

ZONING ORDINANCE

**FOR LUZERNE COUNTY
PENNSYLVANIA**

**ORIGINALLY ADOPTED: DECEMBER 16, 1964
LATEST TEXT AMENDMENT: SEPTEMBER 25, 2012**

MUNICIPALITIES UNDER COUNTY JURISDICTION *

ZONING

1. AVOCA BOROUGH
2. CONYNGHAM TOWNSHIP
3. COURTDALE BOROUGH
4. DUPONT BOROUGH
5. DURYEA BOROUGH
6. FAIRMOUNT TOWNSHIP
7. HUGHESTOWN BOROUGH
8. HUNLOCK TOWNSHIP
9. HUNTINGTON TOWNSHIP
10. JEDDO BOROUGH
11. LAFLIN BOROUGH
12. LAKE TOWNSHIP
13. LARKSVILLE BOROUGH
14. LUZERNE BOROUGH
15. NEW COLUMBUS BOROUGH
16. NEWPORT TOWNSHIP
17. PRINGLE BOROUGH
18. ROSS TOWNSHIP
19. UNION TOWNSHIP
20. WARRIOR RUN BOROUGH
21. WEST WYOMING BOROUGH
22. WYOMING BOROUGH
23. YATESVILLE BOROUGH

SUBDIVISION

1. AVOCA BOROUGH
2. CONYNGHAM TOWNSHIP
3. COURTDALE BOROUGH
4. DALLAS BOROUGH
5. DUPONT BOROUGH
6. DURYEA BOROUGH
7. FAIRMOUNT TOWNSHIP
8. HUGHESTOWN BOROUGH
9. HUNLOCK TOWNSHIP
10. HUNTINGTON TOWNSHIP
11. JEDDO BOROUGH
12. LAFLIN BOROUGH
13. LAKE TOWNSHIP
14. LARKSVILLE BOROUGH
15. LUZERNE BOROUGH
16. NEW COLUMBUS BOROUGH
17. NEWPORT TOWNSHIP
18. PLYMOUTH BOROUGH
19. PLYMOUTH TOWNSHIP
20. PRINGLE BOROUGH
21. ROSS TOWNSHIP
22. SHICKSHINNY BOROUGH
23. UNION TOWNSHIP
24. WARRIOR RUN BOROUGH
25. WEST PITTSTON BOROUGH
26. WEST WYOMING BOROUGH
27. WYOMING BOROUGH
28. YATESVILLE BOROUGH

*** As of August 10, 2012**

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ZONING ORDINANCE FOR LUZERNE COUNTY, PENNSYLVANIA

Whereas the Luzerne County Zoning Ordinance is based on the Master or Comprehensive Plan of Luzerne County as a means of working towards it, particularly the section known as the Land Use Plan; and

Whereas Section 603 of Act 247, the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, Article VI states as follows:

Ordinance Provisions

Zoning Ordinance may prohibit, regulate, restrict and determine:

Uses of land, watercourses and other bodies of water;

Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures;

Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards and other open spaces and distances to be left unoccupied by uses and structures;

Density of population and intensity of use.

In addition, zoning ordinances may contain:

Provisions for special exceptions and variances administered by the Zoning Hearing Board, which provisions shall be in accordance with this act;

Provision for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency, pursuant to express standards and criteria set forth in the ordinances;

Provision for the administration and enforcement of such ordinances;

Such other provisions as may be necessary to implement the purposes of this act, and

Whereas Section 604 of Act 247 states as follows:

Zoning Purposes

The provisions of zoning ordinances shall be designed:

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, civil defense, disaster evacuation, airports, and national defense facilities, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements, as well as

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. Zoning ordinances shall be made in accordance with an overall program, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.

Now, therefore, this Ordinance is in accordance with these heretofore stated purposes, which are interpreted by the Governing Body of Luzerne County to include control of strip mining and other excavations to reduce mine acid water pollution, and thereby to improve the future quality of the water and also to minimize siltation and fish and aquatic plant kill and improve recreation potentialities; to eliminate the scarring and erosion of the land by requiring backfill and thereby to improve or maintain its future usefulness and property values, and its attractiveness to industrialists considering locating in Luzerne County; to improve the safety of human beings (particularly children) and structures from improperly maintained strip mines, or flying rocks; to protect the County from liability by requiring insurance of excavators; to protect structures and roads and other land uses by requiring excavations to maintain distance provisions from them and any, or any other, public or semi-public uses; and to reducing dust, dirt and noise from highways and residence districts by distance provisions.

STATEMENT OF OBJECTIVES

The Luzerne County Objectives include those listed in the 1968 Comprehensive Plan Report of the Luzerne County Planning Commission, plus the following:

Income - To raise the level of incomes in Luzerne County to State and National standards, and particularly to assist the low income groups.

Housing - To provide an adequate supply of decent, sanitary and safe housing in Luzerne County for all income groups regardless of race or color background, including the rehabilitation of existing structures.

Crime Prevention - To reduce the incidence of crime to the extent possible, within Luzerne County.

Economics - To increase the tax base by acquiring, leveling and developing sites, especially mining sites, and attracting non-seasonal industries which pay good wages, principally those with a good growth potential.

Utilities - To insure that necessary public and private utilities are provided in Luzerne County, particularly sewage systems.

Land Use and Comprehensive Plans - To use the Zoning Ordinance as a tool to help implement the Land Use and Comprehensive Plans of Luzerne County.

Health - To improve the health of the residents of Luzerne County by controlling pollution, separating residences for adequate light, sun and air, and the provision of adequate facilities at the lowest possible cost.

To reduce pollution to the lowest level which is economically feasible.

To limit densities of population to reasonable standards, depending on location, to provide attractive surroundings, have sufficient parking and avoid congestion.

ARTICLE I - TITLE

- 1.01** This Ordinance shall be known and may be cited as the Zoning Ordinance of Luzerne County, Pennsylvania.

ARTICLE 2 - GENERAL PROVISIONS

2.01 Definitions Reference

Definitions for words or terms used in this Ordinance are given in Article 11.

2.02 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 district in which it is located and in conformity with all duly ordained ordinances, resolutions, or the Subdivision Regulations of Luzerne County or its municipalities, except for provisions stated in Section 6.15 Planned Residential Developments. No yard space or minimum area required for a building or use shall be considered as any part of the yard space or minimum area for another building or use.

2.03 Accessory Buildings in Residence Districts

No accessory building shall be erected in any required court or any yard other than a rear yard, except as provided hereafter. An accessory building may be erected as part of a principal building, or, if at least six (6) feet there from, may be connected thereto by a breezeway or similar structure, provided all yard requirements of this Ordinance for a principal building are complied with.

In any Conservation, Agricultural or Residence District, where a corner lot adjoins in the rear of a lot fronting on the side street, no part of any accessory building on such corner lot within twenty-five (25) feet of the common lot line shall be nearer a side road lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot, and in no case shall any part of such accessory building be nearer to the side road lot line than the least width of the side yard required for the principal building to which it is accessory.

2.04 Conversion of Dwellings

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units, or families shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimensions of yards and other open spaces, and off street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter within the article applying to such district.

2.05 Excavation of Sand, Gravel, Coal or Other Minerals and Rock and Peat Moss, for Sale

Excavations of sand, gravel, coal stripping or other minerals, and rock and peat moss shall be considered a temporary use, and new excavations shall be permitted only in Mining, Agricultural, Conservation or Heavy Industrial Districts. Deep coal mining shall be permitted in any district. All new excavations of materials listed above shall require the approval of the Board.

- A. In the case of coal mining, new excavations shall be defined as those specific limited areas not now operating under a State permit at the time this Ordinance becomes effective. For strip mining, applications shall not exceed ten (10) acres in area, and the Board shall require such measures as will protect the public interest including conformance with the following:

Map. Submission of a map which will outline the entire proposed area to be strip mined, said map to contain the surface features showing buildings, dwellings, churches, schools, railroads, highways, and lot lines of public and semi-public uses within a distance of 500 feet from the perimeter of the proposed strip mining operation. In addition, said map will indicate the approximate or proposed depth of said strip mining operation.

Bond and Backfilling. That a bond in the sum of \$2,500.00 per acre of land to be excavated, be filed with the Board, to guarantee the complete backfilling of any overburden removed, and to guarantee 50 percent of survival of all trees planted for a year's period in connection with the State Law in Anthracite Strip Mining. Backfilling is to restore the land to a useable condition. If, after complete backfilling of all overburden, the land is not approximately level with the unexcavated area, the slopes of the edge of the excavated area shall not be steeper than one foot of vertical distance for each one and one-half feet of horizontal distance. On sloping hillsides, the final grade of this stripped area shall range from seven to fifteen percent.

Insurance. That a certificate of insurance with limits of \$100,000 per person and \$300,000.00 per accident for personal injuries, and \$300,000.00 for property damage, be filed with the Board both for the benefit of all persons who might be injured or suffer property damage as a result of said mining operations, and to save

the County of Luzerne and its officials harmless from any and all claims, suits or demands caused by the mining operations.

Supervision of Blasting. The use of explosives for the purpose of blasting in connection with strip mining shall be done in accordance with regulations promulgated by and under the supervision of a representative of the Pennsylvania Department of Environmental Protection.

Distance Provisions. The perimeter of any excavation under this section shall not be nearer than 200 feet from any building or road, except that owned by the excavator, or 100 feet from any, or any other, public or semi-public use.

Timing. Primary blasting in any excavation shall occur only between the hours of 8:30 A.M. and 4:00 P.M., on either Eastern Standard or Eastern Daylight time, as the case may be.

Location of Processing Equipment. To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing, and other operations shall not be built closer than 300 feet from the right of way of any public highway, or 300 feet from the boundary of residential, commercial or light industrial districts.

Drainage. All excavations both during operations and after completion shall be adequately drained to prevent the formation of pools of water and reduce the seepage of water into underground mines, both for safety, and to reduce formation of mine acid water polluting the streams and rivers. Prior to any excavation for stripping operations a ditch shall be excavated on the outside of the proposed pit for the purpose of conveying the drainage from the watershed above the stripping pit to the regular creek channels to reduce seepage of surface water into underground mines

Compliance with State Requirements. Permits under the provisions of this Ordinance will not be issued until the required license or permit has been secured from the Department of Environmental Protection, Commonwealth of Pennsylvania.

- B.** In the case of quarries, sand and gravel pits, and peat moss bogs, the Board shall require conformance with the following:

Map. Submission of a map which will outline the entire area proposed to be excavated, said map to contain the surface features showing dwellings, churches, schools, railroads and highways, and lot lines of public and semi-public uses, within a distance of 500 feet from the perimeter of any quarrying operation, and a distance of 300 feet from any sand and gravel pit or peat bog. In addition, said map will indicate the approximate or proposed depth of said excavating operation.

Slopes and Drainage. After excavations are completed, the slopes of the edge of the excavated area of sand and gravel pits and peat bogs shall not be steeper than one foot of vertical distance for each one and one-half feet of horizontal distance. The surface of the area excavated shall be leveled, and drained to the extent feasible.

Blasting. The use of explosives for the purpose of quarrying shall be done in accordance with regulations promulgated by and under the supervision of a representative of the applicable state agency.

Distance Provisions. The perimeter of any excavation under this section shall not be nearer than 200 feet in the case of quarrying, 150 feet for sand and gravel pits, or 100 feet in the case of peat bogs, from any building or road, except that owned by the excavator, or 100 feet from any, or any other, public or semi-public use.

