

BOROUGH OF BERWICK
COLUMBIA COUNTY
PENNSYLVANIA

2003

ZONING ORDINANCE

ORDINANCE NO. 2003-11 ADOPTED: DECEMBER 15, 2003

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2003 ZONING ORDINANCE
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**ARTICLE I
GENERAL PROVISIONS**

SECTION 101 TITLE

The official title of this Ordinance is: Berwick 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 Berwick 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 Berwick 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 Berwick 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. Berwick 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 Community Development Objectives of this Ordinance shall be consistent with and designed to carry out the defined goals and objectives as provided for in the Berwick Borough Comprehensive Plan, including any adopted revisions and amendments thereto:

SECTION 106 REPEALING PROVISION

All Ordinance, or any parts thereof, which are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 107 EFFECTIVE DATE

This Ordinance and/or any additions and/or corrects 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 BERWICK ON THIS (XX) DAY OF (MONTH) (YEAR)

ATTEST:

Borough Manager

Council President

Mayor

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:

- A. Words used in the present tense shall include the future tense.
- B. The word "person" shall include a profit or nonprofit corporation, company, partnership, individual or single proprietorship.
- C. 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.
- D. The word "building" shall include "part thereof" and "structure".
- E. The word "lot" shall include "plot" or "parcel".
- F. The word "shall" is always mandatory.
- G. The singular number shall include the plural, and the plural the singular.
- H. The masculine gender shall include the feminine and neuter.
- I. 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 building 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 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.

ADULT USES:

- A. **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.
- B. **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.
- C. **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.
- D. **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.
- E. **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".

ALLEY:

A public right-of-way intended and/or used as a secondary means of access to abutting property.

ALTERATION:

Any change, addition, or modification in construction or occupancy of an existing structure.

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 Berwick Borough Zoning Ordinance, including changes to boundaries of Zoning Districts as provided upon the Zoning Map.

ANIMAL HOSPITAL/CLINIC:

A building used for medical treatment of small domestic animals by a veterinarian, with short-term housing or boarding incidental to the hospital/clinic use.

ANIMAL KENNEL:

Any lot, premises, building, or combination thereof on which four (4) or more dogs or cats or both at least six (6) months of age are kept, boarded, or trained for commercial purposes.

ANTENNA, COMMERCIAL:

A device used for to collect and/or transmit telecommunication signals, radio signals, television signals, wireless phone signals or similar signals in association with a commercial enterprise, which may or may not be regulated by the FCC (Federal Communications Commission).

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.

AUTOMOBILE WRECKING YARD (SEE ALSO JUNKYARDS):

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

AUTOMOTIVE SALES:

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

BASEMENT:

A portion of a building that is partly or completely below grade. A basement shall be counted as a story if the vertical distance between the ceiling and the average grade of the adjoining ground exceeds five feet.

BOARDING HOUSE OR ROOMING HOUSE:

A structure or portion thereof which contains rooming units which are rented or leased, with the occupants of said units being non-transient, and utilizing said location as a legal place of residence. The term "Boarding House or Rooming House," shall specifically exclude the following:

Personal Care Home
Motel and/or Hotel

Dwelling
Group Residence

Dwelling Unit

BUFFER AREA:

A method of improvements designed to separate and substantially obstruct the view of two (2) or more adjacent land uses, properties and/or Zoning Districts from one another. Unless specified otherwise, for the purpose of this Ordinance when a buffer area is required it shall be deemed to represent a fence or stone wall with cork fitting, eight (8) feet in height with two (2) staggered rows of evergreen trees planted in front of the fence or wall with the spacing distance between trees not greater than six (6) feet. Said trees shall be not less than eight (8) feet in height at the time of planting. The type of evergreen trees selected for planting shall be subject to the approval of the Borough Council, Zoning Hearing Board or the Planning Commission in cases where the approval sought is under the jurisdiction of any of the aforementioned entities.

BOROUGH:

The Borough of Berwick, Columbia County, Pennsylvania.

BOROUGH COUNCIL:

The Borough Council of the Borough of Berwick, Columbia 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.

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

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

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

- F. **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 lines.

CARTWAY:

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

CAR WASH:

An area of land and/or a structure with machine- or hand-operated facilities used principally for the interior and/or exterior cleaning, washing, polishing, or waxing of motor vehicles.

CELLAR:

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

CEMETERY:

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CERTIFICATE OF ZONING COMPLIANCE:

A certificate issued by the Zoning Officer after he/she 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. The issuance of a Certificate of Zoning Compliance shall be a prerequisite of securing an Occupancy Permit.

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 "corner" so as not to interfere with traffic visibility across the corner.

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 cooperative association. Said clinics may provide medical services customarily available at hospitals, excluding overnight care of patients and 24-hour emergency service. A methadone treatment facility, as so defined in this Ordinance, shall be excluded within the scope of this definition.

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 fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

COMPREHENSIVE PLAN:

The Comprehensive Plan of the Borough of Berwick as adopted by the Borough Council, including any amendments thereto.

CONDITIONAL USE:

A use permitted in a particular zoning district only upon verification that such use in a specified location will comply with the conditions and standards for the location or operation of such use as specified in the Zoning Ordinance and where authorization can only be granted by the Borough Council, preceded by a review and recommendation of the Borough Planning Commission and a public hearing.

CONTRACTOR'S STORAGE:

A lot, building, or part thereof, used to store materials used by a contractor in the construction of a road, highway, structure or building, landscaping or utilities.

CONVENIENCE STORE:

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

CONVENIENCE STORE WITH GAS SALES:

Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, along with the retail sales of gasoline and related fuel products.

COUNTY PLANNING COMMISSION:

The Planning Commission of Columbia 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.

DAY CARE SERVICES:

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

DAY CARE FACILITY:

A facility for the provision of out-of-home care for children or adults for part of a 24-hour day, excluding the care provided by relatives, and licensed as such by the State.

DAY CARE CENTER:

A structure in which day care services are provided, with no portion of the structure being jointly used as a portion of a family residence.

DAY CARE HOME:

A residential structure in which day care services are provided for not more than six (6) persons at any one time, where the care areas are also used as a portion of a family residence.

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 Columbia County.

DENSITY:

The number of dwelling units permitted per net unit of land.

DETERMINATION:

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

- A. The Governing Body;
- B. The Zoning Hearing Board; or
- C. 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.

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.

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 designed and used for occupancy by one (1) family.
- B. **DWELLING, SINGLE-FAMILY, ATTACHED (TOWNHOUSE):** A one family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more vertical common fire resistant walls.
- C. **DWELLING, TWO FAMILY:** A detached or semidetached building containing not more than two (2) individual dwelling units that are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- D. **DWELLING, MULTIPLE FAMILY:** A single building containing three (3) or more individual dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

DWELLING UNIT:

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate bathroom, toilet and sanitary facilities and facilities for cooking and sleeping for exclusive use by the family residing therein.

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.

ENTERTAINMENT FACILITIES:

Indoor commercial establishments engaged in providing entertainment for a fee or an admission charge, such as an arcade, bowling alley, billiard hall, roller skating rink or similar facilities.

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 AND EXTRACTION RATION OF MINERALS:

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

EXISTING USE:

The use of a lot or structure at the time of the enactment of this Ordinance.

FAMILY:

One or more persons related by blood, marriage or legal adoption or a group not in excess of four (4) 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.

FENCE:

Any structure functioning as a boundary or barrier constructed of materials recognized by the fencing industry.

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:

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

FRONTAGE:

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

GARAGE, PRIVATE:

A noncommercial building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

GARAGE, REPAIR (ALSO SEE SERVICE STATION):

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

GASOLINE SERVICE STATION:

A building or premises, or portion thereof, used for the retail sale of gasoline, oil or other fuel, automotive parts, supplies, or accessories for motor vehicles and which may include, as an incidental use only, facilities used for polishing, greasing, washing or otherwise cleaning or light servicing of motor vehicles, but not including liquefied petroleum gas distribution facilities.

GENERAL NUISANCE:

Any use of property considered to be substantially inconsistent with the public comfort, convenience, health, safety, and general welfare, exhibiting characteristic that include, but may not be limited to the following:

- A. properties in a continuing state of disrepair that are not fit for habitation and/or occupancy;
- B. properties, lacking zoning approval, that contain and accumulate trash and junk;
- C. fire and explosion hazards;
- D. electrical and radioactive disturbances;
- E. noise and vibration;
- F. dust, dirt, and fly ash;
- G. glare;
- H. smoke and odors and other forms of air pollution.

GOVERNING BODY:

The Borough Council of the Borough of Berwick, Columbia 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. A boarding home and/or a personal care home.
- B. A facility providing shelter and/or rehabilitative care or treatment of persons for alcoholism and/or an addiction to a controlled substance.
- C. A facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

HAZARDOUS SUBSTANCES:

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

- A. cause, or significantly contribute to, an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness.
- B. 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.

HEALTH/RECREATION FACILITY:

An indoor facility including uses such as game courts, exercise equipment, locker rooms, and related facilities.

HIGHWAY OCCUPANCY PERMIT:

A permit, issued by the Pennsylvania Department of Transportation that authorizes access from a parcel of land onto a highway, road or street which is under the its jurisdiction

HEIGHT:

The vertical distance of a structure measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the structure.

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 of the base of the antenna support structure shall be used in calculating the antenna height.

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 residential character of the neighborhood.

HOSPITAL:

An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

HOTEL: (ALSO SEE MOTEL)

A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

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 Borough Council or Zoning Hearing Board under or within the context of the term "IMPACT ANALYSIS."

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-way's.

IMPROVEMENTS:

Man-made physical additions, alterations and/or changes to buildings or other structures which become part of, placed upon, or affixed to real estate.

INDUSTRY, HEAVY:

A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT:

A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

INSTITUTIONAL USE:

A structure or facility which provides medical, health, educational, social and/or rehabilitative services to more than eight (8) persons on a continuous and/or regular basis, excluding a facility for persons released from or under the jurisdiction of a governmental bureau of corrections or similar institution.

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

JUNKYARD (See also Automobile Wrecking Yard):

An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

LANDOWNER:

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

LOT:

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit, for principal and accessory buildings or structures.

LOT AREA:

The total horizontal area within the lot lines of a lot.

LOT, CORNER:

A lot abutting on and at the intersection of two (2) or more streets.

LOT COVERAGE:

A calculated percentage of a lot that is occupied by building and structures. The percent of lot coverage is calculated by dividing the sum of the total horizontal projected surface areas of a lot that are covered by buildings and structures by the gross area of that lot.

LOT DEPTH:

The average horizontal distance between the front and rear lot lines.

LOT LINE:

A line dividing one lot from another lot or from a street or alley.

LOT LINE, REAR:

The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

LOT LINE, SIDE:

Any lot line not a front or rear lot line.

LOT OF RECORD:

A lot which exists as shown or described upon a plat or deed and duly recorded in the Office of the Recorder of Deeds of Columbia County, Pennsylvania, on the effective date of the adoption of this Ordinance.

LOT, THROUGH:

A lot that fronts upon two (2) parallel streets or that fronts upon two (2) streets that do not intersect at the boundaries of the lot.

LOT WIDTH:

The horizontal distance between side lot lines, measured at the required front setback line.

MANUFACTURED HOME:

A structure, transportable in one or more sections, which is built upon a chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term shall include park trailers, travel trailers, recreational and other similar vehicles placed upon a site for more than 180 consecutive days.

MANUFACTURED HOME PARK:

A parcel, or contiguous parcels of land, which has been planned and improved for the placement of two or more manufactured homes.

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 foundation.

MOBILE HOME LOT:

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

MOTEL (See also Hotel):

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

MUNICIPALITY:

The Borough of Berwick, Columbia County, Pennsylvania.

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 and 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.

NON-CONFORMING 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.

NON-CONFORMING STRUCTURE:

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

NON-CONFORMING USE:

A use, whether of land or of structure, which does not comply with the applicable use and or other provisions in the zoning ordinance or amendment heretofore or hereafter enacted, here such use was lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation.

NURSING HOME:

A facility, as defined under current State licensing requirements, that provides nursing care and related medical or other health services for a period of twenty-four hours or more for individuals not in need of hospitalization, but who because of age, illness or other infirmity, require high-intensity comprehensive planned nursing care.

OFFICES:

A building or portion thereof containing rooms and/or space for conducting the affairs of a business, profession, service, industry or government.

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 watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

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 LOT:

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

PARKING, SHARED:

The development and use of parking areas on two (2) or more separate properties for joint use by the business on those properties.

PARKING SPACE:

An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one (1) motor vehicle.

PERMANENT FOUNDATION:

A support for a building or structure, including but not limited to, manufactured homes, mobile homes and modular homes, reaching below the frost line and consisting of either poured concrete, concrete blocks, cinder blocks, brick pressurized wood or stone to form a horizontal pad, columns or vertical wall on which the building or structure is anchored is intended to remain indefinitely.

PERMITTED USE:

Any use which is specifically authorized in a particular zoning district.

PERSONAL-CARE HOME:

A facility, as defined under current State licensing requirements, in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four consecutive hours for more than three (3) adults who are not relatives of the operator of the facility and who require assistance or supervision in such matters as dressing, bathing, diet or medication prescribed for self-administration but who do not require hospitalization or care in a skilled nursing or intermediate care facility.

PERSONAL SERVICES:

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

PLACE OF WORSHIP:

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

PLANNING COMMISSION:

The Planning Commission of Berwick 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, residents or another entity, governmental or private, 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 parks and administrative, cultural and service buildings excluding public land or buildings primarily devoted to the storage and maintenance of equipment and materials.

PUBLIC UTILITY:

A private corporation or municipal authority with an exclusive franchise for providing a public service which operates under regulations of federal, state or local government.

PUBLIC UTILITY FACILITIES:

Telephone, electric and cable television lines, poles, 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 a public utility under the jurisdiction of the Pennsylvania Public Utility Commission, in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

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.

REPORT:

Any letter, review, memorandum, compilation or similar writing made by anybody, 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 to be 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.

RESTAURANT, FAST-FOOD:

An establishment that offers quick food service, including drive-through service, which is accomplished through a limited menu of items already prepared or prepared, fried, or grilled quickly. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

RETIREMENT HOUSING COMPLEX:

Such a use shall include a public, a not-for-profit or a private residential facility, building or development designed and constructed to meet housing needs for senior citizens, with residency requirements therein based upon age and/or disability. Such complexes shall not include nursing homes, personal care facilities or similar institutional residences. A retirement housing complex may be designed as a single multifamily structure (apartment building), as attached single family dwellings (townhouses) or any combination thereof.

SATELLITE DISH ANTENNA (NON-COMMERCIAL):

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.

SCHOOL:

A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools that are licensed by the State as such.

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 or the Pennsylvania Uniform Construction Code, whichever is adopted by the Borough.

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.

SETBACK:

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

SEWAGE DISPOSAL, CENTRALIZED:

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

SEWAGE DISPOSAL, ON-LOT:

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

SHOPPING CENTER:

A group of commercial establishments, planned, designed and constructed as an integrated unit with off-street parking provided on-site for customers and employees.

SIGN:

Any object, device, display, or structure or part thereof situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design symbols, fixtures, colors, illumination or projected images. The word sign shall not include flag, pennant, or insignia of any nation, state or municipality nor shall it include public traffic or directional signs.

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, existing and proposed, for a specific parcel of land.

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 Protection, pursuant to Chapter 271.1, under the Solid Waste Management Act, as amended.

SOLID WASTE FACILITIES:

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

SOIL EROSION AND SEDIMENTATION CONTROL PLAN:

A plan that indicates necessary land treatment designed to effectively minimize soil erosion and sedimentation measures requiring approval by the Columbia County Conservation District.

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.

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:

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.

SWIMMING POOL, PRIVATE NONCOMMERCIAL:

A water-filled enclosure, permanently constructed or portable, designed to be used or intended to be used for swimming purposes by any family or persons residing on the premises or their guests. The use shall not be operated for financial gain and the use shall be considered an accessory use to the dwelling on the lot thereon. Portable type wading pools, only if having a depth of greater than two and one-half feet (2 1/2), shall be construed as swimming pools

TOWER: (SEE ANTENNA SUPPORT STRUCTURE, COMMERCIAL)

TOWNHOUSE:

An attached residential building containing not less than three (3) single-family dwelling units, but not more than six (6) single-family dwelling units, having a separate front and rear access to the outside, with no dwelling located above any other, and with each dwelling unit separated from another by one or more common wall.

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".

TRUCKING FACILITY:

A structure, building and/or land consisting of a storage area, maintenance, management and dispatch office and loading and unloading facilities connected with receipt or delivery of freight shipped by truck.

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.

WAREHOUSE:

A building used primarily for storage of goods and material.

WAREHOUSING AND DISTRIBUTION:

A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, excluding the bulk storage of material that is flammable, explosive, hazardous or commonly recognized as offensive.

WATERCOURSE:

A permanent or intermittent stream, river, brook, creek, or channel or ditch for collection and conveyance of water, whether natural or man-made.

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 which are 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 building and the nearest lot line. Such yard is unoccupied and unobstructed from the ground up except for accessory buildings or projections which are expressly permitted by this Ordinance.

