an attested copy to the County Law Library.
- (D) In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, at least ten days prior to enactment, readvertise in one newspaper of general circulation in Penn Lake Park Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the changes.

SECTION 1405      NOTIFICATION TO COUNTY

Within thirty (30) days after the enactment of an amendment to this Ordinance or to the Zoning Map, a copy of the amendment shall be forwarded to the Luzerne County Planning Commission.



## ARTICLE 15

### ZONING HEARING BOARD

#### SECTION 1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of three (3) residents of Penn Lake Park Borough appointed by the Borough Council by resolution. The terms of office for Board members shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough, including membership upon the Planning Commission.

#### SECTION 1502 ALTERNATES TO ZONING HEARING BOARD

The Borough Council may appoint by resolution two residents of Penn Lake Park Borough to serve as an alternate members of the Board. When seated pursuant to the provisions of Section 1504 of this Ordinance, 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 proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. An alternate shall hold no other office in the Borough, including membership on the Planning Commission. An alternate may participate in any proceedings or discussions of the Board, but shall not be entitled to vote as a member of the Board unless designated as a voting alternate member pursuant to Section 1504 of this Ordinance. The term of office for an alternate member of the Zoning Hearing Board shall be one (1) year.

#### SECTION 1503 REMOVAL OF MEMBERS

Any Board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office or for any other just cause by the Borough Council. Prior to any vote by the Borough Council, the member shall receive notice fifteen days in advance of the date at which it intends to take such a vote. A hearing before the Borough Council shall be held in connection with the vote, if the member requests a hearing in writing.

#### SECTION 1504 ORGANIZATION OF BOARD

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board, however, may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in Section 1506. If by any reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate one or more alternate members of the

Board to be seated to establish a quorum. The 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.

The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of Penn Lake Park Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit an annual report of its activities to the Borough Council.

#### SECTION 1505 EXPENDITURES FOR SERVICES

Within the limits of appropriated funds, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and technical services which they may deem necessary to augment the Board in the performance of their duties.

#### SECTION 1506 HEARINGS

The Zoning Hearing Board shall conduct hearings and render decisions in accordance with the following:

- A. Notice of hearings before the Board shall be by public notice; a notice published once a week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing by the Board. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
- B. Written notice of all hearings before the Board shall be conspicuously posted on the affected property at least one week prior to the hearing.

Written notice shall be given to the following parties:

The applicant;

The owner of record of the subject property before the Board, if different than that of the applicant;

The Zoning Officer;

To any party or person who has submitted a written request to receive notification on the subject property.

To each property owner who has an adjoining or contiguous boundary with the subject property before the Board; with the applicant responsible for providing the Borough with the names and addresses of the true and correct owners of record based upon the records contained in the Luzerne County Tax Assessor's Office. While it shall be the intent of Penn Lake Park Borough Zoning Hearing Board to

provide written notice to such owners, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board. In the event a hearing is continued to a future date for the purpose of obtaining additional information, additional testimony or to render a decision, and the Zoning Hearing Board publicly announces during the course of the hearing the time and date for the resumption of the hearing, additional written notice need not be provided to any of the above parties

- C. The Borough Council may prescribe reasonable fees with respect to hearings before the Board. 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 of the Board or expenses for engineering, architectural or other technical consultants or expert witnesses.
- D. The first hearing shall be held within sixty (60) days from the applicant's request, unless the applicant has agreed in writing to an extension of time. The sixty (60) day time period shall not commence until the applicant has submitted a properly completed application, with all required signatures, supporting information, the names and mailing addresses of parties to receive notice of the hearing, and all required fees. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of hearings. Persons opposed to the application may, upon written consent or consent on the record by the applicant and municipality, may be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- E. Hearings shall be conducted by the Board or by any member appointed by the Board as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, unless the appellant or applicant, as the case may be, in addition to the Borough, agree to waive any decision or findings by the Board and accept the decision or findings of the hearing officer as final. If the decision or findings of the hearing officer are to be accepted as final, all parties to the hearing must agree to such stipulation at the outset of the hearing.
- F. The parties to the hearing shall be the Borough, any person affected by the application who has made a timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties to

the hearing enter appearances in writing on forms provided by the Board for such purpose.

In any appeal of an enforcement notice under Section 1304.1 of this Ordinance to the Zoning Hearing Board shall require that the Zoning Officer and/or Borough provide its evidence first to the Board regarding the basis, nature and supporting information regarding the subject enforcement notice. Upon the conclusion of the same, the appealing party shall provide the Board with his/her evidence in contesting the subject enforcement notice. Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to said party, if Zoning Hearing Board or any subsequent Court rules in favor of the appealing party.

- G. The presiding chairman or acting chairman of the Board or hearing officer shall have the power to administer oaths and issue subpoenas to compel attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties to the hearing.

The parties to the hearing shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and arguments and to cross-examine adverse witnesses on all relevant issues.