Location of Processing Equipment. To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing, and other operations shall not be built closer than 300 feet from the right of way of any public highway, or 300 feet from the boundary of residential, commercial or light industrial district.

2.06 Non-Conforming Buildings and Land

Except for non-conforming junkyards, any lawful use of any dwelling, building, structure, or land existing at the effective date of this Ordinance may be continued, even though such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification. Whenever a non-conforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The non-conforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of adoption of this Ordinance. No non-conforming building or structure shall be extended or enlarged except when authorized by the Zoning Hearing Board which may permit one enlargement or extension up to 25 percent of the floor area of the structure as it existed at the time of passage of this Ordinance.

Whenever the use of a building shall become non-conforming through a change in the Zoning Ordinance or in the district boundaries, such use may be continued, and if no structural alterations are made, may be changed to another non-conforming use of the same or of a more restricted classification.

A non-conforming use of a building or a portion thereof which is hereafter discontinued for a continuous period of one (1) year, shall not again be used except in conformity with the regulations of the district in which such building is located.

Except for residential structures as hereinafter provided, a non-conforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than a sixty (60) percent of its reproduction value at the time of damage, shall not be restored except in conformity with the regulations of the district in which it is located. When damaged by less than a sixty (60) percent of its reproduction value, a non-conforming building may be repaired or reconstructed, and used as before the time of damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage. For residential structures non-conforming only as to yard spaces, in residential zones where most of the residential structures nearby are similarly non-conforming, the structures may be rebuilt similar to the yard spaces of the adjoining lots, or a majority of the lots in the particular block front.

2.07 Pending Applications for Building Permits or Structures Already Begun

Nothing herein contained shall require any change in the over-all layout, plans, construction, size or designated use of any development, building, structure, or part thereof, for which official approval and required permits have been granted, or where no approvals or permits are necessary, where construction has been legally started, before the enactment of this Ordinance, and completed within a one year period.

2.08 Rear Dwellings and Easements Required Therewith

In all districts except the industrial districts, no building in the rear of a principal building on the same lot, other than a non-conforming building, shall be used for residence purposes unless it conforms to the open space requirements of this Ordinance. For the purpose of determining the front yard in such case, the rear line of the required rear yard for the principal building in front shall be considered the front lot line for the building in the rear. In addition, there must be provided for any such rear dwelling an unoccupied and unobstructed access way not less than fifteen (15) feet wide to a road, and there shall not be more than one dwelling housing not more than two (2) families for each such easement, except that a common easement of access at least forty (40) feet wide may be provided for two or more dwellings housing any number of families.

Zoning permit applications submitted for final approval shall be in accordance with the Subdivision and Land Development Ordinance of Luzerne County and all construction shall be in accordance with the Subdivision and Land Development Ordinance and all other codes and ordinances of Luzerne County except those excluded under this section. The Subdivision and Land Development Ordinance of Luzerne County, as amended, shall govern the construction and acceptance of public improvements.

2.09 Road Frontage Required

No lot shall contain any dwelling unless it abuts at least twenty (20) feet on a street, or unless it conforms to the easement of access required in Section 2.08 of this Article.

2.10 Traffic Visibility Across Corner Lots

On any corner lot in any district, no fence, structure, planting or any other obstruction shall be erected and thereafter maintained within fifteen (15) feet in “B-1” and “B-2” Districts, and twenty (20) feet of the “Corner” in all other districts, so as to interfere with traffic visibility across the corner, except for single poles for signs or utilities, which do not have to set back.

2.11 Certain Buildings and Land Uses Excepted

A. Agricultural Uses

Except for compliance with minimum yard requirements, visibility across corner lots, and for commercial raising of fur bearing animals or hog farms, nothing in this Ordinance shall prohibit the use of any land for agricultural purposes as defined herein, or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, in any Conservation, Agricultural or Mining District

B. Public or Semi-Public Uses

Nothing in this Ordinance shall prohibit the erection, construction, alteration or maintenance of essential services, by public utilities, or County, city, borough, township or other governmental agencies, and no zoning certificate shall be required for any such structures; provided, however, that the provisions of this paragraph shall not apply to buildings, towers, or storage yards of such public utilities or governmental agencies except when conforming to the procedure specified by Pennsylvania Municipalities Planning Code, Act No. 247, Article VI, Section 619.

2.12 Time Limitation

No Zoning Permit for construction, erection, or alteration of any building or structure or part thereof, or for signs or outdoor advertisements, or part thereof, shall be valid for more than one (1) year unless work at the site has commenced within such period.

2.13 Notice of Starting Work

The Zoning Officer shall be given at least twenty-four (24) hours notice by owner or applicant prior to commencement of work at site under zoning permits.

2.14 Refiling of Disapproved or Withdrawn Cases

If a case is disapproved by the Governing Body of Luzerne County, thereafter the Governing Body of Luzerne County shall take no further action on another case for substantially the

same proposal on the same property, until one (1) year after the date of such disapproval. If a case before the Governing Body of Luzerne County is advertised, and thereafter withdrawn by the applicant before or at the meeting of the Governing Body of Luzerne County, he shall be precluded from filing another application for substantially the same proposal on the same premises for six (6) months, and the case shall be readvertised.

ARTICLE 3 - ESTABLISHMENT OF DISTRICTS

3.01 Types of Districts

For the purposes of this Ordinance, the area of Luzerne County, Pennsylvania, exclusive of the territory within any city, borough, or township having a zoning ordinance in effect, is hereby divided into the following districts:

- “C-1” Conservation District
- “A-1” Agricultural District
- “S-1” Suburban Residence District
- “R-1” One-Family Residence District
- “R-2” Two-Family Residence District
- “R-3” Apartment Residence District
- “B-1” Neighborhood Business District
- “B-2” Community Business District
- “B-3” Highway Business District
- “B-4” General Business District
- “M-1” Mining District
- “M-2” Light Industrial District
- “M-3” Heavy Industrial District

3.02 Zoning Maps

The boundaries of these zoning districts are hereby established on a series of maps, designated “Zoning Maps for Luzerne County, Pennsylvania”, which are hereby made a part of this Ordinance, together with all existing and future notations, references and amendments. The said “Zoning Maps” shall be and remain on file in the Office of the Luzerne County Planning Commission.

The district boundary lines on the Zoning Maps are intended to follow property lines or the centers of streets, alleys, railroads or watercourses. In the case of unsubdivided property, the district boundary lines shall be determined by scaling.

In order to determine a property's zoning district, the Luzerne County Assessment Property Identification Number must be given to the Planning Commission office, in person or by telephone (570) 825-1560.

ARTICLE 4 - DISTRICT USES

4.01 "C-1" - Conservation District

Permitted Uses:

Agriculture
Nurseries and Greenhouses
Parks
Private Recreational Facilities
Recreational
Public Uses Except Recreational
Semi-Public Uses (not contagious)
Single-Family Home
State Game Lands
Trailers and Mobile Homes
Utilities (except yards & buildings)
Ventilating Shafts
Accessory Uses to the Above
Communications Antennas mounted on
an existing public utility
transmission tower, building or
other structure, and communications
equipment building.

Special Exception Uses:

Cemeteries
Commercial Recreational Facilities
Extraction and Underground Storage
of Gas and Oil
Extraction of Peat Moss & Minerals
Home Occupations
Planned Residential Developments
Public Recreational Facilities
Radio or TV Sending or Boosting Stations

4.02 "A-1" - Agricultural District

Permitted Uses:

Agriculture
Greenhouses and Nurseries
Home Occupations
Public Uses Except
Recreational Facilities, Private
Semi-Public Uses (not contagious)
Single or Two-Family Home
Trailers and Mobile Homes
Utilities (except yards & buildings)
Ventilating Shafts
Accessory Uses to the Above
Communications Antennas mounted on
an existing public utility
transmission tower, building or
other structure, and communications
equipment building.

Special Exception Uses:

Airports
Animal Hospital, Clinic or Kennels
Cemeteries
Extraction and Underground Storage
of Gas and Oil
Extraction of Peat Moss & Minerals
Nursing Homes
Planned Residential Developments
Public Recreational Facilities

Raising Fur-Bearing Animals (except pets)
Roadside Stands
Solid Waste Disposal Areas
Semi-Public Uses (contagious)
Storage of Explosives
Strip Mines, Quarries, or Gravel Pits
Trailer Parks and Mobile Home Parks
Utility Buildings and Yards
Accessory Uses to the Above
Communications Towers (Section 8.04B)

Radio or TV Sending or Boosting
Stations
Raising Fur-Bearing Animals (except
pets) and Commercial Hog Farms
Recreational Facilities (commercial)
Solid Waste Disposal Areas
Sawmills
Semi-Public Uses (contagious)
Sewerage Disposal Plants
Storage of Explosives
Strip Mines, Quarries or Gravel Pits
Tourist Homes
Trailer Parks and Mobile Home Parks
Utility Building and Yards
Communications Towers(Section 8.04)
Convalescent Homes
Accessory Uses to the Above

**4.03 “S-1” Suburban
Residence District
Permitted Uses:**

Agriculture (except kennels, hatcheries,
commercial chicken farms)
One-Family Detached Dwellings
Public Uses, Except Recreational
Semi-Public Uses (hospitals, sanitarium
yards)
and nursing homes)
Utilities (except buildings and yards)
Accessory Uses to the Above
Communications Antennas mounted
on an existing public utility
transmission tower.
No-Impact Home Occupations

**4.04 “R-1” Single-Family
Residence District
Permitted Uses:**

One-Family Detached Dwellings
Public Uses Except Recreational
Semi-Public Uses (except hospitals,
sanitarium and nursing homes)
Utilities (except buildings and
Accessory Uses to the Above
No-Impact Home Occupations

Special Exception Uses:

Cemeteries
Home Occupations
Hospitals or Sanitaria (not contagious)
Mobile Homes
Planned Residential Developments
Professional Offices
Public Recreational Facilities
Wireless Transmitting or Booster Stations
Private Recreational Facilities
Accessory Uses to the Above

Special Exception Uses:

Branch Telephone Exchanges
Cemetery Extensions
Home Occupations
Hospitals or Sanitaria (not contagious)
Mobile Homes
Planned Residential Developments
Private Recreational Facilities
Professional Offices
Public Recreational Facilities
Accessory Uses to the Above

**4.05 “R-2” Two-Family
Residence District
Permitted Uses:**

One-Family Detached Dwellings
Public Uses Except Recreation
Semi-Public Uses
Two-Family Dwellings
Utilities (except buildings and yards)
Accessory Uses to the Above
No-Impact Home Occupations

**4.06 “R-3” Apartment
Residence District
Permitted Uses:**

Dormitories, Fraternities, or
Sororities
Home Occupations
Multiple Dwellings
One-Family Detached Dwellings
Professional Offices
Public Uses
Rooming or Boarding Houses
Semi-Public Uses (except
contagious diseases
Two-Family Dwellings
Utilities (except yards and
buildings
Accessory Uses to the Above

Special Exception Uses:

Cemetery Extensions
Home Occupations
Mobile Homes
Planned Residential Developments
Private Recreational Facilities
Professional Offices
Public Recreational Facilities
Roomers or Boarders (maximum of six)
Accessory Uses to the Above

Special Exception Uses:

Cemeteries
Grouped Professional Offices
Mobile Homes
Mortuaries
Nursery Schools
Nursing or Convalescent Homes
Planned Residential Developments
Private Clubs or Lodges
Private Recreational Facilities
Tourist Homes
Accessory Uses to the Above

4.07 “B-1” Neighborhood

Business District

Permitted Uses:

Banks
Cafes or Restaurants (without entertainment)
Mortuaries
Neighborhood Retail Stores
Personal Services
Professional Offices including clinics
Public Uses
Semi-Public Uses
Service Station (minor repairs)
Soda Fountains
Taverns
Utilities (except yards)
Accessory Uses to the Above
Communications Antennas mounted on
an existing public utility
transmission tower, building or
other structure, and communications
equipment building.