YARD, FRONT:

A space extending the full width of the lot between the principal building and the front lot line on a legally accessible street right-of-way and measured perpendicular to the building at the closest point to the front lot line.

YARD, REAR:

A space extending the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

YARD, SIDE:

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 Berwick 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 Berwick Borough, Columbia County, Pennsylvania.

ZONING MAP:

The official map, which is, part of the Zoning Ordinance and indicates and delineates the zoning districts of Berwick Borough, Columbia County, Pennsylvania.

ZONING OFFICER:

The administrative officer appointed by the Governing Body to administer and enforce the Zoning Ordinance of Berwick Borough, Columbia County, Pennsylvania.

**ARTICLE 3
GENERAL REGULATIONS**

SECTION 301 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 302 UNATTACHED ACCESSORY STRUCTURES

302.1 NON-RESIDENTIAL

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure or use for the zoning district in which it is located and shall not be less than fifteen (15) feet from any side yard lot line or rear yard lot line. An accessory structure to a principal use and/or structure which is classified as a special exception use, shall not be subject to the standards and regulations under Article 6 (Special Exceptions) of this Ordinance, excluding the proposed construction, establishment or use of a structure which equals or exceeds seven hundred fifty (750) square feet of gross floor area.

302.2 RESIDENTIAL

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

- A. The maximum height shall not exceed one and one-half (1 & 1/2) stories or fifteen (15) feet, whichever is the lesser.
- B. An accessory residential structure shall be located not less than four (4) feet from a side lot line or the rear lot line.

SECTION 303 CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located.

SECTION 304 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools and noncommercial satellite antenna dishes.

SECTION 305 NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation shall not exceed the height limitations applicable for the Zoning District in which it is located. A noncommercial ham radio antenna shall also be governed by the above standards.

SECTION 306 PRIVATE NON-COMMERCIAL SWIMMING POOLS

Swimming pools shall be located in either the rear yard or side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of four (4) feet from any rear or side yard lot line. All swimming pools capable of containing water to a depth, at any point, of two and one half (21/2') feet or greater shall be enclosed in accordance with the following subsections:

306.1 IN-GROUND POOLS

The pool area or the entire property, on which the pool is located, shall be enclosed with a permanent fence being four (4) feet in height, which includes a gate secured with a lock. Shrubs, hedges or other vegetative cover shall not be considered to be a fence.

306.2 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 306.1 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 that prohibits uncontrolled access into the pool when not in use. Shrubbery, hedges or other vegetative cover shall not be considered as a barrier. Decks, which are attached to the pool, shall not project into any required yard setback for the pool.

306.3 EXEMPTION FROM LOT COVERAGE CALCULATIONS

The area of property on which a swimming pool is located shall not be included within the calculations for a determination of the lot coverage of a property.

SECTION 307 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.

SECTION 308 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 located in the rear yard or side yard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- B. Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features provided that any of the aforementioned features do not extend more than five (5) feet into any required setback.
- C. Porches and Decks: provided such porches or decks are not enclosed by walls, are located in the rear yard or side yard of the property and do not exceed five (5) feet in depth as extended from the structure.

D. Handicapped Ramps: may be constructed within three (3) feet of any front, rear or side yard lot line within any Zoning District

SECTION 309 THROUGH LOTS

With the exception of the provisions under Section 506.6 (D), a "Through Lot" as so defined in Article 2 of this Ordinance, shall meet the required front yard setback distance for the District in which it located for the frontage upon both streets.

SECTION 310 EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, skylights, silos, barns and other non-residential farm buildings; or to any accessory mechanical appurtenances and/or equipment usually located above the roof level.

SECTION 311 ENCLOSURES - EXEMPTIONS FROM YARD REQUIREMENTS

In all zoning districts any existing area of a structure already under roof can be fully enclosed and shall be exempt from meeting the otherwise applicable front, side or rear setback yard requirement.

SECTION 312 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 313 LAND DEVELOPMENT APPROVAL FOR CERTAIN USES

In addition to zoning approval, uses classified as a "land development," as defined within the Borough of Berwick Subdivision and Land Development Ordinance shall require approval under the applicable provisions of said Ordinance prior to the start of construction.

SECTION 314 VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

314.1 INTERSECTION OF STREETS

On any corner lot no visual obstruction, including but not limited to structures, fences, walls, shrubs, trees and berms, between two and one-half (21/2) feet and eight (8) feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained upon a property, 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 twenty-five (25) feet from their intersection. The above height limitations shall be based upon measurements taken from the road's surface.

314.2 PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (21/2) feet and eight (8) feet in height including but not limited to structures, fences, walls, shrubs, trees and berms, 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 fifteen (15) feet along the centerline of the street right-of-way and a depth of fifteen (15) feet along the centerline of a private driveway. The above height limitations shall be based upon measurements taken from the road's surface.

SECTION 315 DRIVEWAY ACCESS AND DIMENSIONAL REQUIREMENTS

A driveway to any property designed and intended to provide vehicular access to one or more off-street parking spaces, whether said space is open or enclosed within a garage, carport or similar structure, shall be governed by the following requirements:

- A. The point of access and the full length of the driveway shall be not less than ten (10) feet in width and twenty (20) feet in depth as measured from the property line (front rear or side as the case may be).
- B. The point of access to the driveway and the subject driveway itself shall be located directly in front of the open space, garage and/or carport.
- C. Under no circumstances shall a driveway and/or an off-street parking space be constructed, designed and/or utilized in a manner in which the parking of a vehicle, or any portion thereof, extends into a public right-of-way or otherwise creates a situation that impedes other vehicular or pedestrian traffic within or along the adjoining public right-of-way.
- D. Any off-street parking space shall be completely designed, constructed and/or located within the confines of the property on which it serves.
- E. All other applicable requirements pertaining to setback requirements and/or off-street parking (see Article 11) shall remain in effect.

SECTION 316 FENCES AND WALLS

The owner of the property on which the fence is installed shall be responsible for having accurate knowledge of the location of the property line.

316.1 RESIDENTIAL PROPERTIES

- A. **FRONT YARD:** The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.
- B. **SIDE AND REAR YARDS:** The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height above the adjacent ground level.
- C. **MATERIALS:** All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

316.2 NON-RESIDENTIAL PROPERTIES

Fences to be constructed within any nonresidential zoning district shall not exceed eight (8) feet in height above the adjacent ground level.

316.3 EXEMPTIONS

The construction of a chain link fence up to eight (8) feet in height above the adjacent ground level, designed as an enclosure to a public park, a public playground or similar outdoor recreational facility shall be permitted within in all zoning districts.

SECTION 317 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 318 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Borough's Act 537 Sewage Facility Plan.

SECTION 319 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 of Transportation. No development shall commence until the owner of the property secures said Highway Occupancy Permit.

SECTION 320 SOIL EROSION AND SEDIMENTATION CONTROL

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet 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 any property subject to this requirement shall submit the subject plan to the Columbia County Conservation District and a copy to the Borough. No zoning permit for development shall be issued until the Borough receives written notice of the Plan's approval from the Columbia County Conservation District. For storm water 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 having a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Columbia County Conservation District. No zoning permit for development shall be issued by the Borough until written notification is received from the Columbia County Conservation District verifying compliance in securing the NPDES Permit. The owner or developer of any property subject to the above requirements shall submit the subject plans and information to the Columbia County Conservation District. No zoning permit for development shall be issued until the Borough receives written notice of the applicable approval from the Columbia County Conservation District.

SECTION 321 PLACEMENT OF MOBILE HOMES

The placement and/or use of a mobile home shall be constructed and anchored to a permanent foundation as defined in Article 2 of this Ordinance.

SECTION 322 USES NOT ADDRESSED WITHIN ORDINANCE

In any district established under this Ordinance, whenever a use is neither specifically permitted nor prohibited and an application is made by a landowner to the Zoning Officer for such a use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The use may be approved by Zoning Hearing Board if it is determined that the proposed use to be similar to and compatible with other permitted uses in the district and in no way conflicts with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a special exception use as contained in Section 1510.2 of this Ordinance and would not be substantially detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

SECTION 323 CONFLICTING REGULATIONS

In the event that any provisions within this Ordinance are found to be in conflict with another provision of this Ordinance, and/or any other ordinance, law, or regulation of the Borough, State or United States Government, the most restrictive shall apply.

**ARTICLE 4
ZONING MAP AND ZONING DISTRICTS**

SECTION 401 OFFICIAL ZONING MAP

The Borough of Berwick 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 Borough Council.

SECTION 403 INTERPRETATIONS OF BOUNDARIES

The Zoning Officer shall be responsible for rendering a determination on zoning district 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, when possible to follow or parallel the center line of streets, streams and railroads or natural features and the lot or property lines as they exist on a recorded deed or plan in the Columbia 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 there from, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
- C.** If the guidelines as stated above fail to provide and establish the boundary of a zoning district, a survey of the property or area of land in question shall be made by a registered surveyor, with the cost of the survey paid by the party who is questioning or contesting the boundary location.

SECTION 404 CLASSES OF ZONING DISTRICTS

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

- A. R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**
- B. R-2 TWO-FAMILY RESIDENTIAL DISTRICT**
- C. R-3 MULTI-FAMILY RESIDENTIAL DISTRICT**
- D. C-1 NEIGHBORHOOD BUSINESS DISTRICT**
- E. C-2 GENERAL COMMERCIAL DISTRICT**
- F. C-3 DOWNTOWN COMMERCIAL DISTRICT**
- G. C-4 HIGHWAY COMMERCIAL DISTRICT**
- H. I-1 LIGHT INDUSTRIAL DISTRICT**
- I. I-2 GENERAL INDUSTRIAL DISTRICT**
- J. OS CONSERVATION DISTRICT**

**ARTICLE 5
ZONING DISTRICT REGULATIONS**

SECTION 501 R-1 LOW DENSITY RESIDENTIAL DISTRICT

501.1 PURPOSE

The R-1 Residential District is composed of low-density residential areas of the Borough, plus certain open areas where similar residential development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the area, protect the amenities of certain areas of the Borough where the pattern has already been established with single family residential development. Development within this District is designed to promote and retain conventional low-density single family dwellings and related land uses.

501.2 PERMITTED USES

- A. Single-family Detached Dwellings
- B. No Impact Home-Based Businesses
- C. Forestry
- D. Public Utility Facilities (as defined in Article 2, but excluding storage yards)
- E. Public Recreational Facilities
- F. Accessory Uses to the Above

501.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Home Occupations
- B. Day Care Homes
- C. Public Uses, limited to municipal buildings, fire halls and libraries
- D. Places of Worship
- E. Public or Private Schools
- F. Cemeteries

501.4 CONDITIONAL USE

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

- A. The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
- B. The initial or cumulative construction, placement or installation of buildings and/or structures that equals or
- C. Exceeds fifteen (15,000) thousand feet of gross floor area

501.5 PROHIBITED USES

Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

501.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or 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:

- (1) One (1) acre when serviced by an on-lot sewage disposal and/or an on-lot water supply.
- (2) 2. Seven thousand two hundred (7,200) square feet when serviced by a centralized sewage disposal system and a centralized water supply system.

B. Minimum Lot Width:

- (1) One hundred fifty (150) feet for lots requiring a minimum lot area of one (1) acre.
- (2) 2. Sixty (60) feet for lots requiring a minimum lot area of seven thousand two hundred (7,200) square feet.

C. Minimum Front Yard Setback:

- (1) A minimum of fifty (50) feet in depth as measured from the front lot line, for lots requiring a minimum lot area of one (1) acre.
- (2) A minimum of twenty (20) feet in depth as measured from the front lot line, for lots requiring a minimum lot area of seven thousand two hundred (7,200) square feet.

D. Minimum Rear Yard Setback:

- (1) A minimum of fifty (50) feet in depth as measured from the rear lot line, for lots requiring a minimum lot area of one (1) acre.
- (2) A minimum of twenty (20) feet in depth as measured from the rear lot line, for lots requiring a minimum lot area of seven thousand two hundred (7,200) square feet.

E. Minimum Side Yard Setback:

- (1) A minimum of twenty (20) feet in depth as measured from each side lot line for lots requiring a minimum lot area of one (1) acre.
- (2) A minimum combined total side yard setback of twenty (20) feet as measured to side lot lines, with not less than eight (8) feet on one side, for lots requiring a minimum lot area of seven thousand two hundred (7,200) square feet.

F. Maximum Lot Coverage:

- (1) Not more than twenty-five (25%) percent of the lot area shall be covered with buildings and/or structures.

G. Building Height:

- (1) The maximum height of any building and/or structure shall not exceed two and one-half (2 1/2) stories or thirty-five (35) feet.

501.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

501.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 502 R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT

502.1 PURPOSE

The R-2 Residential District is primarily composed of medium-density residential areas of the Borough with a compatible mix of single-family and two-family dwellings, along with certain open areas where similar residential development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the area. Development within this District is designed to promote and retain medium-density single family dwellings and two-family dwellings with related land uses.

502.2 PERMITTED USES

- A. Single-family Dwellings
- B. Two-family Dwellings
- C. No Impact Home-Based Businesses
- D. Forestry
- E. Public Recreational Facilities
- F. Public Utility Facilities (as defined in Article 2, but excluding storage yards)
- G. Accessory Uses to the Above

502.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Home Occupations
- B. Group Care Facilities
- C. Day Care Homes
- D. Places of Worship
- E. Public Uses, limited to municipal buildings, fire halls and libraries
- F. Public or Private Schools
- G. Cemeteries
- H. Nursing Homes
- I. Accessory Uses to the Above

502.4 CONDITIONAL USES

- A. Mobile Home Parks (including the expansion of existing mobile home parks)
- B. Any Multifamily Dwelling Building which equals or exceeds three (3) stories in height.
- C. Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if it involves either of the following:
 - (1) The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
 - (2) The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen (15,000) thousand feet of gross floor area.

502.5 PROHIBITED USES

Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

502.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or 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:

- (1) One (1) acre when serviced by an on-lot sewage disposal and/or an on-lot water supply.
- (2) Five thousand four hundred (5,400) square feet when serviced by a centralized sewage disposal system and centralized water supply system.

B. Minimum Lot Width:

- (1) One hundred fifty (150) feet for lots requiring a minimum lot area of one (1) acre.
- (2) Forty-five (45) feet for lots requiring a minimum lot area of five thousand four hundred (5,400) square feet.

C. Minimum Front Yard Setback:

- (1) A minimum of twenty-five (25) feet in depth as measured from the front lot line, for lots requiring a minimum lot area of one (1) acre.
- (2) A minimum of eight (8) feet in depth as measured from the front lot line, for lots requiring a minimum lot area of five thousand four hundred (5,400) square feet.

D. Minimum Rear Yard Setback:

- (1) A minimum of fifty (50) feet in depth as measured from the rear lot line, for lots requiring a minimum lot area of one (1) acre.
- (2) A minimum of twenty (20) feet in depth as measured from the rear 5-5 lot line for lots requiring minimum lot area of five thousand four hundred (5,400) square feet

E. Minimum Side Yard Setback:

- (1) A minimum of twenty (20) feet in depth as measured from each side lot line for lots requiring a minimum lot area of one (1) acre.
- (2) A minimum of five (5) feet per side, as measured from each side lot line for lots requiring a minimum lot area of five thousand four hundred (5,400) square feet.

F. Maximum Lot Coverage:

- (1) Not more than twenty-five (25%) percent of the lot area shall be covered with buildings and/or structures.

G. Building Height:

- (1) The maximum height of any building or structure shall not exceed two and one-half (2 1/2) stories or thirty-five (35) feet, excluding multifamily dwelling buildings. Multifamily dwelling buildings shall have a maximum height not to exceed four (4) stories or forty-five (45).

502.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

502.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 503 R-3, HIGH DENSITY RESIDENTIAL DISTRICT

503.1 PURPOSE

The R-3 Residential District is designed to accommodate in areas conducive to this type of development in terms of location, accessibility, availability of centralized sewage and water facilities, existing development patterns and anticipated growth trends.

503.2 PERMITTED USES

- A. Single-family Dwellings
- B. Two-family Dwellings
- C. Multifamily Dwellings
- D. Townhouses
- E. No Impact Home-Based Businesses
- F. Forestry
- G. Public Recreational Facilities
- H. Public Utility Facilities (as defined in Article 2, but excluding storage yards)
- I. Accessory Uses to the Above

503.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Home Occupations
- B. Group Care Facilities
- C. Day Care Centers
- D. Public Uses, limited to municipal buildings, fire halls and libraries
- E. Public or Private Schools
- F. Nonprofit Social Halls, Clubs, Lodges and similar organizations not open to the general public and limited to members and their guests
- G. Cemeteries
- H. Nursing Homes
- I. Accessory Uses to the Above

503.4 CONDITIONAL USES

- A. Any Multifamily Building which equals or exceeds three (3) stories in height.
- B. Mobile Home Parks (including the expansion of existing mobile home parks)
- C. Retirement Housing Complexes (as defined in Article 2)
- D. Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if it involves either of the following:
 - (1) The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
 - (2) The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen (15,000) thousand feet of gross floor area.