- H. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- I. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer, or shall be paid by the person appealing from the decision of the Board, if such appeal is made and in the event the cost of additional copies shall be paid by the person requesting such copies. In other cases the party requesting the original transcript shall bear the cost thereof.
- J. The Board, collectively or individually, or the hearing officer, shall not communicate directly or indirectly with any party or his representatives in connection with any issue before the Board 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 its solicitor, unless all 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.
- K. The Board or the hearing officer, as the case may be, shall render a written decision or, if no decision is called for, make written findings on the application within forty-five days after the last hearing before the Board or hearing officer. If 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 Ordinance or any other ordinance, rule or regulation, shall contain a reference to the provisions relied upon and the reasons why the conclusion is

deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties of record within forty-five days. The parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, with the Board's decision entered no later than thirty days after the report of the hearing officer. If the Board fails to hold the required hearing within sixty days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. If a decision has been rendered in favor of the applicant because of their failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided under Item A of this Section. Nothing contained within this Section shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- L. The final decision or, where no decision is called for, of the findings shall be rendered by the Zoning Hearing Board at a public meeting and/or public hearing. A copy of the written decision or findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the Board's decision or findings. The Zoning Hearing Board shall provide by mail or otherwise, to all persons who have filed their name and address with the Board, not later than the last day of the hearing, a statement of brief notice of the decision or findings and a statement of the place and at which a copy of the full decision or findings may be examined.

#### SECTION 1507 MEDIATION OPTION

1507.1 Mediation may be utilized as an aid designed to supplement, as opposed to replacing, any proceedings before and under the jurisdiction of the Zoning Hearing Board. In no case, however, shall the Board or any member of the Board, initiate the use of mediation. No member of the Board shall be allowed to participate as a mediating party or be present during any sessions of mediation. Nothing within this Section shall be interpreted as expanding or limiting municipal police powers or modifying any principles of substantive law.

1507.2 Mediation shall be voluntary among all subject parties with the appropriateness of mediation determined by the particular issues of each case and the willingness among all the subject parties to negotiate. In order to supplement proceedings before the Zoning Hearing Board, the following information shall be submitted to the Board in written form and signed by all parties to the mediation, the elected mediator, and the Zoning Hearing Board.

- A. Method and commitment of funding of mediation.
- B. The mediator shall be an attorney and/or an individual who is certified

the American Arbitration Association, who shall possess a working knowledge of municipal zoning and subdivision practices and procedures.

- C. A schedule which shall clearly prescribe the time limitations for both the start and completion of mediation. The completion date shall be adhered to even if the negotiations fail to result in a mediated agreement by said date.
- D. Suspension of the appropriate time limitations which apply to the Zoning Hearing Board in convening a hearing and/or rendering a decision, once a hearing is convened, subject to executing a document of expressed written consent by the mediating parties, and by the Zoning Hearing Board.
- E. Identification of all subject parties and affording them the opportunity to participate.
- F. A determination of whether some or all of the mediation sessions shall be opened or closed to the public, subject to governing legal constraints.
- G. An agreement among the mediating parties, that any mediated solution be in written form and subject to review and approval by the Zoning Hearing Board.
- H. Any mediation which concludes within the prescribed time limits under Item C of this Section, which does resolve in whole or in part, the issues subject to mediation, shall then proceed under the hearing process before the Zoning Hearing Board.
- I. No offer or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

#### SECTION 1508 JURISDICTION OF ZONING HEARING BOARD

The Zoning Hearing Board, in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

- A. Substantive challenges from a landowner regarding the validity of any land use ordinance or map, or any provision thereunder, which prohibits or restricts the use or development of land in which he has an interest, except for those brought before the Borough Council under Section 1403.1 of this Ordinance.
- B. Challenges to the validity of any land use ordinance, based upon procedural questions or alleged defects in the process of enactment or adoption. Challenges based upon

procedural questions or alleged defects shall be raised by an appeal to the Board within thirty days after the effective date of the Ordinance subject to the appeal.

- C. Appeals from the determination of the zoning officer, including by not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from a determination by the zoning officer with reference to the administration of any flood plain provision or regulation within any land use ordinance.
- E. Applications for variances, pursuant to Section 1509 of this Ordinance.
- F. Applications for special exceptions pursuant to Section 1510 of this Ordinance.
- G. Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management not related to development which is classified as a subdivision, land development, or a planned residential development.
- H. Applications for uses not addressed within the Zoning Ordinance pursuant to Section 301.
- I. Applications seeking approval of a use on a temporary basis pursuant to Section 1511 of this Ordinance.