Special Exception Uses:

Clubs or Lodges
Multiple Dwellings
Theaters (indoors)
Accessory Uses to the Above

4.08 “B-2” Community

Business District

Permitted Uses:

Banks
Cafes or Restaurants (without
entertainment_
Clubs and Lodges
Commercial Offices
Mortuaries
Parking Areas
Personal Services
Professional Offices including clinics
Public Uses
Retail Stores
Semi-Public Uses
Communications Antennas mounted on
an existing public utility
transmission tower, building or
other structure, and communications
equipment building.
Service Stations
Soda Fountains
Taverns
Utilities (except yards)
Accessory Uses to the Above

Special Exception Uses:

Drive-In Commercial Uses
(not including theaters)
Entertainment Facilities
Multiple Dwellings
Accessory Uses to the Above

**4.09 “B-3” Highway
Business District
Permitted Uses:**
 Amusement Parks
 Animal Hospitals, Clinics, or Kennels
 Cemeteries
 Commercial Greenhouses and Plant nurseries
 Commercial Horse Race Track & Riding Stables
 Drive-In Commercial Uses (not including theaters)
 Entertainment Facilities
 Feed and Grain Sales & Storage
 Service Garages and/or Vehicular Sales (excluding body work)
 Golf Driving Ranges & Miniature Golf
 Mortuaries
 Motels and Tourist Courts
 Offices and Banks
 Outdoor Advertisements
 Personal Services
 Professional Activities
 Public and Semi-Public Uses
 Restaurants
 Retail Businesses
 Communications Antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment building.
 Service Stations
 Tourist Homes
 Utilities
 Accessory Uses to the Above

**4.10 “B-4” General
Business District
Permitted Uses:**
 Animal Hospitals, Clinics or Kennels
 Billiard and Pool Rooms
 Bulk Fuel Storage
 Business Services
 Cleaning, Laundry, and Dyeing Plants
 Commercial Recreation
 Equipment Sales and Repair
 Food Processing
 Service Garages and/or Vehicular Sales (excluding storing junked vehicles outdoors)
 Hotels
 Lumber Yards
 Machine Shops
 Mortuaries
 Outdoor Advertisements
 Personal Services
 Printing, Lithographing or Publishing Plants
 Public and Semi-Public Uses
 Research and Testing Facilities
 Communications Antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment building.
 Restaurants
 Retail Businesses
 Second-Hand Stores and Pawn Shops
 Stone or Monument Works
 Taverns
 Tire Retreading and Recapping
 Used Car or Trailer Lots
 Utilities
 Welding Shops
 Wholesale Business
 Accessory Uses to the Above

Special Exception Uses:

Apartments
Drive-In Theaters
Equipment Sales and Repair
Race Tracks, Automobiles
Trailer Parks
Truck Terminals
Wholesale Business
Accessory Uses to the Above
Communications Towers(Section 8.04B)
Crematory

Special Exception Uses:

Adult Entertainment/Bookstore
(Theater)
Contractors Yards
Communications Towers(Sec.8.04B)
Crematory

4.11 “M-1” Mining District

Permitted Uses:

Bulk Fuel Storage
Contractors Yards
Railroad Yards
Storage of Materials Excavated
Tipples
Trucking Contractors Yards
Utilities
Accessory Uses to the Above
Communications Antennas mounted on
an existing public utility
transmission tower, building or
other structure, and communications
equipment building.

Special Exception Uses:

Areas of Deep Coal Mining
Correctional Institution
Extraction and Underground Storage of Gas and Oil
Extraction of Peat Moss
Excavation of Sand and Gravel
Junk Yards
Manufacturing Uses
Processing of Materials Excavated
Quarrying of Rock
Storage of Explosives
Solid Waste Disposal Areas
Strip Mining
Accessory Uses to the Above
Communications Towers(Section 8.04B)
Crematory

4.12 “M-2” Light Industrial District

Permitted Uses:

Communications Antennas mounted on an existing public utility transmission tower, Building or other structure, and communications equipment building.

Performance Standards:

A. Smoke

The emission of gray smoke at a density greater than No. 1 on the Ringelmann Chart published by the Bureau of Mines (Power’s Micro-Ringelmann Chart, McGraw Hill Publishing Company, 1954, may be used) shall not be permitted except gray smoke of a shade not darker than No. 2 may be emitted for not more than 4 minutes in any 30 minutes. These provisions, applicable to gray smoke, shall also apply to visible smoke of a different color but with equivalent apparent opacity.

B. Fly Ash, Soot and Dust

The emission of any particles from any flue or smokestack shall not exceed 0.2 grains per cubic foot of the flue gas at a stack temperature of 500 degrees Fahrenheit and 50 percent excess air, and shall not cause any damage to the health of people, to animals, vegetation, or other forms, of property, or cause any excessive soiling. All walks, driveways, and parking or outdoor storage areas shall be paved or dust proofed.

C. Noise

At no point on the boundary of a Residence District, or property line other than a Residence District Boundary, shall the sound pressure level of any individual operation or plat (other than background noises produced by sources not under the control of this Ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown below for the districts indicated:

TABLE A
Maximum Permissible Sound Pressure Levels
Maximum Sound Pressure Level in Decibels
(1.0002 dynes per square centimeter)

<u>Octave Band in Cycles Per Second</u>	<u>Decibels Along Residence District Boundaries</u>	<u>Decibels Along Property Lines Other Than Residence District Boundaries</u>
0-75	72	79
76-150	67	74
151-300	59	66
301-600	52	59
601-1200	46	53
1201-2400	40	47
2401-4800	34	41
Above 4800	32	39

Objectionable noises due to intermittence, beat, frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

At the specified points of measurement, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in Table A in any octave band of frequency. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association. (American Standard Sound Level Meters For Measurement of Noise and Other Sound, 224.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an octave -band filter, set for the analysis of noise and other sounds, 224. 10-1953, American Standards Association, Inc., New York, N.Y., shall be used.)

D. Odor

No emission of unpleasant gases or other odorous matter shall be permitted in such quantities as to be offensive outside the lot lines of the tract. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table 3 (Odor Thresholds) in Chapter 5 "Air Pollution Abatement Manual", copyright 1951 by Manufacturing Chemists Association, Inc., Washington, D.C. Where said publication gives a range of figures, a simple average of these shall be used.

E. Toxic Gases

The emission of gases or fumes injurious to persons or property beyond the lot lines occupied by the use is prohibited. (Table 1, Industrial Hygiene Standards, Maximum Allowable Concentration, Chapter 5 of the Air Pollution Abatement Manual furnishes a list of toxic pollutants.)

F. Glare and Heat

Glare and heat from arc welding, acetylene torch cutting or similar processes shall be performed so as not to produce glare which is visible, or objectionable heat, beyond the property line of the lot on which the operation is located. Direct glare from incandescent exposed lights shall not be visible from adjoining streets or properties.

G. Sewage

No discharge is permitted at any point in any private sewage disposal system or stream or into the ground, of any materials in such a way or of such nature or temperature as could contaminate any water supply, or otherwise cause the emission of dangerous objectionable elements except in accordance with the standards as approved by water pollution control boards or appropriate agencies of the Department of Health. Furthermore, no accumulation of solid wastes conducive to the breeding of rodents or insects shall be permitted.

H. Vibration

Any use creating intense earth-shaking vibration shall be set back at least five-hundred (500) feet from the lot lines on all sides, except for lot lines along or inside the Heavy Industrial District where such setback shall not be required, but in no case shall any vibration be perceptible along the boundary line of any zoning district other than the Heavy Industrial District.

I. Fire and Safety

All buildings containing uses involving burning materials of any kind shall be of fireproof construction. Incombustible to moderate burning materials - permitted freely. Free or active burning to intense burning materials must be: enclosed within incombustible walls, 40-foot setback or automatic sprinkler, flammable vapors at ordinary temperatures, prohibited. This subsection shall not apply to the use of fuels. If such use is limited to storage, and movement of fuel is within appropriate containers or pipes.

Prohibited Uses:

Residential subdivisions and developments and the construction of dwellings on existing lots zoned as industrial, except for dwellings for watchman, caretaker or farm.

Schools, hospitals, clinics, or other institutions for human care, except where incidental to a permitted principal use.

Any building for retail business or service, except where incidental to a principal permitted use.

Junk yards. Farm animals, including horses.

Special Exception Uses:

Communications Towers(Section 8.04B)

Correctional Institution

Crematory

Solid Waste Disposal Areas, subject to the requirements of Section 6.19.

4.13 “M-3” Heavy Industrial District

Permitted Uses:

Communications Antennas mounted on an existing public utility transmission tower, building or other structure, and communications equipment building.

Performance Standards

A. Smoke

The emission of gray smoke at a density greater than No. 2 on the Ringelmann Chart published by the U.S. Bureau of Mines (Power’s Micro-Ringelmann Chart, McGraw Hill Publishing Company, 1954, may be used) shall not be permitted, except gray smoke of a shade not darker than No. 3 may be emitted for not more than 4 minutes in any 30 minutes. These provisions, applicable to gray smoke shall also apply to visible smoke of a different color but with equivalent apparent opacity.

B. Fly Ash, Soot and Dust

The emission of particles from any flue or smokestack shall not exceed 0.3 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit and 50 percent excess air, and shall not cause any damage to the health of people, to animals, vegetation, or other forms of property, or cause any excessive soiling. All walks, driveways, and parking or outdoor storage area shall be paved or dust-proofed.

C. Noise

At no point on the boundary of a Residence District, or property line other than a Residence District Boundary, shall the sound pressure level of any individual operation or plant (other than background noises produced by sources not under the control of this Ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the decibel levels in the designated octave bands shown for the district indicated:

TABLE A
Maximum Permissible Sound Pressure Levels
Maximum Sound Pressure Level in Decibels
(1.0002 dynes per square centimeter)

<u>Octave Band Cycles Per Second</u>	<u>Decibels Along Residence District Boundaries</u>	<u>Decibels Along Property Lines Other Than Residence District Boundaries</u>
0-75	75	80
76-150	70	75
151-300	65	70
301-600	59	64
601-1200	53	58
1201-2400	48	53
2401-4800	44	49
Above 4800	41	46

Objectionable noises due to, intermittence, beat, frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

At the specified points of measurement, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in Table A in any octave band of frequency. The sound pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sound, 224.3-1944, American Standards Association, Inc., New York, N.Y. and American Standards Specification for an octave-band filter set for the analysis of noise and other sounds and Other Sounds, 224.3-1953, American Standards Association, Inc., New York, N.Y., shall be used.)

D. Odor

No emission of unpleasant gases or other odorous matter shall be permitted in such quantities as to be offensive outside the lot lines of the tract. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table 3 (Odor Thresholds) in Chapter 5 “Air Pollution Abatement Manual”, copyright 1951 by Manufacturing Chemists Association, Inc., Washington, D.C. Where said publication gives a range of figures, the highest figure shall be used.