503.5 PROHIBITED USES

Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

503.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or 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:

- (1) Single-family and Two-family Dwellings: Four thousand (4,000) square feet.
- (2) Multifamily Dwellings: One thousand seven hundred (1,700) square feet per dwelling unit.
- (3) Nonresidential Structures: Ten thousand (10,000) square feet unless specified otherwise in Article 8.

B. Minimum Lot Width:

- (1) Single-family and Two-family Dwellings: A minimum lot width of not less than forty (40) feet.
- (2) Multifamily Dwellings: A minimum lot width of not less than forty-five (45) feet.
- (3) Nonresidential Structures: A minimum lot width of not less than forty-five (45) feet, unless specifies otherwise in Article 8.

C. Minimum Front Yard Setback:

- (1) Single-family and Two-family Dwellings: A minimum distance of not less than six (6) feet as measured from the front lot line
- (2) Multifamily Dwellings: A minimum distance of not less than ten (10) feet per side as measured from the front lot line.
- (3) Nonresidential Structures: A minimum distance of not less than ten (10) feet as measured from the front lot line.

D. Minimum Side Yard Setback:

- (1) Single-family and Two-family dwellings: A total combined side yard setback of ten (10) feet as measured to the side lot lines, with not less than three (3) feet on one side.
- (2) Multi-Family dwellings: A total combined side yard setback of ten (10) feet as measured to the side lot lines, with not less than four (4) feet on one side.
- (3) Nonresidential Structures: A minimum distance of not less than eight (8) feet per side as measured to the side lot lines.

E. Minimum Rear Yard Setback:

- (1) A minimum of fifty (50) feet in depth as measured from the rear lot line, for lots requiring a minimum lot area of one (1) acre.
- (2) All others require a minimum of twenty (20) feet in depth as measured from the rear lot line.

F. Maximum Lot Coverage:

- (1) Single-family and Two-family Dwellings: Not more than fifty (50%) percent of the lot area shall be covered with buildings and/or structures.
- (2) Multifamily Dwellings: Not more than forty-five (45%) percent of the lot area shall be covered with buildings and/or structures.
- (3) Nonresidential Structures: Not more than forty (40%) percent of the lot area shall be covered with buildings, structures and/or structures.

G. Building Height:

- (1) The maximum height of any building or structure shall not exceed two and one-half (2112) stories or thirty-five (35) feet, excluding multifamily dwelling buildings. Multifamily dwelling buildings shall have a maximum height not to exceed four (4) stories or forty-five (45).

503.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

503.8 SUBDIVISION AND LAND DEVELOPMENT

- (1) Any property proposed to be divided into parcels or developed in accordance with the definitions of a "Subdivision" or "Land Development", as defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 504 C-1, NEIGHBORHOOD COMMERCIAL DISTRICT

504.1 PURPOSE

The C-1 Neighborhood Commercial District is intended to provide the type of commercial facilities that supply convenience goods and services to neighborhood residents in the Borough.

504.2 PERMITTED USES

A. RETAIL BUSINESSES THAT INCLUDE THE SALE OF:

- (1) Newspapers, Books and Stationery
- (2) Dry Goods
- (3) Variety Goods
- (4) Convenience Stores
- (5) No Impact Home-Based Businesses
- (6) Forestry

B. SERVICE-ORIENTED BUSINESSES THAT INCLUDE:

- (1) Personal Services
- (2) Funeral Homes
- (3) Restaurants/Taverns (excluding live entertainment)
- (4) Public Uses
- (5) Medical Clinic
- (6) Day Care Centers
- (7) Public Utility Facilities (excluding storage yards)

C. RECREATION AND ENTERTAINMENT FACILITIES INCLUDING:

- (1) Nonprofit Social Halls, Clubs and Community Centers
- (2) Public Recreational Facilities

D. ACCESSORY USES TO ALL USES PERMITTED BY RIGHT:

504.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Boarding/Rooming Homes
- B. Dwelling Unit over or attached to a business and occupied by the owner of the business
- C. Personal Care Homes
- D. Places of Worship

504.4 CONDITIONAL USES:

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

- A. The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
- B. The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) thousand feet of gross floor area

504.5 PROHIBITED USES

- A. Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

504.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. **Minimum Lot Area:** None.
- B. **Minimum Lot Width:** Each lot shall have a lot width of not less than forty (40) feet.
- C. **Minimum Front Yard Setback:** The minimum front yard shall be not less than twenty (20) feet in depth as measured from the front lot line.
- D. **Minimum Rear Yard Setback:** The rear yard shall not be less than twenty (20") feet in depth as measured from the rear lot line.
- E. **Minimum Side Yard Setback:** The side yard shall be not less than five (5) feet on each side.
- F. **Maximum Lot Coverage:** Not more than fifty (50%) percent of the lot area shall be covered by buildings and/or structures.
- G. **Maximum Building Height:** The maximum height of any building and/or structure shall not exceed two and one-half (21/2) stories or thirty-five (35) feet.
- H. **Buffer Area:** Where C-1 Districts about any residential district, an additional ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

504.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

504.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 505 C-2 GENERAL COMMERCIAL DISTRICT

505.1 PURPOSE

The C-2 General Commercial District is intended to serve the retail marketing function of the Borough and surrounding trade area. This District is intended for a wider range of shopping and service functions that can provide for comparison shopping. Due to the high intensity and diversity of commercial uses allowed within this District, an inherent conflict can result in the mixed development of residential and commercial uses. To avoid such conflicts, the expansion of existing residential uses shall be discouraged and the development of new residential uses shall be prohibited.

505.2 PERMITTED USES

A. RETAIL BUSINESSES THAT INCLUDE THE SALE OF:

- (1) Food
- (2) Pharmaceutical Products
- (3) Clothing and Clothing Accessories
- (4) Convenience Stores
- (5) Convenience Stores with Gas Sales
- (6) Newspapers, Books and Stationery
- (7) Dry Goods
- (8) Hardware, Paint
- (9) Variety Goods
- (10) Household Goods and Appliances
- (11) Garden Supplies
- (12) Building, or Plumbing Supplies
- (13) Office Equipment and Supplies
- (14) Sporting Goods

- (15) Artist, Music and Hobby Supplies
- (16) Automotive Supplies
- (17) Forestry
- (18) Accessory Uses to the Above

B. SERVICE-ORIENTED BUSINESSES THAT INCLUDE:

- (1) Personal Services
- (2) Offices
- (3) Banks
- (4) Automotive and Boat Sales
- (5) Gasoline Service Stations
- (6) Restaurants/Taverns (excluding live entertainment)
- (7) Funeral Homes
- (8) Public Uses
- (9) Medical Offices and Medical Clinics
- (10) Day Care Centers
- (11) Health Clubs
- (12) Public Utility Facilities (excluding storage yards)
- (13) Accessory Uses to the Above

C. RECREATION AND ENTERTAINMENT FACILITIES THAT INCLUDE:

- (1) Commercial Recreational Facilities
- (2) Private Recreational Facilities
- (3) Public Recreational Facilities
- (4) Entertainment Facilities
- (5) Nonprofit Social Halls, Clubs and Community Centers

505.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Hotels/Motels
- B. Nursing Homes
- C. Hospitals
- D. Restaurants/Taverns (with live entertainment)
- E. Accessory uses to the above

505.4 CONDITIONAL USES

- A. Community Shopping Center (including the expansion to an existing shopping center).
- B. Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if involves either of the following:
 - (1) The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
 - (2) The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) feet of gross floor area.

505.5 PROHIBITED USES

- A. Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

505.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. **Minimum Lot Area:** None
- B. **Minimum Lot Width:** Each lot shall have a lot width of not less fifty (50) feet.
- C. **Minimum Front Yard Setback:** The minimum front yard shall be not less than twenty (20) feet in depth as measured from the front lot line.
- D. **Rear Yard:** The rear yard shall be not less than twenty (20) feet in depth as measured from the rear lot line.
- E. **Minimum Side Yard Setback:** The side yard shall be not less than five (5) feet on each side.
- F. **Maximum Lot Coverage:** Not more than fifty (50%) percent of a lot shall be covered by buildings and/or structures.

G. Building Height: The maximum height of any building or structure shall not exceed two and one-half (21/2) stories or thirty-five (35) feet.

H. Buffer Area: Where C-2 Districts abut any residential district, an additional ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

505.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

505.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 506 C-3 DOWNTOWN COMMERCIAL DISTRICT

506.1 PURPOSE

The C-3 Downtown Commercial District is intended to serve the Downtown retail marketing function of the entire Borough and surrounding trade areas. It is designed to encourage development of an intensive self-contained shopping area catering to free circulation of pedestrian activity. This District is intended for a wide range of service functions that can provide for comparison shopping. Due to the intended retail marketing function of this District, the expansion of existing residential uses shall be discouraged and the development of new residential uses shall be prohibited.

506.2 PERMITTED ED USES

A. RETAIL BUSINESSES THAT INCLUDE THE SALE OF:

- (1) Food
- (2) Pharmaceutical Products
- (3) Clothing and Clothing Accessories
- (4) Convenience Stores
- (5) Convenience Stores with Gas Sales
- (6) Newspapers, Books and Stationery
- (7) Dry Goods
- (8) Hardware, Paint
- (9) Variety Goods
- (10) Household Goods and Appliances
- (11) Garden Supplies
- (12) Building, Lumber or Plumbing Supplies
- (13) Sporting Goods
- (14) Hobby, Music, Artist Supplies and Studios
- (15) Furniture or Office Supplies and Equipment
- (16) Automotive Supplies
- (17) Accessory uses to the above

B. SERVICE-ORIENTED BUSINESSES THAT INCLUDE:

- (1) Personal Services
- (2) Offices
- (3) Banks
- (4) Restaurants/Taverns (excluding live entertainment)
- (5) Medical Clinics
- (6) Day Care Centers
- (7) Health Clubs
- (8) Public Utility Facilities (excluding storage yards)
- (9) Accessory uses to the above

C. RECREATION AND ENTERTAINMENT FACILITIES INCLUDING:

- (1) Entertainment Facilities
- (2) Nonprofit Social Halls, Clubs and Community Centers
- (3) Accessory uses to the above

506.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Public Uses
- B. Hotels/Motels
- C. Restaurants/Taverns (with live entertainment)
- D. Accessory uses to the above

506.4 CONDITIONAL USES

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

- A. The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
- B. The initial or cumulative construction, placement or installation of buildings and/or structures that Equals or exceeds fifteen thousand (15,000) feet of gross floor area

506.5 PROHIBITED USES

Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

506.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. Minimum Lot Area:** None
- B. Minimum Lot Width:** Each lot shall have a lot width of not less twenty-five (25) feet.
- C. Minimum Front Yard Setback:** No setback is required.
- D. Rear Yard:** No rear yard setback is required, excluding through lots which shall require a setback of not less than twenty (20) feet for frontage upon a street which does not represent the street mailing address of the property.
- E. Minimum Side Yard Setback:** No side yard setback is required, excluding corner lots which shall provide a setback distance consistent with the visibility requirements as provided for under Section 314 of this Ordinance.
- F. Maximum Lot Coverage:** Maximum lot coverage may be one hundred (100%) percent.
- G. Maximum Building Height:** The maximum height of any building shall not exceed five (5) stories or seventy-five (75) feet.
- H. Buffer Area:** Where the C-3 District abuts any residential district, a setback distance of ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5') feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

506.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

506.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 507 C-4 HIGHWAY COMMERCIAL DISTRICT

507.1 PURPOSE

The C-4 Highway Commercial District is intended to accommodate the needs of highway travelers who may require automotive service, food, and lodging and the needs of local residents pertaining to automotive sales and services and to other uses commonly found along highways. Due to traffic volumes associated with this District and the associated features of commercial uses, the expansion of existing residential uses shall be discouraged and the development of new residential uses shall be prohibited.

507.2 PERMITTED ED USES

A. RETAIL BUSINESSES THAT INCLUDE THE SALE OF:

- (1) Food
- (2) Pharmaceutical Products
- (3) Clothing and Clothing Accessories
- (4) Convenience Stores
- (5) Convenience Stores with Gas Sales
- (6) Newspapers, Books and Stationery
- (7) Dry Goods
- (8) Hardware, Paint
- (9) Variety Goods
- (10) Household Goods and Appliances
- (11) Garden Supplies
- (12) Building, Lumber or Plumbing Supplies
- (13) Sporting Goods
- (14) Hobby, Music, Artist Supplies and Studios
- (15) Furniture or Office Supplies and Equipment
- (16) Automotive Supplies
- (17) Forestry
- (18) Accessory uses to the above

B. SERVICE-ORIENTED BUSINESSES THAT INCLUDE:

- (1) Personal Services
- (2) Offices
- (3) Banks
- (4) Automotive Sales
- (5) Car Washes
- (6) Greenhouses and Nurseries
- (7) Gasoline Service Stations
- (8) Restaurants/Taverns (excluding live entertainment)
- (9) Fast food Restaurants
- (10) Public Uses
- (11) Funeral Homes
- (12) Hotels/Motels
- (13) Nursing Homes
- (14) Medical Clinics
- (15) Animal Hospitals
- (16) Day Care Centers
- (17) Health Clubs
- (18) Public Utility Facilities (excluding storage yards)
- (19) Accessory uses to the above

C. RECREATION AND ENTERTAINMENT FACILITIES INCLUDING:

- (1) Entertainment Facilities
- (2) Commercial Recreational Facilities
- (3) Private Recreational Facilities
- (4) Nonprofit Social Halls, Clubs and Community Centers
- (5) Accessory uses to the above

507.3 USES PERMITTED BY SPECIAL EXCEPTION

- A. Restaurants/Taverns (with live entertainment)
- B. Outdoor Advertising Signs
- C. Automobile Repair Shops
- D. Accessory uses to the above

507.4 CONDITIONAL USES

- A. Methadone Treatment Facilities (as defined in Article 2)
- B. Adult Uses (as defined in Article 2)
- C. Institutional Uses (as defined in Article 2)
- D. Wireless Commercial Communication Sites
- E. Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if involves either of the following:
 - (1) The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
 - (2) The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) feet of gross floor area.

507.5 PROHIBITED USES

Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

507.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. Minimum Lot Area:** Each principal building, structure or use shall be located upon a lot having a lot area of twenty thousand (20,000) square feet.
- B. Minimum Lot Width:** Each lot shall have a lot width of not less than one hundred (100) feet.
- C. Minimum Front Yard Setback:** The minimum front yard shall not be less than thirty (30) feet in depth as measured from the front lot line.
- D. Rear Yard:** The rear yard shall not be less than thirty (30) feet in depth as measured from the rear lot line.
- E. Minimum Side Yard Setback:** The side yard shall not be less than twenty (20) feet for each side as measured from the side yard lot lines.
- F. Maximum Lot Coverage:** Not more than fifty (50%) percent of the lot area shall be covered by buildings and/or structures.
- G. Maximum Building Height:** The maximum height of any building and/or structure shall not exceed three (3) stories or forty-five (45) feet.
- H. Buffer Area:** Where C-4 Districts abut any residential district, an additional ten (10) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than ten (10) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

507.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

507.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 508: I-1 LIGHT INDUSTRIAL DISTRICT

508.1 PURPOSE

The I-1 Light Industrial District is intended to provide for warehousing, contractors' yards used primarily for storage, truck terminals, and small product manufacturing operations conducted in enclosed buildings. All such activities are intended to produce minimum conflict with nearby residential and commercial districts.

508.2 PERMITTED USES

- A.** Automotive Repairs
- B.** Equipment Sales and Repairs
- C.** Food processing establishments
- D.** Laundry and dry cleaning plants
- E.** Light Industry (as defined in Article 2)
- F.** Contractors' Offices, Shops and Storage Yards (for commercial uses that sell products such as: lumber, building, heating, plumbing, electrical, masonry, fencing and related material).
- G.** Contractors' Storage Yards
- H.** Outdoor Storage (as defined in Article 2)
- I.** Warehouse and Distribution Facilities
- J.** Printing, Publishing and Binding Plants
- K.** Warehousing, including Self-Storage Facilities
- L.** Public Utility Facilities
- M.** Public Utility Buildings and Structures
- N.** Public Uses
- O.** Gasoline Service Stations
- P.** Accessory Uses to the Above

508.3 USES PERMITTED BY SPECIAL EXCEPTION

- A.** Bulk Fuel Storage
- B.** Welding Shops

508.4 CONDITIONAL USES

- A.** Automotive Wrecking Yards
- B.** Junk Yards
- C.** Wireless Commercial Communication Sites
- D.** Extraction and Excavation of Minerals
- E.** Trucking Facilities
- F.** Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance
- G.** Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if involves either of the following:
 - (1)** The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
 - (2)** The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) square feet of gross floor area

508.5 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. **Minimum Lot Area:** Each principal building, structure or use shall be located upon a lot having a lot area of twenty thousand (20,000) square feet.
- B. **Minimum Lot Width:** Each lot shall have a lot width not less than one hundred (100) feet.
- C. **Minimum Front Yard Setback:** The minimum front yard shall be not less than thirty (30) feet in depth as measured from the front lot line.
- D. **Minimum Rear Yard Setback:** The rear yard shall be not less than thirty (30) feet in depth as measured from the rear lot line.
- E. **Minimum Side Yard Setback:** The side yard shall be not less than twenty (20) feet on each side.
- F. **Maximum Lot Coverage:** Not more than fifty (50%) percent of the lot area shall be covered by buildings and/or structures.
- G. **Maximum Building Height:** The maximum height of any building and/or structure shall not exceed three (3) stories or forty-five (45) feet.
- H. **Buffer Area:** Where I-1 Districts abut any residential district, an additional twenty (20) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than twenty (20) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

508.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

508.7 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 509: I-2 GENERAL INDUSTRIAL DISTRICT

509.1 PURPOSE

The 1-2 General Industrial District is intended to provide for the more intense types of manufacturing and industrial uses that require some isolation from other land uses in order to minimize their potential incompatibility with such uses and to provide for mutual protection among uses.