## SECTION 1509 VARIANCES

### 1509.1 INITIAL DETERMINATION BY ZONING OFFICER.

An application for a variance shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance. The application shall be accompanied by a survey drawing of the subject property, which includes and identifies both existing and proposed improvements. The survey drawing shall be prepared by a registered professional land surveyor or a registered professional engineer.
2. The Zoning Officer is reviewing the subject application renders a determination that the proposed development and/or use of property fails to comply with an applicable provisions and/or regulations of this Ordinance.
3. The Zoning Officer specifies the applicable Sections of this Ordinance relative to the applicant's need to secure a variance(s) from the Zoning Hearing Board.

1509.2      PROVISIONS FOR GRANTING VARIANCES

The Zoning Hearing Board shall hear requests for variances if it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may grant a variance only within the limitations of State law. The applicant shall have the burden to show compliance with such standards. As of the date of the enactment of this Zoning Ordinance, and in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended, the Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 1510   SPECIAL EXCEPTIONS

1510.1      INITIAL DETERMINATION BY ZONING OFFICER

An application for a special exception use shall not be submitted to or considered by the Zoning Hearing Board until the following procedure has been completed:

1. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 703 of this Ordinance. The Site Plan shall be based upon a survey drawing of the subject property, which includes and identifies both existing and proposed



improvements. The survey drawing shall be prepared by a registered professional land surveyor, bearing the seal of the surveyor, certification of accuracy and the date on which the field survey was performed.

2. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 703 of this Ordinance.
3. The Zoning Officer shall also render a determination regarding whether the proposed development and/or use is required to secure any variances from the Zoning Hearing Board, in addition to securing a special exception approval.

#### 1510.2 PROVISIONS FOR GRANTING A SPECIAL EXCEPTION APPROVAL

The Zoning Hearing Board shall hear and decide requests for uses and/or development which are permitted as special exception uses. Special exception uses shall be referred to the Planning Commission for their review, comments and recommendations prior to final action by the Board. The Board shall grant approval only upon the determination that the proposed use and/or development conforms with all applicable standards and provisions within this Ordinance and the following expressed standards and criteria:

1. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
2. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
3. The relationship of the proposed use and/or development to other uses and activities existing or planned in the vicinity shall be harmonious in terms of the location and site relative to the proposed operation, and the nature and intensity of the operation involved.
4. The relationship of the proposed use and/or development to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the use, development, and value of adjacent property is not impaired.
5. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the district.

In granting approval, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code, Act 247, as amended.

#### SECTION 1511 APPROVAL OF USE ON TEMPORARY BASIS

The Zoning Hearing Board may authorize the approval of a special exception and/or variance on a temporary basis. The proposed use of a building, structure or land on a temporary basis shall be in accordance with the following:

1. Shall not exceed a twelve (12) month period for any reason.
2. Shall not involve the structural attention of any existing structure and/or building.
3. Shall not involve construction of any new structure and/or building.
4. Shall not generate excessive traffic.
5. Shall not create excessive smoke, noise, odor, dust, vibration, electrical disturbance or other similar hazards and/or nuisances.
6. Shall not impair the use and/or development of adjoining properties.

In granting approval to a temporary use, the Zoning Hearing Board shall have the discretion to include any additional conditions which it deems necessary to safeguard the health, safety and general welfare of the public. The Zoning Hearing Board may revoke their approval prior to the expiration of the twelve (12) month period if any standards, conditions, or terms under which approval was granted, are violated.

The Zoning Hearing Board's approval shall become null and void at the termination of the twelve (12) month time period, with renewal of any additional term on a temporary basis prohibited. The applicant shall, however, have the right to seek a variance and/or special exception approval, whichever is appropriate, on a permanent basis on or before the termination of the twelve (12) month time period. Failure of the applicant or property owner to cease all operations and activities at the termination of the twelve (12) month time period, unless granted approval on a permanent basis, shall constitute a violation of this Ordinance.

#### SECTION 1512 PARTIES APPELLANT BEFORE THE BOARD

Appeal and/or applications for hearings before the Zoning Hearing Board pursuant to those matters contained within Section 1509 of this Ordinance, may be filed with the Board in writing by the affected landowner or by any aggrieved person or party. The Board shall not accept appeals or applications for hearings from any tenant or equitable owner of a property without the express written consent of the landowner. In such cases, the landowner's signature shall be required upon all applicable forms, applications or documents which are to be submitted to the Board.

#### SECTION 1513 TIME LIMITATIONS

- 1513.1 No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for the development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no

notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a Planned Residential Development, pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map based upon substantive grounds, pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

1513.2 Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty day time period shall preclude any further appeal of the Board's decision.

#### SECTION 1514 STAY OF PROCEEDINGS

1514.1 Upon filing of any proceeding referred to in Section 1508 of this Ordinance, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When the application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Board.

1514.2 After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all the evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

1514.3 The question whether or not such petition should be granted and the amount of

the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

1514.4 If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

#### SECTION 1515 APPEALS TO COURT

The procedures set forth in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall constitute the exclusive mode for securing judicial review of any decision rendered or deemed to have been made under this Ordinance.