Tanneries, stock yards, glue factories, oil refineries, soap factories, rubber manufacturers, fertilizer manufacture, and similar industries must present detailed plans for elimination of obnoxious odors before a permit will be granted

E. Toxic Gases

The emission of gases or fumes injurious to persons or property beyond the lot occupied by the use is prohibited (Table 1 Industrial Hygiene Standards, Maximum Allowable Concentration, Chapter 5 of the Air Pollution Abatement Manual furnishes a list of toxic pollutants.)

F. Glare and Heat

Glare and heat from arc welding, acetylene torch cutting or similar processes shall be performed so as not to produce glare which is visible, or objectionable heat, beyond the property line of the lot on which the operation is located. Direct glare from incandescent exposed lights shall not be visible from adjoining streets or properties.

G. Sewage

No discharge is permitted at any point in any private sewage disposal system or stream or into the ground, or any materials in such a way or of such a nature or temperature as could contaminate any water supply, or otherwise cause the emission of dangerous objectionable elements, except in accordance with the standards as approved by water pollution control boards or appropriate agencies of the Department of Health. Furthermore, no accumulation of solid wastes conducive to the breeding of rodents or insects shall be permitted

H. Vibration

Any use creating intense earth-shaking vibrations shall be set back at least five-hundred (500) feet from the boundary of a Residence, Commercial or Light-Industrial District, but in no case shall any vibration be perceptible along the boundary of any District other than along or in a Heavy Industrial District.

I. Fire and Safety

All buildings containing uses involving burning materials of any kind shall be of fire-proof construction. Incombustible to moderate burning materials - permitted freely.

Free or active burning to intense burning materials - enclosed within incombustible walls or protected by automatic sprinkler.

Flammable vapors at ordinary temperatures - permitted except within 600 feet of any other zoning district.

This subsection shall not apply to use of fuels if such use is limited to storage, and movement of fuel is within appropriate containers or pipes.

J. Special Exception Uses:

Communications Towers(Section 8.04B)

Correctional Institution

Crematory

Junk Yards

Solid Waste Disposal Areas subject to the requirements of Section 6.19.

Uses which cannot conform to the performance standards of Heavy Industrial Districts. The Board shall require the applicant to make all reasonable efforts to minimize the objectionable or harmful effects involved, and may require distance provisions, locations downwind of developed areas, larger lot sizes or any other provisions deemed necessary in keeping with the public interest.

K. Prohibited Uses:

Residential subdivisions and developments and the construction of dwellings on existing lots zoned as industrial, except for dwellings for watchman, caretaker, or farm.

Schools, hospitals, clinics, or other institutions for human care, except where incidental to a permitted principal use.

Any building for retail business or service except where incidental to a principal permitted use.

Farm animals, including horses.

ARTICLE 5 - YARD AREA AND HEIGHT REGULATIONS

DISTRICTS

Type of Regulation	Conservation District C-1	Agricultural District A-1
Minimum Yards in Feet		
Front Yard	50	50
Rear Yard	50	50
Side Yards:		
One Side Yard	30	25
Combined Side Yards	60	50
Minimum Lot Dimensions		
(Area in Square Feet except where acreages are indicated)	2 acres	1 acre
Width in Feet	200	150
Minimum Interior Housing		
Area Sq. Ft.	525	525
Maximum Building Height (5)		
Stories	2.5	2.5
Feet	35	35
Maximum Percentage of Lot Coverage		
	20	None

-
1. Except when abutting a Residence District (See Article 7.02C)
 2. Neither public water or sewer
 3. Either public water but individual sewage disposal system on each lot, or on-lot water systems but a public sewer system on each lot. (In S-1 District 11,250 is minimum lot size even if they have both public water and sewers.)
 4. Served by both public sewer and water systems, 6,000 sq. ft. for a single family, as minimum in R-2 districts.
 5. These height requirements shall not apply to any Communications Antennas or Communications Towers.

ARTICLE 5 - YARD AREA AND HEIGHT REGULATIONS (CON'T.)

RESIDENCE DISTRICTS

Type of Regulation	S-1	R-1	R-2	R-3
Minimum Yards in Feet				
Front Yard	40	30	25	25
Rear Yard	40	35	30	30
Side Yards:				
One Side Yard	15	12	8	5
Combined Side Yard	30	25	16	13
Minimum Lot Dimensions				
Area in Sq. Ft.(Except where acreages are indicated)	20,000(2)	20,000(2)	20,000(2)	6,000(4)
	11,250(3)	11,250(3)	11,250(3)	2,000 per D.U.
		7,200(4)	6,000(4)	
			3,500 per D.U.	
Width in Feet	100(2)	100(2)	100(2)	
	75(3)	75(3)	75(3)	
		60(4)	60(4)	60(4)
Minimum Interior Housing				
Area Sq. Ft.	800	700	600	525
Maximum Building Height				
Stories	2.5	2.5	2.5	
Feet	35	35	35	Distance from center line of street
Maximum percentage of Lot Coverage				
	30	40	45	50

-
1. Except when abutting a Residence District (See Article 7.02C)
 2. Neither public water or sewer
 3. Either public water but individual sewage disposal system on each lot, or on-lot water systems but a public sewer system on each lot. (In S-1 District 11,250 is minimum lot size even if they have both public water and sewers.)
 4. Served by both public sewer and water systems, 6,000 sq. ft. for a single family, as minimum in R-2 districts.

ARTICLE 5 - YARD AREA AND HEIGHT REGULATIONS(CON'T.)

BUSINESS DISTRICTS

Type of Regulation	B-1	B-2	B-3	B-4
Minimum yards in Feet				
Front Yard	20	15	30	15
Rear Yard	25	30	40	30
Side Yards:				
One Side Yard	None(1)	None(1)	15	None(1)
Combined Side Yards	None(1)	None(1)	40	None(1)
Minimum Lot Dimensions				
Area on Sq. Ft. (except where acreages are indicated)	None	None	None	None
Width in Feet	None	None	None	None
Minimum Interior Housing				
Area Sq. Ft.	None	None	None	None
Maximum Building Height				
Stories	2	3	3	3
Feet	30	40	40	40
Maximum Percentage of Lot Coverage				
	25	35	30	40

-
1. Except when abutting a Residence District (See Article 7.02C)
 2. Neither public water or sewer
 3. Either public water but individual sewage disposal system on each lot, or on-lot water systems but a public sewer system on each lot. (In S-1 District 11,250 is minimum lot size even if they have both public water and sewers.)
 4. Served by both public sewer and water systems, 6,000 sq. ft. for a single family, as minimum in R-2 districts.
 5. For B-3 and B-4 districts, these height requirements shall not apply to any Communications Antennas on Communications Towers.

ARTICLE 5 - YARD AREA AND HEIGHT REGULATIONS (CON'T.)

INDUSTRIAL DISTRICTS

Type of Regulation	M-1	M-2	M-3
Minimum Yards in Feet			
Front Yard	40	25	20
Rear Yard	50	30	25
Side Yards:			
One Side Yard	25	15	20
Combined Side Yards	50	30	40
Minimum Lot Dimensions			
Area in Sq. Ft. (except where acreages are indicated)	None	None	None
Width in Feet	None	None	None
Minimum Interior Housing			
Area Sq. Ft.	N.A.	N.A.	N.A.
Maximum Building Height			
Stories	None	3	None
Feet	None	40	None
Maximum Percentage of Lot Coverage			
	10	30	40

-
1. Except when abutting a Residence District (See Article 7.02C)
 2. Neither public water or sewer
 3. Either public water but individual sewage disposal system on each lot, or on-lot water systems but a public sewer system on each lot. (In S-1 District 11,250 is minimum lot size even if they have both public water and sewers.)
 4. Served by both public sewer and water systems, 6,000 sq. ft. for a single family, as minimum in R-2 districts.
 5. These height requirements shall not apply to any Communications Antennas or Communications Towers.

ARTICLE 6 - SUPPLEMENTAL PROVISIONS

6.01 Amusement Centers

Amusement centers including bowling alleys, dance halls and similar uses shall provide proper parking areas with vehicular circulation designed so as to minimize traffic congestion, shall not be closer than ten (10) feet to any property line, shall provide adequate screening from any Residence District, and shall prevent offensive noise, vibration and lighting.

6.02 Animal Hospital and Similar Uses

No animal hospital, veterinary clinic and kennel shall be located closer than 100 feet to any Residence District, or existing restaurant, hotel, motel, tourist court or trailer camp. Adequate measures shall be taken to prevent offensive noise and odor.

6.03 Animals in Residence, Business and Mining Districts

Farm animals, including horses, shall not be kept in Residence, Neighborhood Business, Community Business and Mining Districts. Household pets shall be limited to four (4) combined per family in Residence Districts.

6.04 Outdoor Advertisements and Signs (Defined in Article 11)

A. General Provisions

The following outdoor advertisements and signs are permitted in any zone, as limited in Section 6.04D; if illuminated, they shall be of an enclosed lamp design, non-flashing, containing no colored illumination, and may also be of the reflector type.

A sign indicating the name or number of the owner and/or premises or the accessory use of a dwelling for a home occupation or for professional purposes, provided that such sign shall not exceed one square foot in area.

One bulletin board on church, school, or college property, not over 20 square feet in area.

A sign on a farm, noting the sale of articles grown or produced on premises, provided that such sign shall not exceed six (6) square feet in area, shall be at least 10 feet from any public right-of-way and at least 50 feet from the nearest corner of a road intersection.

Directional or informational signs of a public or quasi public nature, not exceeding six (6) square feet in area. Such signs shall contain no advertising matter, and shall not be illuminated, but may be of the beaded reflector type.

No signs for Adult Entertainment/Adult Bookstore (Theater) operations shall contain photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only the name of the regulated establishment.

B. Real Estate Signs

A temporary real estate sign, not exceeding six (6) square feet in area, indicating the sale or lease only of the property on which such sign is displayed; provided that where parcels of land are offered for sale or lease, having a road frontage of 200 feet or more, a sign or signs totaling not more than 20 square feet in area for each 200 feet of frontage may be posted. The sign shall be removed from the premises within 30 days after the sale or rental thereof.

One temporary sign not exceeding 60 square feet in area in subdivisions containing less than 25 lots and located therein, and set back from every street line the distance required for a principal building in the district in which it is located.

One temporary sign not exceeding 150 square feet in area in subdivisions containing 25 or more lots and located therein and set back from every street line a minimum distance in feet equal to the number of square feet of the sign, but such setback shall not be less than the distance required for a principal building in the district in which the sign is located, and need not be more than 100 feet in any case.

C. Construction Advertisements

Building contractors' and professional persons' temporary advertisement on or adjacent to buildings under construction, limited to a total area for all such signs of 150 square feet.

D. Business or Industrial Signs

Business or industrial signs are permitted in business or industrial zones, under the following conditions, as limited in Section 6.04D.

Number of Signs:

The number of signs shall be limited to three for each street on which the establishment fronts, as for instance, one parallel, one projecting, and one free-standing sign. In addition, one identification sign for a shopping center or other integrated group of stores, commercial buildings, or industrial buildings, may be added for each street on which the properties front; provided that no such signs shall be located within 100 feet of any existing principal building on adjoining residential premises on the same side of the street, or opposite land zoned for residential purposes on the other side of the street. Temporary professionally made signs are also permitted limited to 48 square feet in size.