509.2 PERMITTED USES

- A. Automotive Repairs
- B. Equipment Sales and Repairs
- C. Light Industry (as defined in Article 2)
- D. Contractors' Offices, Shops and Storage Yards (for commercial uses that sell products such as: lumber, building, heating, plumbing, electrical, masonry, fencing and related material).
- E. Contractors' Storage Yards
- F. Outdoor Storage (as defined in Article 2)
- G. Warehouse and Distribution Facilities
- H. Printing, Publishing and Binding Plants
- I. Warehousing, including Self-Storage Facilities
- J. Public Utility Facilities
- K. Public Utility Buildings and Structures
- L. Public Uses
- M. Automotive Repair Garages
- N. Accessory Uses to the Above

509.3 USES PERMITTED ED BY SPECIAL EXCEPTION

- A. Asphalt and concrete mixing plants
- B. Welding Shops

509.4 CONDITIONAL USES

- A. Heavy Industry (as defined in Article 2)
- B. Solid Waste Facilities
- C. Sewage Treatment Facilities
- D. Bulk Fuel Storage
- E. Automotive Wrecking Yards
- F. Junk Yards
- G. Wireless Commercial Communication Sites
- H. Trucking Facilities
- I. Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.
- J. Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if involves either of the following:
 - (1) The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
 - (2) The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) square feet of gross floor area.

509.5 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. Minimum Lot Area:** Each principal building, structure or use shall be located upon a lot having a lot area of forty thousand (40,000) square feet.
- B. Minimum Lot Width:** Each lot shall have a lot width not less than one hundred fifty (150) feet.
- C. Minimum Front Yard Setback:** The minimum front yard shall be not less than thirty (30) feet in depth as measured from the front lot line.
- D. Minimum Rear Yard Setback:** The rear yard shall be not less than thirty (30) feet in depth as measured from the rear lot line.
- E. Minimum Side Yard Setback:** The side yard shall be not less than twenty (20) feet on each side.
- F. Maximum Lot Coverage:** Not more than fifty (50%) percent of the lot area shall be covered by buildings and/or structures.
- G. Maximum Building Height:** The maximum height of any building and/or structure shall not exceed three (3) stories or forty-five (45) feet.
- H. Buffer Area:** Where 1-2 Districts about any residential district, an additional twenty (20) feet shall be added to the otherwise applicable setback distance for the area abutting the residential district. A landscaped strip of land not less than twenty (20) feet in width shall be planted and maintained within said area with appropriate vegetative landscaping materials. Such vegetative planting, including any architectural screens or fences, shall be planted or constructed and maintained at not less than five (5) feet in height, excluding corner lots where a clear site triangle shall be maintained. The above requirements shall not be applied in such cases where properties within an abutting residential district are physically separated by a street, road, alley or other public right-of-way.

509.6 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

509.7 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, shall also be subject to the governing regulations and provisions of said Ordinance.

SECTION 510: OS CONSERVATION DISTRICT

510.1 PURPOSE

The OS Conservation District is intended to protect, preserve, and conserve areas of the Borough's natural environment located on steep slopes and in flood plains by allowing only low-intensity uses which do not significantly change the character of such areas.

510.2 PERMITTED USES

- A. Agricultural Uses
- B. Forestry
- C. Greenhouses and Nurseries
- D. Animal Kennels
- E. Public Uses
- F. Public Recreational Facilities
- G. Public Utility Facilities (excluding storage yards)
- H. Accessory Uses to the Above

510.2 USES PERMITTED ED BY SPECIAL EXCEPTION

- A. Outdoor Storage as defined in Article 2
- B. Accessory Uses to the Above

510.4 CONDITIONAL USES

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

- A. The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area.
- B. The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen thousand (15,000) square feet of gross floor area

510.5 PROHIBITED USES

Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance.

510.6 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 and/or Federal regulations and applicable supplementary regulations contained in Article 7 and/or Article 8 of this Ordinance.

- A. **Minimum Lot Area:** Each principal building, structure or use shall be located upon a lot having a lot area of five (5) acres.
- B. **Minimum Lot Width:** Each lot shall have a lot width not less than three hundred fifty (350) feet.
- C. **Minimum Front Yard Setback:** The minimum front yard shall be not less than fifty (50) feet in depth as measured from the front lot line.
- D. **Minimum Rear Yard Setback:** The rear yard shall be not less than seventy-five (75) feet in depth as measured from the rear lot line.
- E. **Minimum Side Yard Setback:** The side yard shall be not less than fifty (50) feet on each side.

F. **Maximum Lot Coverage:** Not more than ten (10%) percent of the lot area shall be covered by buildings and/or structures.

G. **Maximum Building Height:** The maximum height of any building shall not exceed two and one-half (2 1/2) stories or thirty-five (35) feet.

510.7 SUPPLEMENTARY REGULATIONS (SEE ARTICLE 8)

510.8 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 defined in the Berwick Borough Subdivision and Land Development Ordinance, 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, Article 15, Section 1510.2, the respective zoning district in which the use is located, any applicable supplemental standards contained in Article 8, all other applicable regulations of this Ordinance, other ordinances of the Borough and any applicable State and/or Federal regulations.

SECTION 603: SITE PLAN

Uses classified, as a special exception that include new construction, an addition and or structural alterations shall file, in addition to a zoning permit, a site plan at a scale of not greater than:

- A. One (1) inch equals fifty (50) feet, for properties in excess of two (2) acres or
- B. One (1) inch equals twenty (20) feet, for properties being two (2) acres or less.

Said plan shall be submitted to the Zoning Officer. Such plan shall provide all applicable information including, but not limited to the following:

- A. The location and size of all buildings and structures, both principal and accessory, both existing and proposed.
- 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 including the width and pavement of traffic lanes, and aisle widths.
- E. All streets, both public and private, which abut the site, including the right-of-way and cart way widths.
- F. Contours of the site for each five (5) feet of change in elevation, if the proposed use includes new construction and/or grading of the site. Also, if applicable, the applicant shall be required to submit a Soil Erosion and Sedimentation Plan for review and approval by the Columbia County Conservation District.

- G. The location, nature and terms of any existing or proposed easements on the site and any easements both on-site and off-site which are used or intended to be used for access to the site, including the name and address of the owner or owner's granting such easements.
- H. Streams, ponds, watercourses, wetlands, flood plains or any other type bodies of water, including natural or man-made drainage swales, located on the site or within one hundred (100) feet of the site.
- I. The location of any residential structure upon an abutting lot or parcel if the proposed special exception use is nonresidential.
- J. The Map, Block and Lot Number of the subject parcel, as listed within the Columbia County Recorder of Deeds Office and a copy of the deed to the subject property.
- K. A location map, using the Berwick Borough Zoning Map or portion thereof, indicating the relation of the site of the proposed use to its geographic proximity within the Borough.
- L. The applicant shall submit a narrative with the site plan that outlines and fully describes all proposed uses or development of the site, and all pertinent operational aspects, features, and or activities related to the proposed uses or development of the site.

SECTION 604: 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. The submission of any reports and/or studies within the context of the definition "Impact Analysis" must conclusively demonstrate that the proposed uses or development will not have a negative impact upon the particular subject or subjects as defined by the Zoning Hearing Board, including but not limited to the interest of protecting the health, safety, welfare and convenience of the public, and environmental features and characteristics of the site and of the surrounding areas. Failure to conclusively demonstrate such to the satisfaction to the Zoning Hearing Board shall represent a basis for denying approval of the special exception use.

**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 Berwick Borough Council, with the Berwick 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:

- (1) One inch (1) equals fifty (50) feet for properties in excess of two (2) acres. OR
- (2) One (1) inch equals twenty (20) feet for properties being two (2) acres or less.

B. Such plan shall, at minimum, indicate:

- (1) The location and size of all buildings and structures, both principal and accessory, both existing and
- (2) proposed.
- (3) The location of all off-street parking areas and/or loading and unloading areas.
- (4) The location of all open space areas, including buffer areas and fencing, as applicable.
- (5) Traffic access to the site and internal traffic circulation including the width and pavement of traffic lanes, and aisle widths.
- (6) All streets, both public and private within two-hundred (200) feet of the site, including right-of-way and cart way widths.
- (7) Streams, ponds, water courses, 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.

- (8)** 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.
 - (9)** 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.
 - (10)** The Map, Block and Lot Number of the subject parcel, as contained in the records of the Office of the Columbia County Recorder of Deeds.
 - (11)** 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.
 - (12)** 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 Columbia County Conservation District.
 - (13)** 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.
 - (14)** The applicant shall supply any other information required by the Borough Council of Berwick for determining the conformance of the conditional use with the regulations for that particular use.
- C.** Prior to approving or denying an application for a conditional use, the Berwick 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 Berwick 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.
- D.** 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.
- E.** 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.
- F.** 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.

- G.** 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, the Borough Council shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by public notice. If the Borough Council fails to provide such notice, the applicant may do so.

- H.** The Borough Council may 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

- A.** 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.
- B.** The proposed use shall not jeopardize the community development objectives as contained within the Berwick Comprehensive Plan nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- C.** Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- D.** 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. The proposed use shall not result in unsafe or dangerous traffic conditions.
- E.** The proposed use shall be compatible with the adjoining development and the character of the zoning district where it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof with the adjoining development and the character of the zoning district.
- F.** The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
- G.** The proposed use and/or development shall not be more objectionable in its operation in terms of noise, fumes, odors, vibration or lighting than would be the operations of any permitted use in the district.
- H.** The proposed use and/or development shall not result in any adverse or negative impacts based upon the information required with submission of an Environmental Impact Statement required under Section 706 of this Ordinance, and all subsections thereunder.
- I.** The proposed use and/or development shall not result in any adverse or negative impacts with respect to the submission of any reports and/or studies within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance. The applicant must conclusively demonstrate that the proposed use or development will not have an adverse or negative impact upon the particular subject or subjects as defined by the Borough Council

SECTION 705 CLASSIFIED CONDITIONAL USES

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

- A.** Adult Uses (as defined in Article 2) (C-4 District)
- B.** Any Multifamily Building which equals or exceeds three (3) stories in height. (R-2 and R-3 District)
- C.** Any nonresidential use, permitted by right or special exception, shall be deemed to be a conditional use if involves either of the following:
 - (1)** The initial or cumulative land disturbance that equals or exceeds two (2) acres of surface area. (All Zoning Districts)
 - (2)** The initial or cumulative construction, placement or installation of buildings and/or structures that equals or exceeds fifteen (15,000) thousand feet of gross floor area. (All Zoning Districts)
 - I.** Any use that utilizes and/or stores any "Hazardous Substances," as defined in Article 2 of this Ordinance. (1-2 District)
 - II.** Automotive Wrecking Yards and/or Junkyards (I-1 and 1-2 Districts)
 - III.** Bulk Fuel Storage (I-1 and 1-2 Districts)
 - IV.** Community Shopping Center (C-2 District)
 - V.** Extraction and Excavation of Minerals (as defined in Article 2) (1-1 District)
 - VI.** Heavy Industry (as defined in Article 2) (1-2 District)
 - VII.** Institutional Uses (as defined in Article 2) (C-4 District)
 - VIII.** Methadone Treatment Facilities (as defined in Article 2) (C-4 District)
 - IX.** Mobile Home Parks (including expansion of existing mobile home parks) (R-2 and R-3 Districts)
 - X.** Solid Waste Facilities (1-2 District)
 - XI.** Sewage Treatment Facilities (1-2 Districts)
 - XII.** Retirement Housing Complexes (as defined in Article 2) (R-3 Districts)
 - XIII.** Trucking Facilities (I-1 and 1-2 Districts)
 - XIV.** Wireless Commercial Communication Sites (as defined in Article 2) (I-1 and 1-2 Districts)

SECTION 706 ENVIRONMENTAL IMPACT STATEMENT

In addition to all other requirements, an Environmental Impact Statement shall be required for any use/development which is classified as a conditional use. The Borough Council, at its sole discretion, may exempt a use from the submission of an Environmental Impact Statement, in whole or in part. Consideration of an exemption must be preceded by a written request submitted by the applicant, which addresses the basis for the requested exemption. 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 critical areas, water quality, water supply, soil erosion, pollution of any kind, flooding and waste disposal. The intent is to preserve trees and vegetation, to protect watercourses, air quality, aquifers and the quality of life throughout Berwick 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 downstream 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 Columbia 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.

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, and other chemicals).
- C. Projected daily volumes of sewage.
- D. Affected sewage treatment plant's 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.
- B. 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. 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

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.
- D.** A determination by the Borough Council of a potential adverse and/or negative impact which may result shall constitute sufficient basis for the denial of a conditional use permit.

**SUPPLEMENTARY REGULATIONS FOR CERTAIN CONDITIONAL USES.
THESE REGULATIONS ARE IN ADDITION TO THOSE CONTAINED IN
SECTIONS 704 AND SECTION 706 OF THIS ORDINANCE.**

SECTION 707 ADULT USES (C-4 District)

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:

- A. A residential dwelling.
- B. A place of worship
- C. A public or quasi-public use or structure.
- D. A zoning boundary of any zoning district in which residences are permitted as a principal permitted use.
 - (1) 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 "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

SECTION 708 AUTOMOTIVE WRECKING YARDS AND/OR JUNKYARDS (I-1 and 1-2 Districts)

All new, existing and/or proposed expansion of junkyards and automotive wrecking yards shall comply with the following:

- A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or residents nearby or a place for the breeding of rodents and vermin.
- B. Burning of any materials shall be prohibited. No oil, grease, tires or gasoline shall be burned at any time.
- C. No garbage, organic waste, rubbish, toxic materials and hazardous materials shall be stored on such premises.
- D. Whenever any motor vehicle shall be received on such premises as junk, all gasoline and oil shall be drained and removed therefrom and disposed of in a manner consistent with the applicable rules and regulations of the Pennsylvania Department of Environmental Protection.
- E. The storage of any combustible materials, such as gasoline, oil or related items, shall be placed in fireproof containers and stored within fireproof sheds.
- F. The manner of storage and arrangement of junk and the drainage facilities on the site shall be such as to prevent the accumulation of stagnant water upon the premises. A storm water drainage plan shall be required.

- G. There shall be no stockpiling of motor vehicles, nor shall there be any junk piled higher than four (4') feet.
- H. There shall be a roadway fourteen (14') feet in width provided for every forty (40) linear feet of junk. The roadway shall be kept open and unobstructed for proper access for firefighting equipment and safety purposes.
- I. Junk shall not be stored within one hundred (100') feet of any adjoining property line or nearer than one hundred (100') feet to any adjoining or abutting street.
- J. All junkyards shall be completely screened from shall be completely enclosed by a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow. The required fence shall not be closer than twenty (20) feet to any property line.
- K. Such premises may be open for business or any work in connection with the storage, processing and transportation or removal of junk only on Monday through Saturday from 8:00 A.M. to 4:00 P.M., local time.

SECTION 709 BULK FUEL STORAGE (1-1 and 1-2 Districts)

Bulk fuel storage shall be located on a tract of land not less than three (3) acres. Storage tanks shall be located not less than one hundred (100) feet from any property line and shall be not less than two hundred (200) feet from any off-site dwelling, school, church or similar use. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located two hundred (200) feet from all property lines. The tank storage area shall be fenced with an eight (8) feet high industrial gauge fence. If the storage property abuts on the side or rear property line containing a residence or a residential district, that area of the property shall require a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain such the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow. Bulk fuel storage facilities shall be developed in full compliance with all applicable federal, state and insurance regulations.

SECTION 710 EXCAVATION AND EXTRACTION OF MINERALS (1-1 District)

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 Berwick 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 Berwick 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 711 METHADONE TREATMENT FACILITY (C-4 District)

- A. A methadone treatment facility shall be located upon a lot having an area of not less than twenty thousand (20,000) square feet, 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, an operational narrative which accurately describes the nature of medical services to be rendered and names or medical practitioners providing said services. A licensed physician, a 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 half (1/2) mile of said methadone treatment facility.
 - (5)** Recommended traffic control devices designed to mitigate any documented adverse impacts 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:

- A.** 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.
- B.** 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.