Size of Signs:

The maximum size of a sign for one business or industrial establishment shall be as follows:

B-1 District - 50 square feet

B-2 District - 60 square feet

Other commercial or industrial districts: In square feet, four times the frontage of the lot on which the sign is located

The maximum size of a sign for a shopping center, or integrated group of stores or industrial establishments shall be 180 square feet.

E. Outdoor Advertisements

Outdoor advertisements are limited to the B-3, B-4, M-1, and M-3 districts.

Location: No outdoor advertisement shall be permitted within 200 feet of any Residence District, nor facing any public or parochial school, library, church, hospital or similar institutional use if closer than 200 feet.

Spacing: No two outdoor advertisements shall be located closer to one another than the distance equal to one-fifth of their combined gross square foot area, except that no two such advertisements shall be closer to one another than 120 feet.

Setbacks: Outdoor advertisements shall conform with all yard spaces required for the district in which they are located.

Size: The total surface area of any outdoor advertisements, exclusive of structural supports and trim, shall not exceed in square feet, four times the frontage of the lot or tract on which it or they stand, nor shall any individual advertisement of a poster panel exceed 300 square feet, or painted advertisement - 600 square feet. However, where a lot or tract is already occupied by a use or structure exhibiting signs, the total surface area of signs and outdoor advertisements shall not exceed in square feet, four times the lot frontage.

F. Limitations for All Signs and Outdoor Advertisements

Their surface shall include only one face, and if composed of individual letters, figures or designs, the space between and around such letters, figures or designs.

Any free-standing or projecting sign or outdoor advertisement within 25 feet of a street right-of-way line shall be so placed as to allow clear and ample visual sight lines for driveways leading into a street, for the intersection of two streets, or a street with an alley.

G. Height

Maximum Height: No sign or outdoor advertisement shall project above the height limit of structures in the district in which it is located, nor shall it extend more than 20 feet above the highest part of the roof.

Clearance: No hanging, suspended or projected sign (except in service station driveways) or outdoor advertisement, shall have a vertical clearance of less than 14 feet over any vehicular public way, nor less than nine feet over any pedestrian public way. In service station driveways, the minimum clearance shall be 12 feet. Public ways used in this subsection include privately-owned sidewalks or drives, customarily used by the public

H. Maintenance

All signs and outdoor advertisements shall be maintained in good condition, as determined by the Zoning Officer, otherwise they shall be ordered removed, after due notice.

I. Projections

No sign or outdoor advertisement shall project from the wall of a building more than six (6) feet.

J. Lighting or Moving

If illuminated, the light shall be confined to the surface of the sign or outdoor advertisement, which shall be located and arranged as to avoid glare or reflection onto any portion of any designated highway or into the path of incoming vehicles, or into any adjacent residential premises.

Flashing or moving outdoor advertisements shall not be permitted in any district, and flashing or moving signs are not permitted in any district except B-2, B-3, B-4 districts, where signs are located on business premises, and where these signs are located and arranged as to avoid glare or reflection onto any portion of any adjacent highway or into the path of oncoming vehicles. or into any adjacent residential premises.

6.05 Cemeteries, Crematories, Columbaria, and Mausoleums

Due consideration shall be given to compatibility with adjacent land uses, existing or proposed highways, and any elements or factors deemed to affect the public health, safety, and welfare of the surrounding area, and a minimum setback may be required from any property line for any structure, grave or place of temporary or permanent burial, and such walls, fences, and/or planting of shrubbery, trees or vines may be required as may be reasonable and proper to afford adequate screening.

6.06 Community Buildings, Social Halls, Lodges, Fraternal Organizations, Clubs, And Similar Social Or Recreational Establishments

Buildings housing any of these uses shall be distant not less than 20 feet from any other lot in any Residence District, and there shall be no external evidence of any gainful activity, however incidental, nor any access to any spaces used for gainful activity, other than within the building.

6.07 Day Nursery, Nursery School, Private Kindergarten, Or Child Welfare Center

These uses may be permitted provided there is established and maintained in connection therewith, a suitably fenced and screened play lot meeting with requirements of Section 7.02CL and provided that there is no nuisance created by reason of noise, health or other condition.

6.08 Drive-In Theaters

Where possible, access shall be to minor roads, rather than highways, to reduce congestion and accidents.

Theater screens shall be placed so that they are not visible from a highway, or shall be screened with adequate fencing or planting.

No central loud speakers shall be permitted.

All parts of the theater shall be at least 200 feet from any Residence District.

6.09 Golf Driving Ranges and Miniature Golf

All lighting installations shall be such and be so arranged as not to increase traffic hazards or to cause direct or glaring reflection into adjoining premises.

6.10 Home Occupations

A home occupation shall be an incidental use of a dwelling unit conducted only by residents of the building, who may not employ more than one additional non-resident person. The following additional conditions shall be fulfilled:

A. Where Permitted:

Within a single dwelling unit, provided that only one home occupation per dwelling unit is permitted.

B. Evidence of Use:

No exterior evidence of the home occupation shall be visible, other than a permitted sign.

C. Extent of Use:

Not more than 20 percent of the gross floor area of any dwelling unit may be used for a home occupation, except for medical and dental offices and foster family care, which may use up to 40 percent.

D. Permitted Uses:

Fine arts studios, professional and medical offices, dressmaking, and similar occupations, but excluding commercial stables or kennels, and any occupation that may customarily require the use of a panel or delivery truck more than one ton, or similar vehicle. Outdoor storage of materials or products is also prohibited. Any use which produces offensive and disturbing noise, smoke, odor, or other objectionable effect is prohibited.

- E. No Impact Home Occupations:** The business activity shall be compatible with the residential use of the property and surrounding properties, have no non-resident employee, no display or sale of retail goods, no inventory of a substantial amount, no parking, lights, or signs. The business shall not create noise, vibration, glare, fumes, odors, or electrical or electronic interference, including with radio or television reception. The business may not generate solid waste, or sewage, which is above the normal residential amount, must be conducted entirely within the dwelling unit not using more than 25% of the floor area, and may not involve an illegal activity.

6.11 Hospitals and Related Uses

Hospitals, sanitarium, and convalescent or nursing homes shall locate future structures or extensions thereto, at least 100 feet distant from any lot in any Residence District, or any lot occupied by a dwelling, school, church or institution for human care.

Hospitals or sanitarium which do not primarily treat communicable diseases, insane or feeble-minded patients, epileptics, drug addicts or alcoholic patients, and which are not penal or correctional institutions, shall have a minimum size of three acres. Other hospitals and sanitarium shall have a minimum size of 15 acres.

6.12 Junk Yards and Similar Storage Areas - Including Automobile Wrecking

All junk yards shall be completely screened from roads or developed areas with a solid fence or wall six (6) feet or more in height, maintained in good condition, and painted except for masonry construction, or with suitable plantings.

No operations shall be conducted which shall cause a general nuisance or endanger the public health.

All existing junk yards shall comply with these requirements within one year of the date of this Ordinance, or shall then terminate their operation.

6.13 Motels

No motel shall have a lot area of less than one acre, nor a lot area per sleeping unit of less than 2,000 square feet.

Motels shall utilize collective sewers connected with a sewage disposal system approved by the State Department of Health.

6.14 Off-Street Loading and Parking

A. Off-Street Loading

Every building which requires the receipt or distribution by vehicles of material or merchandise, shall provide off-street loading berths in accordance with the Table below:

OFF-STREET LOADING SPACE REQUIREMENTS

<u>Uses</u>	<u>Floor Area(Sq. Ft.)</u>	<u>Required Berths</u>
Schools	15,000 or more	1
Hospitals(including ambulance space)	10,000 - 300,000	1
	For each additional 300,000 or major fraction thereof	1 additional
Undertakers & Funeral Parlors	5,000	1
	For each additional 5,000 or major fraction thereof	1 additional
Hotels and Offices	10,000 or more	1
Commercial, Wholesale Manufacturing and Storage	10,000 - 25,000	1
	25,000 - 40,000	2
	40,000 - 60,000	3
	60,000 - 100,000	4
	For each additional 50,000 or major fraction thereof	1 additional

Each loading space shall not be less than ten (10) feet in width, 35 feet in length, and 14 feet in height and may occupy all or part of a required yard.

B. Off-Street Parking

In all districts, off-street parking facilities shall be provided and properly maintained, as set forth in this section, for any building which is hereafter erected, enlarged or increased in capacity. Such facilities shall be made available for public use.

Size and Access:

Each off-street parking space shall have an area of not less than 180 square feet exclusive of access drives or aisles and be in usable shape and condition. Except in the case of dwellings, no parking area shall contain less than three spaces.

There shall be adequate ingress and egress to all parking spaces. Where a lot does not abut on a public or private alley or easement of access, there shall be provided an access drive leading to the parking or storage areas or loading spaces. Such access drive shall not be less than 10 feet in width in the case of a dwelling, and not less than 20 feet in all other cases.

Access to off-street parking areas shall be limited to several well-defined locations, and in no case shall there be unrestricted access along the length of a street or alley

Number of Parking Spaces Required:

The number of off-street parking spaces required is set forth in the following Table. Where the use of the premises is not specifically mentioned, requirements for similar uses shall apply.

OFF-STREET PARKING SPACE REQUIREMENTS

<u>USES</u>	<u>REQUIRED SPACES</u>
1. Automobile Laundry	5 for each laundry machine
2. Automobile Sales & Service Garages	1 for each 400 sq. ft. of floor area
3. Banks or Professional Offices	1 for each 300 sq. ft. of floor area
4. Bowling Alleys	5 for each alley
5. Churches and Schools	1 for each 3.5 seats in an auditorium, or 1 for each 17 classroom seats, whichever is greater
6. Community Bldgs. & Social Halls	1 for each 100 sq. ft. of floor area

7. Driving Ranges & Miniature Golf	1 for each tee
8. Food Supermarkets	1 for each 200 sq. ft. of floor area
9. Funeral Homes, Mortuaries	5 for each parlor
10. Furniture or Appliance Stores	1 for each 200 sq. ft. of floor area
11. Hospitals, Nursing and Convalescent Homes	1 for each 3 beds, plus 1 for each employee
12. Hotels	1 space unit for each 2 living or sleeping units
13. Manufacturing Plants, Research or Testing Labs, Bottling Plants	1 for each 1,000 sq. ft. of floor area, plus 1 for each 4 employees in the maximum working shift. The total parking area shall not be less than 25% of the building floor area.
14. Medical or Dental Offices	5 spaces for each doctor or dentist
15. Multiple Dwellings	1.5 spaces for each dwelling unit
16. Restaurants, Beer Parlors, & Night Clubs	1 for each 2.5 seats
17. Retail Stores and Shops	1 for each 300 sq. ft. of floor area, where the floor area exceeds 1,000 sq. ft.
18. Rooming Houses & Dormitories	1 for each 2 bedrooms
19. Service Stations	2 for each service bay
20. Single & 2-Family Dwellings	1 for each family or dwelling unit
21. Sports Arenas, Auditoriums, Theaters, Assembly Halls	1 for each 3.5 seats
22. Trailer or Monument Sales or Auctions	1 for each 2500 sq. ft. of lot area
23. Wholesale Establishments or Warehouses	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25% of the building floor area.

Location of Facilities:

Required facilities shall be located on the same zone lot as the use to which they are accessory, or else within a radius of 400 feet; provided that required spaces conform with the provisions set forth herein, and that such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restrictions filed in an office of record, binding the owner and his heirs or assigns to maintain the required number of spaces throughout the life of such use.

C. Facilities or Requirements for Parking and/or Loading

Off-street parking and loading facilities may be provided jointly for separate uses if approved by the Zoning Hearing Board. The total number of spaces shall not be less than the sum of the separate requirements for each use, and shall comply with all regulations governing location of accessory spaces.

D. Development of Parking Lots and Loading Areas (including Commercial Parking Lots, Automobile or Trailer Sales Lots)

Screening and Landscaping:

Off-street parking areas for more than five vehicles, and off-street loading areas, shall be effectively screened on each side which adjoins or faces residential or institutional premises situated in any Residence District.

Minimum Distances and Setbacks:

No off-street loading area or parking area for more than five (5) vehicles shall be closer than ten (10) feet to any adjoining dwelling, school, hospital, or similar institution. If it adjoins a Residence District, no parking area shall be located less than ten (10) feet from the established street right-of-way line within 50 feet of any Residence District.

Surfacing:

Surfacing shall consist of an asphaltic or Portland cement binder pavement (or similar durable and dustless surface), graded and drained to dispose of all surface water, and designed to provide for orderly and safe loading and parking.

Lighting:

Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from adjoining premises in any Residence District.

6.15 Planned Building Groups

Integrated Neighborhood and Community Shopping Centers

A. Preliminary Plan and Minimum Size

The owner of a tract of land located in any district at or near where a proposed shopping center is shown on the Land Use Plan of Luzerne County, containing not less than two (2) acres in the case of a neighborhood shopping center (B-1 District type), and not less than fifteen (15) acres in case of a community shopping center (B-2 District type), shall submit to the Commission for its review a preliminary plan for the use and development of such tract of land for an integrated shopping center.

B. Applicant's Financial Ability

In accepting such plan for review, the Commission must be satisfied that the proponents of the integrated neighborhood or community shopping center are financially able to carry out the proposed project; that they intend to start construction within one (1) year of the approval of the project and necessary change in zoning, and intend to complete it within a reasonable time as determined by the Commission.

C. Commission Findings

It then shall be the duty of the Planning Commission to investigate and ascertain whether the location, size and other characteristics of the site, and the proposed plan, comply with the following conditions:

Need Must Be Demonstrated: The need for the proposed center at the proposed location, to provide adequate shopping facilities or service to the surrounding neighborhood or community, as the case may be, has been demonstrated by the applicant by means of market studies or such other evidence as the Planning Commission may require.

Adequacy of Site: The proposed shopping center is of sufficient but not excessive size to provide adequate neighborhood or community shopping facilities, as the case may be, for the population which may reasonably be expected to be served by such shopping facilities.

Traffic Congestion Not To Be Created: The proposed shopping center is located so that reasonably direct traffic access is supplied from principal thoroughfares, and where congestion will not likely be created by the proposed center; or where such congestion will be obviated by presently projected improvement of access thoroughfares, by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking.

Integrated Design: The plan shall provide for a shopping center consisting of one or more groups of establishments in buildings of integrated and harmonious design, together with adequate and properly arranged traffic and parking facilities and landscaping. The project shall be arranged in an attractive and efficient manner, convenient, pleasant and safe to use, and fitting harmoniously into, and having no adverse effects upon, adjoining or surrounding properties.

D. Permitted Uses

The uses permitted in an integrated neighborhood shopping center shall be those retail business, commercial, and service uses permitted in the B-1 District, and the uses permitted in an integrated community shopping center shall be the same kinds of uses as permitted in the B-2 District. No residential uses, commercial uses first permitted in B-3 and B-4 Districts, or industrial uses, shall be permitted, or any use other than such as is necessary or desirable to supply with goods or services the surrounding neighborhood or community.

E. Minimum Design Standards

The following minimum standards shall be met in the design of an integrated neighborhood or community shopping center:

Building Heights: No building shall exceed two and one-half stories or thirty-five (35) feet in height.

Yards and Landscaping: No building shall be less than fifty (50) feet distant from any boundary of the tract on which the shopping center is located. The center shall be permanently screened from all abutting properties located in any Residence District by an appropriate wall of acceptable design, except for necessary entrances and exits, from all properties located across the street and within one-hundred (100) feet from such center in any Residence District, by a wall or hedge not less than three (3) feet in height. The exact type and nature of such screening shall be determined by the Planning Commission

Tract Coverage: The ground area occupied by all the buildings shall not exceed in the aggregate twenty-five (25) percent of the total area of the lot or tract.

Customer Parking Spaces: Notwithstanding any other requirement of this Ordinance, there shall be provided not less than three (3) square feet of automobile parking space with suitable access, for each square foot of gross floor devoted to use by patrons.

Loading Space: Notwithstanding any other requirements of this Ordinance, there shall be provided one (1) off-street loading or unloading space for each twenty thousand (20,000) square feet or fraction thereof of aggregate floor space of all buildings in the center. At least one-third of the spaces required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type.

F. Submission and Approval of Final Development Plan

Submission to Commission: Upon determination by the Commission that the proposed integrated neighborhood shopping center or community shopping center, as the case may be, as shown by the preliminary plan, appears to conform to the requirements of this Section, and all other applicable requirements of this Ordinance, the proponents shall prepare and submit a final development plan, which shall incorporate any changes or modifications required or suggested by the Commission.

Recommendation to the Governing Body of Luzerne County and Public Hearing: If the final development plan is found to comply with requirements set forth in this Section and other applicable provisions of this Ordinance, the Commission shall submit said plan with its report and recommendations, together with the required application by the proponents of the necessary change in zoning classification of the site of the proposed center, to the Governing Body of Luzerne County - and copies thereof to the Borough Council or Board of Township Commissioners, or Township Supervisors having jurisdiction over the area involved - which shall hold a public hearing on both the development plan and application for a change in zoning.

Possible Modification and Zoning: Following a public hearing, the Governing Body of Luzerne County may modify the plan, consistent with the intent and meaning of this Ordinance, and may rezone the property to the classification permitting the proposed center, for development in substantial conformity with the final plan, as approved by the Governing Body of Luzerne County.

Adjustments in Carrying Out The Plan: After the final development plan has been approved by the Governing Body of Luzerne County, and in the course of carrying out this plan, adjustments or re-arrangements of buildings, parking areas, loading areas, entrances, heights, or yards, may be requested by the proponents, and, provided such requests conform to the standards established by the final development plan and this Ordinance, such adjustments or re-arrangements may be authorized by the Commission.

Planned Residential Developments

A. Application of Comprehensive Plan

Every application for a planned residential development (PRD) shall be based on, and consistent with, and interpreted in relation to, the Comprehensive Plan of Luzerne County.

B. Referral to Municipality

Every application for a PRD shall be referred to the Planning Commission and governing body of the municipality in which it is located and 30 days shall be given to submit comments or forfeit the right to review.

C. Standards and Conditions for PRD's

Permitted Uses: The permitted land use requirements of the zone within which the PRD unit is located shall apply with the exception that:

Open space reservations shall be considered cause for population density and building intensity increases, and for this purpose the permitted type of dwelling units may include single-family detached homes, townhouses, garden apartments or high-rise apartments provided:

In PRDs of less than 50 acres, only the uses permitted in the Zoning District may be used.

In PRDs of 50 acres or more, a maximum of 20% of the dwellings located within C-1, A-1, S-1, R-1 and R-2 Districts may be multiple dwellings. A maximum of one acre of the commercial and professional uses are permitted, for each 100 dwelling units, when planned and gauged primarily for the service and convenience of residents located in the development, and shall be authorized only to the extent that such uses are not available in reasonable proximity.

In tracts of land of two-hundred (200) or more acres, additional uses may be permitted if approved by the Governing Body of Luzerne County.

D. Prohibited Locations

PRDs are prohibited in commercial, mining, and industrial zoning districts.

Density and Intensity of Land Use

Number of Dwelling Units Permitted:

The maximum number of dwelling units that may be approved in a PRD shall be computed by dividing the net development area by the minimum lot or lot area per dwelling unit required by the district or districts in which the area is located. The area of land set aside for common space or recreational use shall be included in the net development area.

Lot Area: No lot or area per dwelling unit in any district listed below shall be reduced in area below the following minimum standards:

Zoning District	Required Lot Size (Sq. Ft. or Acres)	Permitted PRD Lot Size (Sq. Ft. or Acres)
C-1	2 acres	40,000
A-1	1 acre	20,000
S-1	20,000(1) 11,250(2)	12,000(1) 9,000(2)
R-1	20,000(1) 11,250(2) 7,200(3)	12,000(1) 9,000(2) 6,000(3)
R-2	20,000(1) 11,250(2) 6,000(3) 3,500/D.U.	12,000(1) 9,000(2) 6,000(3) 3,000/D.U.
R-3	6,000 2,000/D.U.	6,000 1,500/D.U.

(1). Neither public water nor sewer.

(2). Individual sewage system on each lot, but public water; or individual water system on each lot, but public sewers.

(3). Public water and sewer.

Note: D.U. - Dwelling Unit

Ownership and Subdivision: The tract or parcel of land involved must be either in one ownership or the subject of an application filed jointly by the owners of all the property included (the holder of a written option to purchase land, and a redeveloper under contract with the Redevelopment Agency to acquire land by purchase or lease, shall for purposes of such application be deemed to be an owner of such land), or by any governmental agency including a Redevelopment Agency. It must constitute an area of at least twenty acres or be bounded on all sides by streets, public open spaces, or the boundary lines of less restrictive use districts. The application may include a proposed subsequent division of the tract or parcel of land involved into one or more separately-owned and operated units. Such proposed subsequent division, if approved along with the PRD, shall be permissible without further approval; otherwise, subsequent division of a PRD shall be permitted only upon application to the Governing Body of Luzerne County through the Planning Commission as provided in the PRD Section.

Standards and Other Conditions

Open Space: Areas set aside for open space under this Ordinance shall be consistent with the comprehensive plan of the County or municipality for future land use. Any such area shall not contain any structure other than one related to a recreational use.

Within the PRD, common open space shall be set aside for the use and benefit of the residents of the PRD.

The deed or deeds to any land set aside as open space must contain a restriction, in a form acceptable to the Governing Body of Luzerne County (Body), to be duly recorded in the office of the Recorder of Deeds in and for said Luzerne County, eliminating the possibility of further subdivision of said open space in the future.

The developer of a PRD shall make adequate provision for the ownership and continuing maintenance of open space and improvements thereon by the establishment of a homeowners organization which is approved by the Body. Such homeowners' organization shall not be dissolved nor shall it dispose of any or all of the open space in any manner whatsoever, except to a separate organization of homeowners' conceived and established to own and maintain said open space from being dedicated to the public by the acceptance of a deed of dedication by the Body, at its sole discretion.

The developer of a PRD shall submit full details concerning the proposed homeowners' organization, its powers, rights, duties, responsibilities, etc., in regard to the ownership, and maintenance of the common open space, which shall be subject to approval by the Body. No final plan shall be approved by the Body without such prior approval.

Other Standards: The following requirements shall apply to single-family detached units:

The lot for each home shall have a width at the building line of not less than 60 feet and a width at the street line not less than 50 feet; the building area shall not exceed 20% of the lot area. There shall be a front yard on each street on which the lot abuts the depth of which shall be at least 40 feet. There shall be two (2) side yards, one on each side of the building, together having an aggregate width of not less than 25 feet, but neither having a width of less than 10 feet. There shall be a rear yard, the depth of which shall be at least 30 feet.

The following requirements shall apply to single-family semi-detached homes:

The lot for each home shall have a width at the building line and at the street line of not less than 50 feet. The building area shall not exceed 30% of the lot area. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least 30 feet. There shall be one side yard for each home which shall be at least 15 feet wide. There shall be a rear yard, the depth of which shall be at least 30 feet.