SECTION 712 MOBILE HOME PARKS (R-2 and R-3 Districts)

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 Borough's 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 ten (10) 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 a centralized 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 streets or roads. Interior roads within a mobile home park shall conform to the design standards for a local road as provided for under the Berwick 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 cart way 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 (1) side of every street.
- I.** The minimum area of land per mobile home site shall be not less than seven thousand two hundred (7,200) square feet, with the dimensions being sixty feet by one hundred and twenty (60 x 120) feet. There shall be an interior spacing distance of not less than thirty (30) feet from the defined site on which the mobile home is located to the next defined site for a mobile home.
- 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 the 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. To guarantee the installation of all improvements to the site, the applicant shall be required to complete the installation of all such improvements prior to receiving an unconditional final approval or to post an irrevocable letter of credit in the amount of 110% of the estimated cost of improvements.

The procedures and standards contained within Section 509 of the Pennsylvania Municipalities Planning Code, Act 247, as amended shall apply to posting the aforementioned irrevocable letter of credit. The procedures and standards within Section 510 of Act 247, as amended, shall apply to the release of the irrevocable letter of credit upon the completion of the required improvements. The applicant shall be required to reimburse the Borough for any consulting fees associated with the inspection of improvements to the site. Said reimbursement must be paid at the same meeting of the Borough Council at which the applicant seeks final and unconditional approval of said improvements.

- 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.** A soils erosion and sedimentation pollution control plan and storm water management plan, approved by the Columbia County Conservation District, shall be required prior to the unconditional approval for the development or expansion of a mobile home park.
- P.** A Sewage Planning Module, approved by the Pennsylvania Department of Environmental Protection, shall be required prior to the unconditional approval for the development or expansion of a mobile home park.

SECTION 713 RETIREMENT HOUSING COMPLEXES (R-3 District)

Retirement Housing Complexes shall be governed by the following standards and regulations:

- A. Design:** Retirement Housing Complexes may be designed as single family attached dwellings (townhouses), as single multifamily structure (apartment building), or as a combination thereof.
- B. Density:** The maximum density shall not exceed 25 dwelling units per gross acre.
- C. Lot Width:** A minimum lot width of not less than seventy-five (75) feet.
- D. Yard Requirements:** The following setback distances shall be provided:
 - (1) Front Yard:** Not less than fifteen (15) feet.
 - (2) Rear Yard:** Not less than fifteen (15) feet.
 - (3) Side Yard:** Not less than five (5) feet per side.
- E. Open Space:** Not less than ten (10%) percent of the parcel on which the Retirement Housing Complex is located shall be retained as permanent open space designed and readily accessible for use of the residents therein. Roads, service lanes, structures and parking and/or loading areas, shall be excluded in calculating the required ten (10%) percent of permanent open space.

- F. Off-Street Parking and Loading:** One off-street parking space shall be provided for every (2) two units and one (1) off-street parking space shall be provided for each employee based upon the maximum number of nonresident employees working at any given time. One off-street loading space shall be provided for delivers and/or service vehicles.
- G. Trash:** The use of any outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height.
- H. Lighting:** The provision of any outdoor lighting shall be directed away from adjacent properties.

SECTION 714 SEWAGE TREATMENT FACILITIES (1-2 District)

The location and operation of a public or private sewage disposal facility, including but not limited to, sewage treatment plants, shall be designed and constructed in full compliance with the applicable regulations of the Pennsylvania Department of Environmental Protection. Written approval from DEP shall be secured prior to the start of construction for the installation of such facilities. All sewage treatment facilities shall be completely screened from view on all sides by a Buffer Area as 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.

SECTION 715 SOLID WASTE FACILITY (1-2 District)

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 contain a minimum of five (5) acres.
- 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 of the Berwick Comprehensive Plan 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 4:00 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 five hundred (500) feet of any property line boundary.
- 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 wastewater 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 monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three (3) months on any stream within five hundred (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 Council, and the results shall be provided to the Borough. 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.
- N.** The area or areas upon which any permitted operations and/or activities within a solid waste facility are conducted shall be screened by a "Buffer Area" as so defined in Article 2 of this Ordinance. Said Buffer Area shall be located within three hundred (300) feet or less from the operations and/or activities, which are subject to being screened. The owner of the property shall be responsible to maintain the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.
- O.** 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.
- P.** 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.
- Q.** Vehicular access for ingress, egress and regress to a solid waste facility shall be solely limited to private access roads. 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.
- R.** 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 the Borough.
- S.** 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.
- T.** Any solid waste facility which includes incineration shall be designed and operated in a manner to limit emissions in accordance with the applicable allowable emission standards of the Pennsylvania Department of Environmental Protection or the United States 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. The applicant shall in addition to other required information and data provide an "Impact Analysis" that 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. The impact of the proposed operations and activities of the Solid. Waste Facility upon any locations or structures of historical and/or cultural significance within 3,000 feet of any property line of the facility.

715.2 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.

715.3 HOST MUNICIPALITY FEE

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

SECTION 716 TRUCKING FACILITIES (1-1 and 1-2 Districts)

The property shall not be less than four (4) acres in area. Access drives shall be no greater than twenty-five (25) feet in width; parking and loading areas shall conform to the regulations within Article 11. No truck parking or terminal operation shall be allowed within two hundred (200) feet of any lot line. Outside lighting shall be directed away from adjacent properties. If a trucking facility abuts on the side or rear property line containing a residence or a residential district, that area of the property shall require a "Buffer Area" as so defined in Article 2 of this Ordinance. The owner of the property shall be responsible to maintain the Buffer Area in good condition, including the replacement of any trees, which are damaged, die, removed by whatever means or otherwise fail to grow.

SECTION 717 WIRELESS COMMERCIAL COMMUNICATION SITES (1-1 and 1-2 Districts)

A. STRUCTURAL INTEGRITY AND SAFETY

- (1) A commercial antenna and support structure for a wireless commercial 7-21 communication site shall be designed and constructed to meet or exceed all applicable standards of the American National Standards Institute, NSI/EPA-222-E manual, as amended and also to FAA standards for marking and lighting requirements of obstructions to air navigation as set 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, ANSFEIA-222-E manual, as amended, shall be submitted to document and verify the design specifications of the foundation for the commercial antenna and 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 and 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 and 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 when mounted upon an existing structure, including an existing building, shall not exceed the height of the existing structure by more than eight (8) feet.
- (2) A commercial antenna and 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 and support structure as measured in linear feet.
- (3) Any building utilized as a component of a commercial enterprise in the collection and/or transmission of telecommunication signals, radio signals, television signals, wireless phone signals or similar signals shall be completely enclosed by a fence, eight (8) feet in height, with such building meeting the setback requirements for the zoning district in which it is located.
- (4) The applicant shall demonstrate, using technological evidence, that the commercial antenna and support structure must be located where it is 7-22 being proposed and that it represents the minimum height required to function satisfactorily.
- (5) A commercial antenna and 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 Berwick 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 and 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 the governing standards of the Berwick Borough Subdivision and Land Development Ordinance, as amended, shall also be required when the location of a free-standing commercial antenna and support structure represents a described parcel of land subject to a lease, within an existing deed of record.
- (2) A new site plan shall not be required when a proposed antenna is to be located on an existing freestanding commercial antenna support structure or a public utility transmission tower.

D. SUPPLEMENTAL STANDARDS AND CRITERIA

- (1)** The applicant shall demonstrate that the proposed commercial antenna and support structure complies with all applicable State and Federal standards.
- (2)** 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.
- (3)** All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.
- (4)** All commercial antennas that equal or exceed one hundred (100) feet in height shall be designed and equipped with FAA approved warning lights.
- (5)** A commercial antenna and 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 and support structure is proposed, the applicant must demonstrate that all alternatives to the construction of a new antenna support structure have been exhausted.
- (6)** Up to the height of the tallest nearby trees, the commercial antenna and support structure shall be a brownish color, whether painted brown or caused by oxidation or otherwise, to lessen its visual impact. Above that height, it shall be designed in both color and structural configuration to be camouflaged with surrounding trees and vegetation in a manner that will minimize its visual impact.

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**

802.01 **ANIMAL HOSPITAL (C-4 District)**

An animal hospital shall maintain all activities within a completely enclosed soundproof building, and no objectionable odors shall be vented outside the building. No animal hospital shall be located less than one hundred (100) feet from any property line.

802.02 **ANIMAL KENNELS (OS District)**

Animal kennels in which animals are kept, boarded or trained may be either enclosed buildings or a combination of buildings and open runways. If all activities are maintained within a completely enclosed building, no objectionable odors shall be vented outside the building. If open runways are used, the building and runways shall be located not less than one hundred (100) feet from all property lines. Where the property abuts a district having residences as a principal permitted use, the building and runways shall be not less than two hundred (200') feet from such property lines.

802.03 **AUTOMOBILE RELATED ACTIVITIES**

- A.** Automotive Repairs (Repair Garage) (C-4, 1-1 and 1-2 Districts): Activities including the repair of automobiles, trucks, snowmobiles and motorcycles shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize noise, vibrations, fumes and glare. Only vehicles to be repaired on the premises or picked up by the vehicles' owner may be stored in the yard area. Where the operation abuts on the side or rear property line of any district having residences as a principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the automotive repair facility from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.
- B.** Automotive Sales (C-2 and C-4 Districts): Where the operation of an automotive sales use abuts on the side or rear property line of any district having residences as a principal permitted use, 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. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

C. Gasoline Service Stations (C-2, C-3 and C-4 Districts) (Also Includes Convenience Stores With Gasoline Sales): When a service station abuts on the rear or side lot line on the side or rear property line of any district with residences as a principal permitted use, a solid wall or substantial attractive fence not less than six (6) feet in height, designed to conceal and screen the gasoline service station from adjoining properties, shall be constructed and maintained in good condition along such boundary. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties. When a service station occupies a corner lot, the access driveways shall be located at least sixty (60) feet from the intersection of the front and side street lines of the lot. All access driveways shall not exceed twenty-five (25) feet in width. Gasoline pumps or other service appliances and canopies may be located in the required front yard subject to having a setback of not less than twenty feet from the right-of-way line of the adjoining road. All repairs, service, storage or similar activities in connection with the use shall be conducted within the building where adequate measures shall be taken to minimize noise, fumes and glare. Outside lighting shall be directed away from adjacent properties.

D. Car Wash (C-4 District): Appropriate drainage facilities for washing activities shall be provided. The site shall be sufficiently large to accommodate three (3) cars per stall awaiting washing during peak periods so that lines along public streets are avoided. Such operations shall also comply with any applicable regulations of the Pennsylvania Department of Environmental Protection. Car wash operations abutting on the side or rear property lines of a district having residences as a principal permitted use shall provide a solid wall or substantial, attractive, tight fence being six (6) feet in height and well maintained along such boundary. Outdoor trash dumpsters shall be concealed within an area by a solid fence, not less than six (6) feet in height. Outdoor lighting shall be directed away from adjacent properties.

802.04 BANKS (C-2, C-3 and C-4 Districts)

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.

802.05 BOARDING/ROOMING HOUSE (C-1 District)

The property shall be limited to providing lodging for not more than four (4) persons, excluding the owner of the property. Off-street parking spaces shall be provided for each person residing therein.

802.06 CEMETERIES (R-1 and R-2 Districts)

The property shall not be less than ten (10) acres. A structure, grave or place of permanent burial shall be set back not less than twenty (20) feet from the property line. The cemetery shall be enclosed along all boundaries by a fence, wall or shrubbery, or any combination thereof, at least four (4) feet in height. The interior roads shall have a minimum width of fifteen (15) feet and shall be properly maintained with either gravel or paving.

802.07 COMMUNITY CENTER, NONPROFIT SOCIAL HALLS AND CLUBS (R-3, C-1, C-2, C-3, and C-4 Districts)

Buildings utilized for such purposes shall not be less than forty (40) feet from any property line. Where the use abuts on the rear or side lot line of any district with residences as the principal permitted use, 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. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.08 CONTRACTORS' STORAGE YARDS (I-1 and 1-2 Districts)

Commercial or industrial uses utilizing outdoor storage space of more than 1,000 square feet, shall be located on a tract of land not less than two (2) acres. Supplies stored outdoors shall be neatly arranged and no required yard setback areas shall be used for storage. There shall be a roadway fourteen (14) feet in width provided for 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 district having residences as the principal permitted use, 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. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.09 DAY CARE FACILITIES (R-1 R-2, R-3, C-1, C-2, C-3 and C-4 Districts)

All day care facilities 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 and/or license is required by the laws of the Commonwealth.
- B. Noise and all other possible disturbing aspects connected with/to 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 day care facilities shall have an outdoor play area which shall be completely enclosed with a fence six (6) feet in height. Outdoor play activities shall be limited to the hours between 10:00 A.M. to 5:00 P.M. local time. The minimum area of said play area shall be three hundred (300) square feet or ten (10) square feet per child, whichever is greater.
- D. The applicant shall supply evidence that vehicular traffic congestion will be avoided in "pick-up and drop-off points" utilized in transporting individuals to and from the facility.

802.10 DWELLING OVER OR ATTACHED TO A BUSINESS (C-1 District)

A single dwelling unit over or attached to a business establishment may be permitted when occupancy of the dwelling is by the owner of the subject business. Per Article 11, the required off-street parking spaces shall be provided for both the residence and the commercial use located upon the property.

802.11 ENTERTAINMENT FACILITIES (C-2, C-3 and C-4 District)

Entertainment facilities as defined in Article 2 of this Ordinance shall provide proper parking areas with vehicular circulation and access designed to minimize any potential traffic congestion. Such facilities shall not be closer than twenty-five (25) feet from any boundary of a district having residences as principal permitted use, shall provide adequate screening from any residential districts, and shall be conducted entirely within an enclosed structure. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.12 FUNERAL HOME (C-2 and C-4 Districts)

Funeral homes shall accommodate all of the parking areas required as provided in Article 11 of this Ordinance. In addition, sufficient area shall be provided for vehicular circulation on the lot and for the assembly area for the procession beyond the street right-of-way line. Points of vehicular access to the site shall not create traffic hazards on the street. Loading and unloading areas for ambulances and hearses shall be within an enclosed building or shall be screened from view from adjacent properties by a solid wall or substantial, attractive fence being six (6) feet in height. Outside lighting shall be directed away from adjacent properties.

802.13 GROUP RESIDENCE (R-2 and R-3 Districts)

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 and/or the Pennsylvania Uniform Construction Code, whichever is adopted and/or enforced by the Borough.
- 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 a 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 (2) additional off-street parking spaces shall be provided and if there is any required staffing associated with the management and operation of a Group Residence.

802.14 HOME OCCUPATIONS (R-1, R-2 and R-3 Districts)

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. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- E. Only members of the immediate family residing in the dwelling unit, plus not more than one (1) additional nonresident employee shall carry on the home occupation. Licensed medical practitioners and attorneys' may employ up to two (2) nonresident employees.
- F. 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.
- G. 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.

802.15 INDUSTRIAL ACTIVITIES (I-1 and I-2 Districts)

In addition to the applicable requirements of this Ordinance, all industrial activities and uses permitted by right, special exception and/or conditional use shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial waste, fire hazards and any other of the activities and uses with side effects that are deemed injurious to the public health, safety and welfare by the United States Environmental Protection Agency (EPA), the Pennsylvania Department of Environmental Protection (DEP) and the Pennsylvania Department of Labor and Industry. It shall be the responsibility of the applicant to provide the Zoning Officer with a complete listing of all State and Federal regulations governing the proposed use and written compliance from the governing agency. All industries are required to supply the Borough Emergency Management Agency and the Fire Department with all applicable MSDS sheets, emergency operations and evacuation plans.

802.16 MOTELS AND HOTELS (C-2, C-3 and C-4 Districts)

Motel and Hotel uses shall require a minimum lot size of not less than two (2) acres with a lot width of not less than two hundred (200) feet. The following requirements shall also apply:

- A. The hotel/motel shall be serviced by centralized sewage and centralized water.
- B. There shall be more than ten (10) sleeping rooms within the facility.
- C. Fifty (50%) percent or more of the gross floor area of the facility shall be devoted to sleeping rooms.
- D. Club rooms, ballrooms, and common dining facilities may be provided.
In the case of a corner lot, access drives shall be not less than eighty (80) feet from the intersection of any two streets as measured from the intersection of their right-of-way lines.

802.17 NO IMPACT HOME-BASED BUSINESS (R-1, R-2 and R-3 Districts)

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%) of the habitable floor area.
- H. The business shall not involve any illegal activity.

802.18 OUTDOOR STORAGE (I-1, 1-2 and OS Districts)

Outdoor storage, as defined in Article 2, when proposed as a principal use of land shall be enclosed with a chain link fence not less than eight (8) feet in height. A Soil Erosion and Sedimentation Control Plan and Storm Water Drainage Plan shall be required for all areas of impervious surface to be provided for such storage that equal or exceed five thousand square feet of surface area. 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 2 of this Ordinance, shall be permitted upon the site.

802.19 PLACE OF WORSHIP (R-1, R-2 and C-1 Districts)

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.