The following requirements shall apply to single-family attached homes:

The minimum lot size shall be 6,000 sq. ft. The lot for each home shall have a width of not less than 30 feet at the building line and at the street line. No individual section of cluster or group housing shall contain more than 6 single-family townhouses. Each single-family townhouse shall have a setback of not less than 40 feet from an interior road right-of-way within the PRD. No part of any section of cluster or group housing shall be erected within 150 feet of any other building or structure in the PRD.

Each single-family townhouse shall contain at least 1200 sq. ft. of habitable floor area. In no case shall any building or structure exceed 30 feet in height above the ground slab.

Each dwelling unit shall have 2 off-street parking spaces. The county or municipality concerned shall not be obligated to accept the dedication of streets and/or roads within the PRD, but the PRD however, must conform to all the requirements applicable to the size, design and construction of municipal roads and streets.

Flexibility of a municipality to complement the existing neighboring properties and the municipality as a whole is a prime objective of this Ordinance; the combination of uniqueness and beauty of design and architecture in a PRD is encouraged.

E. Enforcement and Modification of the Provisions of the Plan

To further the mutual interest of the residents of the PRD and of the public in the preservation of the integrity of the development plan, as finally approved, and to insure that modifications, if any, in the development plan shall not impair the reasonable reliance of the said residents upon the provisions of the development plan, and not result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement, or otherwise shall be subject to the following provisions:

The provisions of the development plan relating to the use, bulk and location of buildings and structures, the quantity and location of common open space (except as otherwise provided in the PRD Section), and the intensity of use or the density of residential unit shall run in favor of Luzerne County, and shall be enforceable in law or in equity by Luzerne County without limitation on any powers of regulation otherwise granted Luzerne County.

All provisions of the development plan shall run in favor of the residents of the PRD, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to that extent said provision whether recorded by plat, covenant, easement or otherwise, may be enforced at law or equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf, provided, however, that no provision of the development plan shall be implied to exist in favor of residents of the PRD except as to those portions of the development plan which have been finally approved and have been recorded.

All those provisions of the development plan authorized to be enforced by Luzerne County under this section may be modified, removed or released by the Governing Body of Luzerne County (Body) except grants or easements relating to the service or equipment of a public utility subject to the following conditions:

No such modification, removal, or release of the provision of the development plan by the municipality shall affect the rights of the residents of the PRD to maintain and enforce those provisions, at law or equity, as provided in this section;

No modification, removal or release of the provisions of the development plan by the County shall be permitted except upon a finding by the Body following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of this article, that the same is consistent with the efficient development and preservation of the entire PRD, does not adversely affect either the enjoyment of land abutting upon or across the street from the PRD or the public interest, and is not granted solely to confer a special benefit upon any person;

Residents of the PRD may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the County to enforce the provisions of the development plan in accordance with the provisions of this Section.

F. Application for Tentative Approval of a PRD

The application for tentative approval of a PRD shall include a written statement by the landowner(s) setting forth the reasons why, in his opinion, a PRD would be in the public interest and would be consistent with the Comprehensive Plan of the County or Municipality.

The Planning Commission of Luzerne County shall determine whether or not the PRD conforms with the Comprehensive Plan of Luzerne County and/or the Municipality in which it is located, and particularly the Land Use Plan in the Comprehensive Plan, and shall review the application for tentative approval, and make recommendation to the Governing Body of Luzerne County.

An application for tentative approval of a PRD shall be informative and shall contain a detailed plan consisting of the following:

The location, size, soil conditions and topography of the entire tract and adjacent properties;

The nature and interest of any and all owners of the tract, as well as the owners of all adjacent neighboring tracts of land;

The density of land use to be allocated to parts of the tract to be developed;

The location and size of the common open space;

The specific details of the proposed homeowners' organization created to own, maintain and improve the open space, along with the proposed deed restrictions, homeowners' agreements, etc. concerning ownership and maintenance of said open space;

The feasibility studies of public water and public sanitary sewer lines and treatment plants, and the location and size of storm water facilities made by an engineer licensed to practice in Pennsylvania, and the recommendations of the Pennsylvania Department of Environmental Protection on the proposed water and sewer systems;

The use, dimension, location, architectural design and elevation of all buildings and structures, including architectural schematics;

The covenants, restrictions, grants of easements, or any other restrictions to be imposed on the use of land, buildings, and structures, including the location of the proposed easements for public parking;

The provisions for parking of vehicles and the location and width of all proposed streets and public and/or private rights-of way;

The existing zoning applicable to said tract, and the required modifications in the County or Municipality land regulations, otherwise applicable to the subject property;

The specific use of the open spaces, and the condition of said open space at such time it is turned over to the homeowners' organization and the proposed dates or dates thereof; In the event that the application for preliminary approval calls for a development of the entire tract over a period of time, the time schedule proposed for such development, as well as a time schedule showing approximately when applications for final approval of all sections will be filed; all such time schedules shall be up-updated annually until development is completed and accepted, and shall be changed only with the approval of the Governing Body of Luzerne County.

The application for tentative and final approval of a development plan for a PRD shall be in lieu of all other procedures and approvals, otherwise required pursuant to the Luzerne County Ordinance and Subdivision Regulations.

G. Public Hearings

Within 60 days after the filing of an application for tentative approval of a PRD, a public hearing pursuant to public notice on said application shall be held by the Governing Body of Luzerne County (Body) in the manner prescribed for the enactment of an amendment to the Zoning Ordinance. The chairman, or in his absence, the acting chairman, of the Body may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross examine adverse witnesses.

A verbatim record of the hearing shall be caused to be made by the Body whenever such records are requested by any party to the proceedings; but the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved, or if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.

The Body may continue the hearing from time to time, and may refer the matter back to the County Planning Commissions for a report, provided, however, that in any event, the public hearing(s) shall be concluded within 60 days after the date of the first public hearing.

H. The Findings

The Body, within 30 days following the conclusion of the public hearing provided for in this article, shall be official written communication to the landowner either:

Grant tentative approval of the development plan as submitted;

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

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

The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for grant, with or without conditions, or for the denial, and said communications shall set forth with particularity in what respects the development plan would or would not be in the public interest including but not limited to findings of fact and conclusions on the following:

In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the County or the Municipality.

The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.

The purpose, location and amount of the common open space in the PRD, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development

The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.

The relationship, beneficial or adverse, of the proposed PRD to the neighborhood in which it is proposed to be established; and

In case of a development plan which proposed development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the PRD in the integrity of the development plans. In the event a development plan is granted tentative approval, with or without conditions, the Body may set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than 3 months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall not be less than 12 months.

I. Status of Plan After Tentative Approval

The official written communication provided for in this article shall be certified by the County Manager and shall be filed in his office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the zoning map in the office of the Zoning Officer of Luzerne County.

J. Application for Final Approval

An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Body and within the time(s) specified by the official written communication granting tentative approval. The application shall include any drawings, specifications, easements, performance bond and such other requirements as may be specified by ordinance, as well as any conditions set forth in the official written communication at the time of tentative approval. A public hearing on an application for final approval of the development plan or part thereof shall not be required provided the development plan, of the part thereof, submitted for final approval, is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto. The Body may refer it to the County Planning Commission for recommendation.

In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the Body shall, within 30 days of filing, grant such development plan final approval, provided it conforms with the tentative approval.

In the event the development plan as submitted contains variations from the development plan given tentative approval, the Body may refuse to grant final approval and shall, within 30 days of the filing of the application for final approval, so advise the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either: refile his application for final approval without the variations projected, or

File a written request with the Body that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate actions, he may do so at any time within which he shall be entitled to apply for final approval, or within 30 additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within 30 days after the request for the hearing is made by the landowner and the hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval. Within 30 days after the conclusion of the hearing, the Body shall by official written communication either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in the PRD section.

A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Body and shall be filed of record forthwith in the office of the Recorder of Deeds before any development shall take place in accordance therewith. Upon the filing of record of the development plan the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion within a reasonable time of said PRD or of that part thereof as the case may be, that has been finally approved, no modifications of the provisions of said development plan, of part thereof, as finally approved, shall be made except with the consent of the landowner.

In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan of the section thereof that has been finally approved, and shall so notify the Body in writing; or in the event the landowner shall fail to commence and carry out the PRD within such reasonable period of time as may be fixed by ordinance after final approval has been granted, no

development or further development shall take place on the property included in the development plan until after the said property is re-subdivided and re-classified by enactment of an amendment to the Luzerne County Zoning Ordinance in the manner prescribed in such Ordinance.

Plans submitted for final approval shall be prepared with the Subdivision Regulations of Luzerne County and all construction shall be in accordance with the Subdivision Regulations and all other codes and ordinances of Luz. Co., except those excluded under this Section. The Subdivision Regulations of Luz.Co., as amended, shall govern the construction and acceptance of all public improvements.

6.16 Public and Parochial Schools and Colleges, and Private Schools and Colleges for Academic Instruction

These structures shall be located not less than 50 feet from any other lot in an S-1 or R-1 District, and not less than 20 feet from any lot in an R-2 or R-3 District.

6.17 Race Track (Horse)

Commercial race horse tracks must have all activities, including all buildings, not less than 200 feet from any residence district or any lot occupied by a dwelling, school, church, or institution for human care. Traffic in connection with race tracks, must be arranged to cause a minimum of congestion.

6.18 Race Tracks (Automobile, Including Go-Cart Areas and Midget Race Tracks)

Automobile race tracks shall require the approval of the Zoning Hearing Board.

Automobile race tracks shall be located a minimum of 500 feet from any Residence District.

The Board shall consider the noise factor, and require noise deadening devices, or other means, to prevent the noise from becoming objectionable to surrounding areas.

6.19 Solid Waste Disposal Areas

Plans for solid waste disposal areas shall be in harmony with existing surrounding uses or those proposed in the Land Use Plan, and the approval of the Department of Environmental Protection and the Pennsylvania Department of Mines and Mineral Industries as to fire hazards.

6.20 Sawmills

Sawmills in Agricultural Zoning Districts shall require approval of the Zoning Hearing Board. The Board shall approve only temporary sawmills in this District, and shall require a minimum distance of 1,000 feet from Residence Districts.

6.21 Sewage Disposal Plants

Plans for sewage disposal plants must be in harmony with surrounding uses and the written approval of the Department of Environmental Protection must be obtained.

6.22 Swimming Pools, Private, or Community or Club

A. Private Swimming Pools

A private swimming pool, but not including farm ponds, as regulated herein, shall be any pool, permanently attached to the ground, not located within a completely enclosed building, and containing, or normally capable of containing water to a depth at any point greater than one and one-half feet. No such swimming pool shall be allowed in a C-1, A-1, or any Residence District except as an accessory use and unless it complies with the following conditions and requirements:

The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged.

Yard requirements shall be the same as those required for unattached accessory structures.

The swimming pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties, said fence or wall to be not less than 4 feet in height and maintained in good condition, and grounded for electricity. This section applies to both inground and above-ground pools, except as noted below.

The requirements of the above paragraph regarding walls and/or fences shall not apply to above-ground swimming pools if the side walls of such pools are at least 4 feet in height (as measured from the surrounding ground level) and if decked, secured by a locked gate. If access is provided by a retractable ladder, it must be removed when pool is not in use.