802.20 PUBLIC RECREATIONAL FACILITIES - (OUTDOORS) (R-1, R-2, R-3, C-1, C-2 and OS Districts)

All such facilities shall conform to the following regulations:

- A. No outdoor recreation activity shall be conducted closer than twenty (20) feet to any property line.
- B. Storm drainage from the site shall be channeled to natural drainage courses and away from adjoining properties.
- C. A Soil Erosion and Sedimentation Control Plan and Storm Water Drainage Plan shall be required for all areas of impervious surface within the recreation site, including the provision of off-street parking areas that equal or exceed five thousand square feet of surface area.

802.21 PUBLIC USES (All Zoning Districts)

MUNICIPAL, POLICE AND FIRE BUILDINGS: Where the parking area abuts the side or rear property lines of an adjoining residential use or a residential district, a fence being not less than six (6) feet in height along with a planting of shrubbery or evergreen trees, not less than ten (10) feet in depth shall be provided.

802.22 PUBLIC UTILITY FACILITIES (All Zoning Districts)

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. Outside lighting shall be directed away from adjacent properties.
- D. The location, design and operation of such facilities shall not adversely affect the character of any adjacent residential properties.

- E. 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 shall be provided.

802.23 RESTAURANTS AND TAVERNS (C-1, C-2, C-3 and C-4 Districts)

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 from an intersection, as measured from the right-of-way lines, from the intersection of the two abutting streets. Outdoor trash dumpsters shall be concealed within an area surrounded by a solid fence not less than six (6) feet in height. The provision of any outside lighting shall be directed away from adjacent properties.

802.24 TOWNHOUSES (R-3 District)

Townhouses shall be subject to the following provisions and all applicable provisions of the Berwick Borough Subdivision and Land Development Ordinance:

- A. Minimum lot size for the development of Townhouses shall be one (1) acre.
- B. Minimum Lot Width shall be one hundred (100) feet.
- C. Maximum percentage of building coverage on a lot per dwelling unit, exclusive of common or public open areas, shall be forty (40%) percent.
- D. Minimum lot width per dwelling unit shall be not less than twenty (20) feet.
- E. Minimum lot depth per dwelling unit shall be not less than one hundred (100') feet.
- F. Minimum lot area per dwelling unit shall be not less than 2,000 square feet.
- G. Minimum front yard setback shall be not less than twenty (20) feet.
- H. No side yard setbacks shall be required for attached interior Townhouse units. A minimum side yard setback of not less than fifteen (15) feet shall be required only at the ends of the rows of Townhouses.
- I. Minimum rear yard setback shall be not less than twenty (20) feet.
- J. Minimum width of each dwelling unit shall be not be less than twenty (20) feet.
- K. Maximum building height shall not exceed 3 stories or forty (40) feet.
- L. Minimum distance between principal structures shall be not less than twenty (20) feet.
- M. Minimum front yard setback for off-street parking areas shall be not less than ten (10) feet.
- N. Minimum rear yard setbacks for off-street parking areas shall be not less than fifteen (15) feet. Two (2) off-street parking spaces shall be provided for each dwelling unit.
- O. Unattached accessory structures such as pools, garages, carports and sheds shall be prohibited in the front Yard.
- P. Unattached accessory structures located in the side or rear yard shall have not less than five (5) feet side and rear yard setbacks. Attached accessory structures shall have the same setbacks as required for principal structures.

802.25 WAREHOUSE AND DISTRIBUTION FACILITIES (1-1 and 1-2 Districts)

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

802.26 WAREHOUSE (SELF-STORAGE) (I-1 and 1-2 Districts)

These facilities may be a building or group of buildings in a controlled-access and fenced compound, containing varying sizes of individual compartmentalized and controlled-access stalls or lockers for dead storage of customers' goods and personal property, with storage space available for rental to the general public. All storage shall be contained within a completely enclosed building or buildings. There shall be a minimum spacing of twenty (20) feet between buildings for traffic circulation, parking and fire lane purposes. All outside lighting shall be directed away from adjacent properties.

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, may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions or regulations of this Ordinance, even though such lots fail to meet the requirements for the area and/or width of the zoning district in which such lot is located. The erection of a structure on such a lot shall, however, conform to front, rear and side yard requirements for the zoning district in which such lot is located. 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 applicable setback requirements 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 thirty (30%) percent of the floor area or land area as it existed at the time the structure or use first became nonconforming.

SECTION 907 RESTORATION OF USE

A nonconforming building and/or structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar cause may be restored and/or rebuilt at the same location upon the property provided that such improvements or new construction is completed within eighteen (18) months from the date of such damage and/or destruction. Any improvements and/or new construction exceeding the aforementioned time period must secure a variance from the Zoning Hearing Board. Any voluntary destruction and/or partial destruction of a nonconforming use and/or structure to the extent of more than sixty (60%) percent of its reproduction value prior to such destruction shall not be restored except in conformity with the regulations of the zoning district in which it is located.

SECTION 908 DETERMINATION 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 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. A Certificate of Intention may not be renewed to exceed a period of two years beyond the original date of issuance.

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 that 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 E SIGN:** A temporary sign, having an area not greater than eight (8) square feet in which advertises the sale, rental or development of the premises upon which the sign is located.
- E. CONSTRUCTION RUCTION 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 firms associated with the project.
- F. SUBDIVISION/DEVELOPMENT ADVERTISING SIGN:** A temporary real estate sign, not greater than sixty (60) square feet in area, which advertises the sale of property within an approved subdivision or planned residential development.
- G. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN:** A sign that displays the name of a subdivision and/or development at an entrance to the site upon which the subdivision and/or development is located.
- H. INSTITUTIONAL SIGN:** A sign which identifies a use pertaining to a school, park, church, hospital or other institution of a similar public or semipublic nature.
- I. 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.
- J. EVENT SIGNS:** A temporary sign advertising political events or candidates, private not-for-profit events, fundraisers such as picnics, bazaars, gaming events, arts and crafts shows, and similar types of fund-raising activities.

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 C-1, C-2, C-3, C-4, I-1 and 1-2 Zoning Districts.
- C. REAL ESTATE SIGNS:** Such signs shall be permitted in all zoning districts.
- D. SUBDIVISION/DEVELOPMENT ADVERTISING SIGNS:** Such signs shall be permitted in all zoning districts.
- E. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGNS:** Such signs shall be permitted in all zoning districts.
- F. CONSTRUCTION SIGNS:** Such signs shall be permitted in all zoning districts.
- G. INSTITUTIONAL SIGNS:** Such signs shall be permitted in all zoning districts.
- H. ON-SITE DIRECTIONAL AND/OR INFORMATIONAL SIGN:** Such signs shall be permitted in all zoning districts.
- I. BILLBOARD SIGNS:** Such signs shall be permitted in the I-1 and 1-2 Zoning Districts.
- J. EVENT SIGNS:** Such signs shall be permitted in all zoning districts.

SECTION 1004 AREA, HEIGHT AND SET BACK 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 three (3) feet from the front lot line. The maximum height of an identification sign, if free standing, shall not exceed eight (8') 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 the square feet of area for the following Zoning Districts:

- (1) C-1 - Twelve (12) square feet
- (2) C-2 - Sixty (60) square feet
- (3) C-3 - Thirty-five (35) square feet
- (4) C-4 - Eighty (80) square feet 1-1 - Eighty (80) square feet 1-2 - Eighty (80) square feet

In cases of an integrated grouping of commercial or industrial uses which may include a shopping center and/or industrial park, one (1) sign shall be permitted on the lot, that indicates the name of the development and/or the names of the business establishments located therein. Only one (1) such sign shall be permitted on the lot and such sign shall not exceed two hundred (200) square feet in area. The maximum height of such sign shall not exceed twenty (20) feet. Such signage shall be in addition to that permitted for each individual business establishment located therein.

The following setback requirements shall apply to signage:

- (1) C-1 - Ten (10) feet from any public right-of-way.
- (2) C-2 - Ten (10) feet from any public right-of-way.
- (3) C-3 - Zero (0) feet from any public right-of way. (No signage or portion thereof shall be located within and/or overhanging into the public right-of-way.
- (4) C-4 - Ten (10) feet from any public right-of-way.
- (5) I-1 - Ten (10) feet from any public right-of-way.
- (6) 1-2 - Ten (10) feet from any public right of-way.
- (7) If an existing building has a front yard setback that is less than ten (10) feet, the sign shall be attached flat against the building as a wall sign.

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 ADVERTISING SIGN: A subdivision/development advertising sign shall be considered a temporary real estate sign and shall not exceed twenty (20) 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 fifteen (15) 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. SUBDIVISION/DEVELOPMENT IDENTIFICATION SIGN: A subdivision/development identification sign shall not exceed ten (10) square feet in area. Not more than one sign shall be erected at any entrance point to a subdivision/development. Such signs shall be set back not less than ten (10) feet from the front lot line.

F. 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.

G. 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 fifty (50) square feet in area. The maximum height of such signs shall not exceed the maximum height restriction established for a principal structure in the district in which the sign is located. An institutional sign shall be not less than ten (10) feet from the front lot line.

H. 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.

I. 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.

(1) Such a sign shall not be located within one hundred (100) feet of any residential district.

(2) Such signs shall be setback not less than one hundred (100) feet from the centerline of any public right-of-way.

(3) 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.

J. EVENT SIGNS: An event sign shall not exceed six (6) square feet in area. Such signs shall not be attached to any tree, utility pole or structure within a public right-of-way. Such signs shall not be posted more than forty-five (45) days in advance of the scheduled event and shall be removed within thirty (30) days following the event.

K. NUMBER OF SIGNS: Excluding on-site directional and/or informational signs, not more than one (1) sign 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 two (2) signs may be permitted.

SECTION 1005 SIGNS RELATED TO NONCONFORMING USES

An existing sign related to a legally established nonconforming use shall be considered a nonconforming sign, which may be continued at its present dimensions and location, but shall not be enlarged. Where a nonconforming use is lawfully changed to another nonconforming use, a new sign shall be permitted being the same type and size as the previous sign. The new sign shall be erected on the property at the same location as the previous sign. The sign may be erected at a different location provided it meets all applicable regulations within Article 5 and for the zoning district in which it is located or subject to securing a variance from the Zoning Hearing Board.

SECTION 1006 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. Window signs shall not be included for the purpose of calculating the maximum area of signage permitted for a given property. 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 or wall, 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 (1/2) of the circumference by the height of the sign.

SECTION 1007 VERTICAL CLEARANCE

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

SECTION 1008 PROHIBITED SIGNS

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

- A.** Signs which are located in such a position which endangers vehicular and/or pedestrian traffic by obscuring the site distance.
- B.** Signs which by design and/or location may be confused with traffic signs or signals.
- C.** Any sign located in or extending into a public right-of-way, including sidewalk areas, except an official street sign or traffic control sign.
- D.** 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 1009 PERMITS REQUIRED

A zoning permit shall be required for the erection, alteration or relocation of any sign, which exceeds eight (8) square feet in surface area. Real estate signs and construction signs shall be exempt from securing a zoning permit.

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 sixty-two (162) square feet, being nine (9) feet in width and eighteen (18) feet in length, exclusive of access drives or aisles.

SECTION 1103 DIMENSIONS AND DESIGN

The dimension and design of off-street parking areas, including parking garages, shall comply with the following:

- A. Stall width shall be not less than nine (9) feet.
- B. Stall depth shall be not less than eighteen (18) feet.
- C. The minimum width of aisles providing access to stalls, with one-way traffic, varying with the angle of parking shall be as follows:

Angle of Parking Parallel	Minimum Aisle Width
30 degrees	Twelve (12) feet
45 degrees	Eleven (11) feet
60 degrees	Thirteen (13) feet
90 degrees	Eighteen (18) feet
	Twenty (20) feet

- D. The minimum width for aisles providing access to stalls with two-way traffic shall be twenty-four (24) feet.
- E. Interior access ways and aisles shall be designed so as to prevent the blocking of vehicles entering or exiting the site.

SECTION 1104 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 1105 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, nor greater than thirty (30) feet for any nonresidential use. Access drives to such off-street parking and/or loading areas shall be limited to well defined locations, not to exceed two (2) 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, unless a greater distance is required for a specific use as contained within Article 8, Supplemental Regulations.

SECTION 1106 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 1107 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 pavement structure of bituminous asphalt, or concrete. The design, location and material for any proposed catch basins may be referred to the Borough Engineer for review and approval.

SECTION 1108 SCREENING AND LANDSCAPING

A. SIDEYARDS AND REAR YARDS

The side and rear yard areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

- (1) A planting strip not less than five (5) feet in depth, containing ornamental grass, shrubbery, plants and/or a similar vegetative cover that are a minimum of three (3) feet in height at the time of planting.
- (2) Such borders shall also be screened by a substantial, tight fence, six (6) feet in height, or in lieu of a fence, an evergreen hedge not less than five (5) feet in height at the time of planting with a spacing distance of not greater than four (4) feet between each planting.

B. FRONT YARDS

The front yard areas of properties that contain off-street parking for ten (10) or more vehicles and/or any off-street loading areas, shall be screened along such borders as provided herein:

- (1) A planting strip not less than ten (10) feet in depth shall be provided between the parking areas and the abutting street right-of-way except for the location of access drives to the property. Said planting strip shall contain ornamental grass, shrubbery, plants or a similar vegetative cover.
- (2) Said planting strip shall also contain one (1) shade tree for each forty (40) linear feet of planting strip. Said trees shall be not less than eight (8) feet in height at the time of planting.

C. INTERIOR LANDSCAPING

Off-street parking areas that contain twenty (20) or more parking spaces, in addition to the compliance with regulations contained under items A and B of this Section, shall provide interior landscaping to said parking area. Said landscaping shall be not less than five (5%) percent of the total area that is paved and utilized for parking and or loading. Interior landscaped areas shall contain ornamental grass, shrubbery, plants or a similar vegetative cover and a minimum of one (1) shade tree not less than eight (8') feet in height at the time of planting.

SECTION 1109 LIGHTING

Any lighting used to illuminate 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

Properties that contain off-street parking areas for less than ten (10) vehicles shall be permitted to park within the required front or side yard areas, provided that the minimum setback distance for any off-street parking area is not less than four (4) feet to the nearest point of a side yard or rear yard property line and not less than six (6) feet from the front yard property line. Any off-street parking areas for a nonresidential use when abutting an residential district, shall have a minimum setback of not less than ten feet (10) feet from the rear yard property line and/or any side yard property line

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 is proposed to 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 (1/2) shall be disregarded and any fraction equal to or greater than one-half (1/2) 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

- A. 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: Two (2) spaces for each dwelling unit.
 - (2) Boarding House or Rooming House: Two (2) spaces for each guestroom.
 - (3) Personal Care Facility: Two (2) spaces for each person residing therein based upon the maximum number persons permitted under its State license.
 - (4) 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.
 - (5) 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.
 - (6) Schools, Elementary and Secondary: One (1) space for each staff member, plus one (1) space for every twenty (20) classroom seats.
 - (7) Day Care Facility: One (1) space for each employee, plus one (1) space for every five (5) persons, based upon the maximum number of persons which the facility is licensed to serve.
 - (8) Medical or Dental Offices or Clinics: Six (6) spaces for every doctor, dentist, chiropractor or their licensed medical practitioner, plus one for each staff member.
 - (9) Methadone Treatment Facility: Ten (10) spaces for every doctor, licensed medical practitioner, and/or counselor; employed at the facility plus one space for each staff member.
 - (10) Nonprofit Social Hall, Clubs and Community Centers: One (1) space for every one hundred (100) square feet of gross floor area.
 - (11) Public Uses: One (1) space for every two hundred (200) square feet of gross floor area, excluding storage area for vehicles and/or equipment.

- (12) Public Utility Facilities:** Two spaces per facility; if the facility includes maintenance and/or storage yards then the required number of spaces shall be one (1) space for each employee assigned to work at such facility.
- (13) Outdoor Recreational Facilities:** In cases where such facilities include spectator seating, there shall be one (1) space for every four (4) seats; facilities which do not provide any spectator seating shall provide one (1) space for every two thousand (2,000) square feet in the recreational site, plus an additional ten (10) spaces, if there is a swimming pool and an additional two (2) spaces if there is playground equipment.
- (14) Retail Businesses:** One (1) space for every two hundred (200) square feet of gross floor area.
- (15) Restaurants and Taverns:** One (1) space for every two and one half (2 1/2) seats, plus two (2) spaces for every three (3) employees based upon the maximum working shift.
- (16) Fast Food Restaurants:** One (1) space for every eighty (80) square of service or dining area. A fast food restaurant with a drive-in window shall, in addition to the above requirements, provide eight (8) stacking spaces for the drive-through window designated for the ordering station. Such spaces shall be designed in a manner not to impede pedestrian or vehicular circulation on the site or on any abutting street.
- (17) 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.
- (18) Animal Hospital:** Five (5) spaces for every veterinarian.
- (19) Animal Kennel:** One (1) space for each kennel and three (3) additional spaces for staff.
- (20) 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.
- (21) Offices:** One (1) space for every two hundred (200) square feet of gross floor area.
- (22) Funeral Homes:** Twenty (20) spaces for each viewing parlor.
- (23) 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.
- (24) Gasoline Service Stations:** Two (2) exterior spaces for each service bay, one (1) space for each pump, plus one (1) space for every two hundred (200) square feet of gross floor area which is used for the sale of retail goods, including food and/or beverages.
- (25) Automotive Sales:** One (1) exterior space for every six hundred (600) square feet of gross interior floor space plus one (1) additional space per each 5,000 square feet of open sales or display area.
- (26) Automotive Repairs:** One (1) exterior space for every two hundred (200) square feet of gross interior floor area.
- (27) Equipment Sales and Repairs:** One (1) exterior space for every two hundred (200) square feet of gross floor space.

- (28) Entertainment Facilities: Such facilities as defined in Article 2 of this Ordinance, shall require one (1) space for every two hundred (200) square feet of gross floor area.
- (29) Motels and Hotels: One (1) space for each unit for guest accommodations plus one (1) space for each two (2) employees on the maximum working shift. Any such facility which also serves food and/or beverages shall also comply with the parking requirements of a restaurant or tavern.
- (30) Hospitals/Nursing Homes: One (1) space for every three (3) beds, based upon the maximum number of beds permitted under its State license, plus one (1) space each employee on the maximum working shift.
- (31) Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every five hundred (500) square feet of gross floor area; plus, one (1) space for each employee on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.

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 PARKING EXEMPTION IN C-3 DISTRICT

All properties located within the C-3 District (Downtown Commercial District) shall be exempt from providing off-street parking spaces as otherwise required by this Ordinance.

SECTION 1118 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 1119 PROVISION OF HANDICAPPED PARKING SPACES

A. 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 commercial facility shall include any business whose operations are open to the general public. A facility which provides public accommodations shall include, but may not be limited to the following:

- (1) places of lodging
- (2) establishments serving food or drink
- (3) places of exhibition or entertainment
- (4) places of public gathering
- (5) sales or rental establishments
- (6) service establishments, stations used for specified public transportation.
- (7) places of public display or collection
- (8) places of recreation
- (9) places of education
- (10) social service center establishments, and places of exercise or recreation.

SECTION 1120 DESIGN FEATURES FOR HANDICAPPED PARKING SPACES

A. 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 1/2) feet.
- (4) An off-street parking area shall be designed to provide convenient, 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.
- (5) 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 1121 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 a vehicle cannot obscure them.

SECTION 1122 MINIMUM NUMBER OF HANDICAPPED ACCESSIBLE SPACES

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

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

ARTICLE 12
FLOOD PLAIN MANAGEMENT

SECTION 1201 INTENT

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

- A. Promote the general welfare, health, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supplies and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

SECTION 1202 SPECIAL DEFINITIONS

The definitions of terms provided herein shall apply to the enforcement and administration of the regulations contained within this Article.

1202.1 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.

1202.02 Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year and also referred to as a 100 Year Flood.

1202.03 Basement

The lowest level or story of a building which has its floor subgrade (below ground level) on all sides.

1202.4 Completely Dry Space

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

1202.05 Development

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

1202.06 Essentially Dry Space

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

1202.07 FEMA

The Federal Emergency Management Agency

1202.08 Flood Maps

The most recent map prepared by FEMA, which delineates the special hazard areas and risk premium zones applicable in Berwick Borough.

1202.09 Flood

The temporary inundation of normally dry land.

1202.10 Flood, One Hundred Year

See "Base Flood".

1202.11 Flood Insurance Study

A study prepared by FEMA, for Berwick Borough which includes an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations.

1202.12 Flood Plain, One Hundred Year

The areas specifically identified as being subject to inundation by the Base Flood and/or the One Hundred Year Flood, which can be comprised of a Special Flood Plain Area, a General Flood Plain Area, a Flood Fringe Area and a Floodway as delineated in the Flood Insurance Study and accompanying Flood Insurance Rate Maps.

1202.13 Flood Proofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate and/or improved real property, water and sanitary facilities, structures and their contents.

1202.14 Floodway

The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the Floodway shall be capable of accommodating a flood of the One Hundred (100) Year magnitude.

1202.15 Freeboard

A margin of safety, expressed in feet above the flood elevation of a One Hundred-Year Flood.

1202.16 Historic Structure

A. Any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

- (2) 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.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - I. by an approved state program as determined by the Secretary of the Interior.
 - OR
 - II. directly by the Secretary of the Interior in states without approved programs.

1202.17 Lowest Floor

The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for the parking of vehicles, building access or 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 the structure is in violation of the applicable non-elevation design requirements contained within this Article.

1202.18 Manufactured Home

A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

1202.19 Manufactured Home Park

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

1202.20 New Construction

Structure for which the start of construction commenced on or after March 18,1980, and includes any subsequent improvements thereto.

1202.21 Obstruction

Any structure or assembly of materials including fill above or below the surface of land or water, and any activity which might impede, retard or change flood flows.

1202.22 Recreational Vehicle

- A. A vehicle which exhibits the following:
 - (1) is built upon a single chassis;
 - (2) is 400 square feet or less when measured at the largest horizontal projections;

- (3) is designed to be self-propelled or permanently towable by a light duty truck;) is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

1202.23 Substantial Damage

Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent or more of the fair market value of the structure before the damaged occurred.

1202.24 Substantial Improvement

Any repair, 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" or the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (a) any project for improvement of a structure to correct existing violations of State or municipal health, sanitary or safety code specifications which are identified by the municipal code enforcement official and which are the minimum necessary to assure safe living conditions, or (b) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

SECTION 1203 ABROGATION AND GREATER RESTRICTIONS

The provisions of 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 among any of the provisions of this Article and Ordinance, or any other Ordinance of Berwick Borough, the more restrictive shall apply.

SECTION 1204 SEVERABILITY

Should any section or provision contained within this Article be declared invalid by a court of competent jurisdiction, such decisions shall not affect validity of this Ordinance as a whole, or any other part thereof.

SECTION 1205 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 upon acceptable engineering methods of study. Larger floods may occur. 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 the various One Hundred (100) Year Flood District(s), or that land uses permitted within such district(s) will be free from flooding or flood damages. The provisions and regulations contained within this Article shall not create liability on the part of Berwick Borough or any officer or employee thereof for any flood damages that result from reliance on this Article or of any decision lawfully made thereunder.

SECTION 1206 OVERLAY OF FLOOD PLAIN DISTRICTS

The various One Hundred (100) Year Flood Plain Districts within a One Hundred (100) Year Flood Plain shall include all areas which are subject to inundation by waters of a One Hundred (100) Year Flood. The source of delineating the boundaries of the various One-Hundred (100) Year Flood Plain Districts shall be based upon the most recent Flood Insurance Study and Flood Maps as prepared by FEMA. The various One-Hundred (100) Year Flood Plain Districts shall be deemed an overlay on any existing or hereafter established zones or districts upon Berwick Borough's Official Zoning Map.

SECTION 1207 IDENTIFICATION OF ONE HUNDRED (100) YEAR FLOOD PLAIN DISTRICTS

1207.1 FLOODWAY AREA

The area identified as the "Floodway" in the AE Zone in the Flood Insurance Study prepared by FEMA. The term shall also include the floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.

1207.2 FLOOD FRINGE AREA

The remaining portions of the One Hundred (100) Year Flood Plain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

1207.3 SPECIAL FLOOD PLAIN AREA

The areas identified as an AE Zone in the Flood Insurance Study, where one (100) year flood elevations have been provided, but where no floodway has been delineated.

1207.4 GENERAL FLOOD PLAIN AREA

The areas identified as Zone A in the Flood Insurance Study for which no one hundred (100) year elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as the floodway area, if possible. When no other information is available, one hundred (100) year flood elevation shall be determined by using a point on the boundary of the identified floodplain areas 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 only undertaken by professional engineers or others of demonstrated qualifications, who shall certify the technical methods used correctly reflect currently acceptable technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a through technical review by the Borough.

A zoning permit and approval of the same shall be required for the use of any property located within any of the above noted flood districts which constitutes a "development" in accordance with the definition of said term as provided under Section 1202.04 of this Ordinance.

SECTION 1208 CHANGES TO DELINEATED BOUNDARIES

The delineation of a One Hundred (100) Flood Plain as provided for under Section 1207, may be modified by the Berwick Borough Council, subject to approval by FEMA, where studies and/or information documents the need for such revision. Any change shall be subject to compliance with the following:

- A. The party supplying the required documentation shall be submitted under the signature of a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations.
- B. The party submitting such documentation shall confirm with FEMA that the methodology and data contained therein is consistent with that used in the preparation of the most recent Flood Insurance Study for Berwick Borough. Said confirmation from FEMA shall be secured in writing.
- C. All information and documentation provided for under this Article for any proposed modification of the boundaries of a One Hundred (100) Year Flood shall be submitted concurrently to both FEMA and to the Pennsylvania Department of Community and Economic Development.

- D. Prior to the Berwick Borough Council's approval of any proposed modifications of the boundaries of a One Hundred (100) Year Flood Plain, written approval and concurrence of the subject modification from FEMA shall be secured.
- E. Any proposed modification of a boundary of One-Hundred (100) Year Flood Plain, shall be governed by the applicable provisions contained in Article 14 of this Ordinance.

SECTION 1209 INITIAL DETERMINATION OF BOUNDARIES

The Zoning Officer, in the course of reviewing proposed developments, shall be responsible for determining the applicable boundaries of One-Hundred (100) Year Flood Plain. Any party who wishes to dispute or challenge the determination of the Zoning Officer may appeal such decision to the Berwick Borough Zoning Hearing Board. The burden of proof shall be on the appellant.

SECTION 1210 ALTERATIONS TO WATERCOURSES

No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by Berwick Borough or the party proposing such, and until all required permits or approvals have been first obtained from the Pennsylvania Department of Environmental Protection and FEMA. In addition, Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse. Any party proposing an alteration to a watercourse must provide all necessary documentation to certify that the flood carrying capacity within the watercourse shall be maintained upon completion of the proposed alteration.

SECTION 1211 FLOODWAY RESTRICTIONS

Within an identified Floodway no encroachment shall be permitted, including fill, new construction, substantial improvements, and other type of development, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of a One Hundred (100) Year Flood. Such analysis shall be performed by a registered professional engineer, who is qualified to perform hydrologic and hydraulic computations. The applicant's engineer shall be required to:

- A. Contact the FEMA Regional Office in Philadelphia to confirm that the proposed methodology and data are consistent with those used in the preparation of the applicable Flood Insurance Study for Berwick Borough. Said confirmation from FEMA shall be secured in writing.
- B. Include with said analysis all necessary information including but not necessarily limited to valley cross sections, plan views, all assumptions and computations, and bridge, culvert, drainage basins and dam data, if applicable.
- C. Provide written certification that the proposed encroachment will not result in any increased flood heights during the occurrence of a One Hundred (100) Year Flood.
- D. In the event that a proposed development or encroachment includes modifications or alterations to the channel of the watercourse, as a means to offset any anticipated rise in the elevation of a base flood, Section 1210, in addition to the provisions of this Section, shall apply.

The above information shall be submitted to the Zoning Officer, the Borough Engineer, FEMA and DEP for review and comment. In addition to receiving a positive review and approval from FEMA, the applicant shall be required to secure a Water Obstruction Permit from DEP under Title 25, Chapter 105 of the Pennsylvania Code. No zoning permit shall be issued until the Zoning Officer finds that all applicable requirements have been met.

SECTION 1212 SPECIAL REQUIREMENTS FOR THE SPECIAL FLOOD PLAIN AREA AND GENERAL FLOOD PLAIN AREA

Within any special floodplain area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred-(100) year flood more than one (1) foot at any point.

Within any Special Floodplain Area or General Floodplain Area the following provisions shall apply:

- 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. Any new construction or development, which would cause an increase in 100-year flood heights shall be prohibited within any floodway area.

SECTION 1213 STRUCTURAL ANCHORING AND FLOODPROOFING REQUIREMENTS

All buildings and structures which represent new construction and/or substantial improvement shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement. The Zoning Officer shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard prior to the issuance of a zoning permit.

SECTION 1214 ISSUANCE OF BUILDING PERMIT

Prior to the issuance of any building permit, the Code Enforcement Officer or the person so authorized by Berwick Borough to issue building permits 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 (1966-537, as amended), the Pennsylvania Dam Safety Act (1937-394, as amended), the United States Clean Water Act, Section 404, 33 U.S.C. 1344. No building permit shall be issued until such a determination has been made.

SECTION 1215 FLOOD PROOFING

Zoning approval of any proposed use, development and/or substantial improvement, which is located within a One Hundred (100) Year Flood Plain shall be conditioned upon strict compliance with all applicable flood proofing provisions as contained within this Article, and other applicable codes and ordinances of Berwick Borough including but not limited to the following standards.

1215.1 RESIDENTIAL

Any new construction or substantial improvement to residential structures located completely or partially within a One Hundred (100) Year Flood Plain shall be designed and constructed to have the lowest floor, including basement, elevated to not less than one and one half (11/2) feet above the corresponding base flood elevation.

1215.2 NONRESIDENTIAL

Any new construction or substantial improvement to nonresidential structures located completely or partially within an identified One Hundred (100) Year Flood Plain shall be designed and constructed to provide:

- A.** The lowest floor, including basement, shall be elevated not less than one and one half (1 1/2) feet above the corresponding base flood elevation.

OR

- B.** Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half (1 1/2) feet above One Hundred Year (100) flood elevation, shall be flood proofed in a completely or essentially dry manner in accordance with the standards contained in the publication titled "Flood Proofing Regulations" published by the U.S. Army Corps of Engineers, dated March 31, 1992, or the most recent revision to said publication. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect, which states that the proposed design and methods of construction are in conformance with the aforementioned standards.

1215.3 ACCESSORY STRUCTURES

Accessory structures to a principal building or use need not to be elevated or flood proofed to remain dry, but shall comply, at minimum with the following requirements:

- A.** The structure shall not be designed or used for human habitation, but shall be limited to the parking and storage of vehicles, or for the storage of tools, material and equipment related to the principal use or activity.
- B.** The gross floor area shall not exceed 750 square feet.
- C.** The structure shall have a low damage potential.
- D.** The structure shall be located upon the site so as to cause the least obstruction to the flow of floodwaters.
- E.** Power lines, wiring and outlets shall be not less than one and one half (1 1/2) feet above the 100-year flood elevation.
- F.** Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- G.** Sanitary facilities are prohibited.
- H.** The structure shall be adequately anchored to prevent flotation and movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Design for meeting this requirement must be certified by either a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - (1)** A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - (2)** The bottom of all openings shall be no higher than one (1) foot above grade.

- (3) Openings may be equipped with screens, louvers, etc. or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

1215.4 MANUFACTURED HOMES

Where permitted in accordance with the underlying zoning districts, all manufactured homes and improvements thereto which are located completely or partially within an identified One Hundred (100) Year Flood Plain shall be governed by the following provisions:

- A. Placed upon a permanent foundation.
- B. Elevated so that the lowest floor of the manufactured home is one and one half (1 1/2) feet or more above the elevation of the One Hundred Year Flood.
- C. Anchored to resist flotation, collapse or lateral movement. Within any identified floodway, manufactured homes shall be prohibited.

1215.5 USE OF FILL

If fill is to be used to raise the lowest floor of the structure, including basement, to an elevation of one and one half (1 1/2) feet above the base flood elevation the fill shall:

- A. Extend laterally at least fifteen (15) feet beyond the building line from all points.
- B. Consist only of soil or small rock materials.
- C. Be compacted to provide necessary permeability and resistance to erosion, scouring or settling.
- D. Be no steeper than one (1) vertical foot to two (2) horizontal feet unless substantial data justifying steeper slopes are submitted to, and approved by the Code Enforcement Officer or the person so authorized by Berwick Borough to issue building permits.
- E. Be utilized in a manner and extent to which it does not adversely affect adjacent properties.

1215.6 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.

SECTION 1216 UTILITIES

1216.1

New and replacement public and private utilities and facilities, such as sanitary sewers, gas lines, electric systems, telephone systems and water systems shall be designed and constructed to minimize or eliminate flood damages.

1216.2

Within any structure the following items shall be either flood proofed **or** elevated to be not less than one and one half (1 1/2) feet above the base flood elevation.

- A. Water heaters of any type.
- B. Furnaces
- C. Air Conditioning and ventilating systems.
- D. Electrical distribution panels.
- E. Similar mechanical equipment or apparatus.

Water supply systems and sanitary sewage systems of structures shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters.

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

SECTION 1217 CERTIFICATION OF FLOODPROOFING

When flood proofing methods are utilized in accordance with Section 1215 of this Ordinance, a registered professional engineer or architect shall certify in writing that the flood proofing methods utilized are adequate to withstand flood depths, pressures, velocities, impact and uplift forces and other factors associated with a One Hundred (100) Year Flood. The certification shall also indicate the specific elevation in relation to mean sea level to which such structures are flood proofed. In addition to certification of as-built drawings, a certification by an architect or professional engineer shall be required immediately following the completion of construction or substantial improvements, including completion and filing of an Elevation Certificate and/or a Flood proofing Certificate as provided by FEMA. This certification must indicate the mean sea level of the lowest floor and/or, as applicable, the mean sea level to which flood proofing measures have been taken. Such certification is required prior to the issuance of an Occupancy Permit by the Zoning Officer, Code Enforcement Officer or the person so authorized by Berwick Borough to issue an Occupancy Permit.

SECTION 1218 FULLY ENCLOSED AREAS BELOW THE LOWEST FLOOR

Within an identified One Hundred (100) Year Flood Plain, any fully enclosed areas of a structure below the lowest floor shall be limited to unfinished space limited to the parking of vehicles, building access or storage. Such enclosed areas, including new construction and substantial improvements may be located below the base flood elevation subject to the following:

- A. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters.
- B. Provide a minimum of two (2) openings having a total net area of not less than one square (1) inch for every square foot of enclosed area subject to flooding.
- C. The bottom of the aforementioned openings addressed in item B. shall be no higher than one (1) foot above grade with the option of being equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- D. Provide written certification from a registered professional engineer or architect that the criteria of the above items, (A), (B) and (C) have been met.

In addition to the above, the owner of the property shall record upon the deed of said property, a restriction which limits the use of the fully enclosed areas of a structure below the lowest floor to the parking of vehicles, building access or storage. A copy with the said restriction shall be provided to the Zoning Officer.

SECTION 1219 PROHIBITED USES

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

- A. Manufactured home park;
- B. Nursing Homes (Public or Private);
- C. Hospitals and Clinics (Public or Private);
- D. Jails, Prisons, or any similar detention facility.
- E. On-lot sewage disposal systems, including the encroachment of such a system within fifty (50) feet of any wetlands.

SECTION 1220 REGULATIONS FOR HAZARDOUS MATERIALS

1220.1 Classification

For the purpose of administration, the following materials and substances are hereby deemed and classified as potential hazards when located in a One Hundred (100) Year Flood Plain:

- A. Acetone
- B. Ammonia
- C. Benzene
- D. Calcium carbide Celluloid
- E. Carbon disulfide Chlorine
- F. Hydrocyanic acid Hydrochloric Acid Magnesium
- G. Nitric acid and oxides of nitrogen
- H. Petroleum products (gasoline, fuel oil, etc.) Phosphorus Potassium Sodium
- I. Sulfur and sulfur products
- J. Pesticides (including insecticides, fungicides and rodenticides) Radioactive substances
- K. Polychlorinated Biphenyl (PCB)
- L. Dioxin

1220.2 Prohibited Uses

The use of any property for the production of or requiring the storage or maintenance of any quantities of radioactive substances, Polychlorinated Biphenyl (PCB) or Dioxin shall be expressly prohibited anywhere within a One Hundred (100) Year Flood Plain.

1220.3 Restrictions in Flood Fringe Area, Special Flood Plain Area and General Flood Plain Area

With the exclusion of Radioactive Substances, Polychlorinated Biphenyl and Dioxin, the use of any property which includes the storage, production or maintenance of a supply of more than 550 gallons or comparable volume of those materials and substances listed in Section 1220.1 of this Article, may be located within a Flood Fringe area, a Special Flood Plain area and General Flood Plain area subject to the use being permitted in the underlying zoning district and further subject to being elevated or flood proofed to remain completely dry at an elevation of not less than one and one-half (1 1/2) feet above the base flood elevation.

1220.4 Restrictions for Floodway

The use of any property which includes the storage, production or maintenance of material and substances listed in Section 1220.1 of this Ordinance shall be prohibited in a designated Floodway.

SECTION 1221 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 one hundred (100) year flood.
- B. No expansion or enlargement of an existing structure shall be allowed within any Special Flood Plain Area that would, together with all other existing and anticipated development, increase the one hundred (100) year flood elevation more than one (1) foot at any point.
- C. Any modification, alteration, reconstruction or improvement of any kind to any existing structure which equals or exceeds fifty (50%) percent of its market value, shall constitute a substantial improvement and shall be permitted subject and conditioned upon full compliance with all applicable flood proofing provisions of this Ordinance.

SECTION 1222 VARIANCES

In addition to the criteria contained in Section 1509 of this Ordinance, the following additional standards and criteria shall apply for a request for a variance:

- A. No variance shall be issued for any proposed development, use and/or activity within any designated floodway which would result in any increase in flood levels during a One Hundred (100) Year Flood.
- B. No variance shall be issued which would allow for the development, use and/or activity of those specifically prohibited in Section 1219, PROHIBITED USES and Section 1220, REGULATIONS FOR HAZARDOUS MATERIALS of this Ordinance.
- C. No variance shall be granted for any construction, development, use or activity within a Special Flood Plain Area that would, together with all other existing and anticipated development, increase the one hundred (100) flood elevation more than one (1) foot at any point.

D. A variance shall authorize the least reduction and/or modification necessary to provide relief in consideration of the flood hazard.

E. A variance shall only be issued upon:

- (1)** A showing of good and sufficient cause.
- (2)** A determination that failure to grant the variance would result in an exceptional hardship to the applicant.
- (3)** A determination that granting the variance will not result in a prohibited increase in flood heights, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimize the public or conflict with any local laws or ordinances.

SECTION 1223 MODIFICATION OF FREEBOARD REQUIREMENT ADMINISTRATIVE PROCEDURES

The Borough shall notify the applicant in writing over the signature of the Chairman or Secretary of the Zoning Hearing Board that:

- A.** The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five (\$25.00) dollars for each one hundred (\$100.00) dollars of flood insurance coverage.
- B.** Such construction below the base flood elevation increases risk to life and property.
- C.** The issuance of a variance from the required one and one half (11/2) feet of freeboard per Section 1215 of this Ordinance, but above the base flood elevation may result in increased premium rates for flood insurance and increased risks to the structure, its contents and occupants. Such notification shall be maintained with a record of all variances approved and/or considered by the Zoning Hearing Board, including justification for their issuance or denial. Such information shall be placed on file with the Secretary to the Zoning Hearing Board and shall be submitted annually to FEMA and the Berwick Borough Council.

ARTICLE 13
ENFORCEMENT AND ADMINISTRATION

SECTION 1301 ZONING OFFICER

1301.1 APPOINTMENT

The Borough Council shall appoint a Zoning Officer, who shall not hold any elected office within Berwick Borough. The Zoning Officer shall meet qualifications established by Berwick 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 in fulfilling his/her duties. In conducting such activities, the Zoning Officer may have access to any land, building or structure.
- D. Issue permits as authorized by the Zoning Hearing Board, 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.
- F. Assist in maintaining 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/her 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.

- J.** Participate in proceedings before the Zoning Hearing Board and Planning Commission and at their request, furnish such facts, records and similar information which may assist them in rendering decisions. In the event of a violation of this Ordinance, provide written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation. Such written notice may be served personally or by certified mail. Corrective action may include an order to discontinue illegal uses of land, buildings, signs, or structures; to discontinue any illegal work being done; or to remove illegal buildings, structures, additions, signs, or structural alterations thereto.

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 which seek approval, involving new construction, additions, structural alterations, a change of use and/or any other form of improvements to a property, shall be accompanied by two sets of plans and information which includes but is not limited to the following:

- A.** A plan drawn to scale, indicating the actual dimensions and shape of the lot to be built upon and a written statement that the applicant is the owner or authorized agent of the owner or equitable owner.
- B.** The exact size and location on the lot of existing and/or proposed structures, buildings or signs, including proposed additions thereto.
- C.** The number and type of dwelling units, if applicable.
- D.** The amount and location of parking and/or loading facilities.
- E.** The existing use and/or proposed use of the property.
- F.** The height of the building, structure and/or sign.
- G.** A detailed scale drawing of all signs, existing and proposed, indicating their location and how they are and/or will be affixed to the property.
- H.** Existing and/or proposed access to the site.
- I.** Any other information deemed necessary by the Zoning Officer to determine conformance with the provisions and regulations of this Ordinance.

1302.3 PROCESSING APPLICATIONS

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

1302.4 TIME PERIOD FOR PROCESSING APPLICATION

A properly completed zoning permit shall be approved or denied within thirty (30) days from the date of receipt of a completed application and plans along with any additional information as required by the Zoning Officer. A zoning permit shall not be deemed complete, until all applicable information is submitted and all 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 EXPIRATION OF ZONING PERMIT

A zoning permit shall expire six (6) months from the date of issuance, if the work described in said permit has not commenced, including permits authorized to be issued by the Zoning Hearing Board. If the work described within the zoning permit has commenced within the prescribed six (6) month period, the permit shall expire two years from the date of issuance. In such cases, should the applicant wish to pursue the work described within the expired permit, a new application shall be required with the payment of new fees.

1302.6 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 applicable 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 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 Berwick 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 violation notice has the right to appeal the violation notice and request a hearing on the same before the Zoning Hearing Board within thirty (30) days from the issuance of the violation notice. Section 1506, Hearings, subsection (M), shall govern the procedural process of any appeal of a violation notice.
- F. Failure to comply with the notice within the specified time period, unless extended by an appeal to the Zoning Hearing Board, constitutes a violation, with a description of sanctions which shall result to correct or abate the violation.

1304.2 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, Berwick Borough Council, or with its approval, an official of the 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 Berwick Borough not less than 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 this 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 Berwick Borough or the Zoning Officer, shall pay a judgment of not more than five hundred (\$500.00) dollars, plus all court costs, including reasonable attorney fees incurred by Berwick 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, Berwick 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 Berwick 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 Berwick 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, charges and expenses and collection procedures for Zoning Permits, Certificates of Zoning Compliance, Certificates of Nonconformance, appeals to the Zoning Hearing Board, applications for conditional uses, amendments to the Zoning Ordinance or Zoning Map and any other matters pertaining to the administration of this Ordinance. The schedule of fees, charges and expenses shall be available for public inspection and may be altered or amended by resolution of the 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. In all cases, any type of application shall not be deemed as filed until correctly completed and submitted with payment in full of appropriate fees.

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 Berwick 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 Borough Planning Commission, shall be referred to the Borough Planning Commission not less than thirty (30) days prior to a public hearing before 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 Borough Planning Commission shall be submitted to the Borough Council in writing.
- D.** Not less than thirty (30) days prior to the public hearing, the Borough Council shall submit the proposed amendment to the Columbia County Planning Commission for its comments and recommendation.
- E.** Proposed action shall not be taken until the Borough Planning Commission and the Columbia 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 Berwick 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 week prior to the date of the public hearing.
 - (2)** Notice of the public hearing shall be mailed by Berwick 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 or physically bordering the area being rezoned, as evidenced by tax records within the

- (3) Columbia 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 Berwick 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.
- (4) The above requirements 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 as applicable:

- A. The applicant's name and address and/or the name and address of his authorized agent or the equitable owner.
- B. A copy of the deed to the property, and when the applicant is not the owner of the property, appropriate documentation to establish the applicant's standing as the equitable owner.
- C. A signed statement by the owner of record, or applicant as the case may be, attesting to the truth of the facts of all information contained within the application.
- D. 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 the true and correct owners of record within the area proposed to be rezoned and physically bordering the area being rezoned as evidenced by tax records within Columbia County Tax Assessment Office.
- E. Plans, drawings and explanatory material, which describes in detail the applicant's proposed plans, use and/or development of the property
- F. Specify those Sections of this Ordinance and/or areas upon the Zoning Map that 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 (60) days of the landowner's request. The sixty (60) day period shall not commence until all required information and material is submitted, along with all related fees. Failure to convene the public hearing within sixty (60) days of the landowner's request shall not result in a deemed approval.

The curative amendment and supporting information shall be referred to the Borough Planning Commission and the Columbia County Planning Commission for its review and comment not less than 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, provided however that the deemed approval provisions contained under Section 1506(L) shall not apply. 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 that 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 of a type actually available and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and/or Zoning Map.
- C.** The suitability of the site for the intensity of use proposed in relationship to the site's soils, slopes, woodlands, flood plains, aquifers, natural resources and other natural features.
- D.** The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features, in relationship to the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.
- E.** The impact of the proposal on the preservation of agriculture and any other land uses which are essential to the public health and welfare. The proposed curative amendment shall be deemed denied in accordance with any of the 14-3 following:
 - (1)** When the Borough Council notifies the landowner that it will not adopt the curative amendment.
 - (2)** When the Borough Council adopts another curative amendment that is unacceptable to the landowner.
 - (3)** When the Borough Council fails to act on the request within (45) forty-five days after the close of the last public hearing on the request, unless the time is extended by mutual consent by the landowner and the Borough Council.

1403.2 INITIATED BY THE BOROUGH

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 one hundred eighty (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 consider a substantive challenge to the validity of the Zoning Ordinance or Zoning Map, 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 (36) 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 Berwick Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, Berwick 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 Berwick 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 or the title and a brief summary of the amendment, prepared by the municipal solicitor, setting forth all the provisions in reasonable detail. 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 or other County office as designated by the Columbia County Commissioners.
- D. In the event substantial changes are made to the proposed amendment, before voting upon enactment, the Borough Council shall, not less than ten (10) days prior to enactment, re-advertise in one newspaper of general circulation in Berwick 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 subject amendment shall be forwarded to the Columbia County Planning Commission.

ARTICLE 15
ZONING HEARING BOARD

SECTION 1501 MEMBERSHIP OF BOARD

The membership of the Zoning Hearing Board shall consist of five (5) residents of Berwick Borough appointed by the Borough Council by resolution. The terms of office for Board members shall be five (5) 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 one resident of Berwick Borough to serve as an alternate member 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 Borough 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

The Borough Council may remove any Board member or alternate for malfeasance, misfeasance or nonfeasance in office or for any other just cause. Prior to any vote by the Borough Council, the member shall receive notice fifteen (15) 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 the alternate member 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 Berwick 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 not less than one week prior to the hearing. Written notice shall be given to the Zoning Officer, to the applicant, to the owner of record of the subject property before the Board, if different than that of the applicant, to the owner of record of any property located within two hundred (200) feet of the subject property before the Board and to any party or person who has submitted a timely written request to receive notification on the subject property.

The party submitting the application to the Zoning Hearing Board shall be responsible for providing the Zoning Hearing Board with the names and mailing addresses of the true and correct owners of record of property located within two hundred (200) feet of the subject property before the Board, as evidenced by tax records within the Columbia County Tax Assessment Office. While it shall be the intent of the Berwick Borough Zoning Hearing Board to provide written notice to property owners having property located within two hundred (200) feet of the subject property before the Board, failure to do so, shall not represent a basis for appeal or otherwise invalidate a decision and/or finding of the Zoning Hearing Board.
- 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 and if applicable, members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the 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, 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 the Board may appoint any member or an independent attorney as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board, 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.
- 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.
- H.** 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.
- I.** Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- J.** 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.
- K.** 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.

- L. 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 (45) 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 (45) 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 (30) days after the report of the hearing officer. If the Board fails to commence, conduct or complete the required hearing as provided for under Section 1506(D), 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 the 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 (10) days from the last day it could have met to render a decision in the same manner as provided under Section 1506(A) and written notice of the decision shall be mailed to those parties identified under Section 1506(B). If the Board fails to provide such notice, the applicant may do so. 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.
- M. 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.
- N. The final decision or, where no decision is called for, the findings shall be rendered by the Zoning Hearing Board at a 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 selected mediator, and the Zoning Hearing Board.

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

SECTION 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 to the validity of any land use ordinance, 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 but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order, the revocation of a zoning permitted/or building permit 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.

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:

- A. The applicant submits an application for a Zoning Permit to the Zoning Officer in accordance with Section 1302 of this Ordinance.
- B. 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.
- C. 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 by rule prescribe the form of application and may require preliminary application to the zoning officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.
- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- C. That such unnecessary hardship has not been created by the appellant.
- D. That the variance, if authorized, will not alter the essential character of the 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.
- E. 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:

- A. The applicant submits an application for a zoning permit to the Zoning Officer in accordance with Section 1302 of this Ordinance and a Site Plan in accordance with Section 603 of this Ordinance.
- B. The Zoning Officer shall initially review the Site Plan to determine its compliance with Section 603 of this Ordinance.
- C. 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. 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:

- A. The proposed use shall not jeopardize the objectives of the "Community Development Objectives" of the Borough's Comprehensive Plan 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, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions.
- D. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof

- E. The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
- F. 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 subject Zoning District.
- G. The submission of any reports and/or studies, required by the Zoning Hearing Board 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 Zoning Hearing Board, in requiring such reports and/or studies.
- H. The proposed use and/or development shall not be injurious to the public interest. 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 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 1512 TIME LIMITATIONS

1512.1

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.

1512.2

Any landowner wishing to appeal a decision of the Zoning Hearing Board shall be required to file such appeal to a court of competent jurisdiction within thirty (30) days after the notice of the Board's determination is issued. Failure to do so within the prescribed thirty (30) day time period shall preclude any further appeal of the Board's decision.

SECTION 1513 STAY OF PROCEEDINGS

1513.1

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.

1513.2

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.

1513.3

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.

1513.4

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.

ARTICLE 16

APPEALS

SECTION 1601 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.