B. Community or Club Swimming Pools

A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club solely for use and enjoyment by members of the association or club and their families and guests of members. Community and club swimming pools shall comply with the following conditions and requirements:

The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than 100 feet to any property line of the property on which it is located.

The swimming pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than 4 feet in height, grounded for electricity, and maintained in good condition. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs and trees, and maintained in good condition.

6.23 Tourist Homes

For tourist homes in R-2 and R-3 Districts, not more than 4 guests are permitted, as well as an unlighted sign not exceeding 12 square feet in area, or a lighted sign not exceeding 3 square feet in area with enclosed lighting through translucent glass or by blue or green neon.

6.24 Mobile Homes, Trailers, and Mobile Home or Trailer Parks

A. Mobile Homes and Trailers

A trailer or mobile home is permitted in A-1 and C-1 Districts on wheels on a 2-year permit, provided utilities are properly provided for, subject to removal in 90 days if the area is rezoned residential. Temporary permits may be obtained in the same districts, without permanent installation of utilities, provided sanitary facilities are properly provided for. However, a mobile home may obtain a permanent permit in the same districts, provided that the following conditions are met:

It is placed upon a suitable permanent, wholly-enclosed foundation;

Its location on the lot conforms in every respect to the setbacks required for a single-family dwelling and individual sewage disposal facilities are provided.

A mobile home may be occupied as a single-family dwelling, as defined in Article 11 and may be located upon a permitted lot, within a Residence District, provided that the following conditions are met:

It is placed upon a suitable, permanent, wholly-enclosed foundation;

The structure, its design, and minimum interior building area, not including any basement, is as provided in Article 5 heretofore, its individual sewage disposal facilities, and its location upon the lot, conform in every respect to every other Article or provision of this Ordinance relating to single-family dwellings within a Residence District. The establishment, use, location and design of such mobile home within a Residence District must not, under any circumstances, appreciably detract from the character of the area surrounding it, as determined by the Zoning Hearing Board.

No trailer or mobile home shall be used outside of a permitted trailer or mobile home park, to provide living quarters or space for the conduct of business, except as stated in Article 6.24A or except that it may be used temporarily for office purposes during the construction of a principal building or a road in any district other than a Residence District, or in a

Residence District with approval of the Board, on the issuance of a temporary permit by the Zoning Officer.

B. Trailer or Mobile Home Parks

Trailer or Mobile Home Parks, where permitted, shall observe the following requirements:

No trailer or mobile home park shall have an area less than 5 acres, nor an average gross area per trailer or mobile home of less than 3,000 square feet.

Every trailer or mobile home shall be supplied with a potable water service. Mobile homes shall be connected to a sanitary sewer and an approved sewage disposal system. Trailers shall be provided with a common sewage disposal system in order that the removal and disposing of sewage from trailer holding tanks is accomplished in a sanitary manner. Toilet facilities for the public, which are separate for each sex, shall be provided on the premises. Sewage systems for mobile homes or trailers shall be approved by the Pennsylvania Department of Environmental Protection.

A safe, usable recreation area shall be conveniently located in every trailer or mobile home park and shall contain a total area equivalent to an allowance of 300 square feet per trailer, which shall not be less than 10% of the gross area of the trailer or mobile home park.

No trailer or mobile home shall be located less than 50 feet from an abutting property in a C-1, A-1, or Residence, or M-1 District.

The trailer or mobile home park shall be permanently landscaped and maintained in good condition.

All requests to make temporary mobile home parks permanent, which mobile home parks occurred as a result of the flood caused by Hurricane Agnes during the time zoning was suspended for housing for flood sufferers by the State Council of Civil Defense, must first be submitted to the Zoning Hearing Board for consideration as a Use by Special Exception, in conformity with Section 8.42 of this Ordinance and all other Sections of this Ordinance regulating Special Exceptions. After action is taken upon the application by the Zoning Hearing Board, said application and decision shall then be certified to the Zoning Officer to comply with the procedure for rezoning as set forth in this Ordinance under Article 10 and all Sections thereof.

Except for trailers or mobile homes offered for sale on trailer or mobile home sales lots, or those for which the necessary permits have been obtained, the parking of a trailer or mobile home outside of a permitted trailer or mobile home park in any district for 48 hours or more shall be prohibited, except as permitted in Section 6.24C.

C. Camping and Recreational Equipment

Any owner of camping and recreational equipment, including but not limited to, travel trailers, pick-up coaches, motorized homes, and boat trailers, may park or store such equipment on private residential property subject to the following conditions:

Such parked or stored camping and recreational equipment shall never be occupied or used for living, sleeping or housekeeping purposes.

If the camping or recreational equipment is parked or stored outside of a building, it shall be parked or stored, if possible, to the rear of the building line of the lot, and in all cases, shall at least be parked or stored to the rear of the front building line of the lot.

Notwithstanding the provisions stated in the above paragraph, camping and recreation equipment may be parked anywhere on the premises while actually being loaded or unloaded.

6.25 Accessory Structures

A. Attached Accessory Structures

Accessory structures which are attached to the principal building shall comply with all the yard requirements for a principal structure.

B. Unattached Accessory Structures

Unattached accessory structures in residence districts shall be erected within the rear yard, provided they conform to the following conditions:

Maximum height - Fifteen (15) feet, except in the A-1 district.

An accessory structure shall not be less than five (5) feet from the side lot line, except by consent in writing of the adjoining lot owner.

Side yard (corner) - same as for a principal structure.

An accessory structure shall not be less than three (3) feet from the rear lot line, except when the structure abuts an alley, in which case, 10 feet shall be required.

Unattached accessory structures in districts other than residence districts shall comply with the front and side yard requirements for the principal structure. They shall have a rear yard of ten (10) feet, except as otherwise specified in this Ordinance.

If there is no principal use structure on a lot, or section of a lot divided by a road or alley, the first accessory use structure built must comply with the principal use requirements.

6.26 Camps

The Zoning Hearing Board shall require the approval of the Pennsylvania Department of Environmental Protection.

6.27 Storage of Explosives

The Board shall determine that the use does not conflict with any State or Federal laws, and shall check to see that the utmost in safety is provided for, that the area is not developed or developing, and enough open space acquired by the applicant to protect nearby properties.

6.28 Rooming or Boarding Houses

No more than two (2) roomers will be permitted for each bedroom and 80 square feet of bedroom space per roomer will be required. Smoke alarms and fire extinguishers will be provided for each bedroom, and in one general location. The applicant will provide proof of notification of the local fire and police providers. Applicants for Personal Care Boarding or Domicillary Care Houses shall present documentation of proof submittal to the Pennsylvania Licensing Agencies Department of Public Welfare or Office for the Aging, and must conform to the Department of Labor and Industry Standards.

6.29 Adult Entertainment/Bookstore (Theater)

No operation under this category shall be located within one thousand (1,000) feet of the following:

1. A church;
2. A school, nursery, daycare center, library, college, or university;
3. The boundary of any Residence District (R-1, R-2, R-3, S-1) or the property line of a lot devoted to residential use;
4. A public recreational facility;
5. Another operation under this category;

This measurement shall be made in a straight line, from the nearest portion of the structure used as this type use to the nearest property line of the above-listed uses.

Operations under this category shall not be open nor conduct activity between the hours of 12:00 AM (midnight) to 12:00 PM (noon).

6.30 Correctional Institutions

Applications for Correctional Institutions may only be approved as Special Exception by the Zoning Hearing Board (Board) and shall demonstrate to the Board and provide information that the following requirements are being fully satisfied:

- A.** That traffic, sanitary and environmental safety measures will be provided and be operational and fully useable before such operations or activities and functions commence; and
- B.** That light fixtures for security and night operations are positioned and designed to avoid glare and safety hazards on adjacent roadways or properties and nuisance effects on the nearby area. Lighting shall be directed to shine away from abutting properties and into the Institution's property; and
- C.** A formal written standing commitment from the highest responsible official and/or policy board that operational policies, practices (including maximum inmate number) and staffing plans will provide on-going security and control to prevent unauthorized trespass and litter on adjacent properties or unreasonable risk to safety of nearby residents; and
- D.** An Emergency Response Plan which guarantees that the facility owner will either provide directly or provide to the municipality whatever supplementary equipment, personnel and financial resources as deemed necessary by the municipality to properly train and develop the necessary capability for effective response to fire, explosion, riot, epidemic, toxic spill, or other identifiable potential incident; and
- E.** A communications plan which defines in detail the manner in which municipal officials, broadcast and print news media, and any appropriate public safety officials will be immediately notified and fully briefed on listed reportable incidents, including their ultimate disposition and preventative measures being undertaken to prevent their recurrence as well as a mechanism for advisory input from Luzerne County, the Luzerne County Planning Commission and the host municipality to the owner; and
- F.** An accountability chart which identifies the on-site and parent organization chain of command by position and name of incumbents, such names to be regularly updated; and
- G.** A Maintenance Plan which assures that the physical appearance and utility functions, as well as residential and food processing, storage and serving areas will be kept in a sanitary and secure condition with reasonable effort to assure that the value of adjacent properties will not be adversely affected; and
- H.** That Correctional institution principal and accessory structures shall be a minimum distance of 300 feet from any property line; and
- I.** That the applicant shall establish and maintain a 50 ft. landscaped buffer area around the perimeter of the site and the landscaping plans shall be reviewed by the Board as part of the

Special Exception Plan rather than requiring any necessary variances, with security as a primary consideration, and the Board shall take into account the security plan in considering any modifications of required landscape planting and/or buffer area;

J. All permits, licenses and approvals required from Federal or State Agencies must be secured with documentation supplied with the application or said requirement shall become a condition of approval.

A. Nothing in this section or this Ordinance is intended nor shall be applied or interpreted to attempt to regulate those aspects of correctional institutions which are specifically regulated by the PA Department of Corrections or the US Department of Justice, provided that the above essential precautions are defined by such regulations in as much detail as required herein. The intent of this section is to provide a mechanism whereby Luzerne County and the municipality can assure that the site planning and site location of such activities and facilities complies with reasonable precautions for public safety, public health and protection of nearby property values.

B. No Correctional Institution shall be located less than 1000 feet from any of the following:

K. A residential dwelling

L. A zoning boundary of any residential zoning district

M. A place of worship

N. A school, child care facility, park, public playground or similar recreational facility

A. Measurement: Measurements of the required distance shall be made in a straight line, from the nearest portion of the Correctional Institution's property boundary line, to the nearest property line of the above noted uses, or district.

B. A Zoning/building permit may not be issued until the proposed Correctional Institution has received final land development plan approval from the Luzerne County Planning Commission.

6.31 **Crematory:** A solid 6 ft. high fence (Subject to the provisions of Section 7.02 D), or evergreen type plantings of similar height, shall be provided along all property lines abutting any Residence District, or residential street

ARTICLE 7 - EXCEPTIONS AND MODIFICATIONS

7.01 Existing Lots of Record

Any lot of record existing at the effective date of this Ordinance in any C-1, A-1, or R-District, may be used for the erection of a single-family dwelling, even though its area and width is less than the minimum requirements set forth herein, except as set for hereafter. Where yard spaces do not meet the requirements of the C-1, A-1, or R Districts as given in Table 5, variances may be requested of the Board as indicated in Section 8.44. Where two (2) adjacent lots of record with less than the required area and width are held by one (1) owner, the request for a permit shall be referred to the Board, which may require that the two (2) lots be combined and used for one (1) main building. Where three (3) or more adjacent lots of record with less than the required area and width are held by one (1) owner, the Board may require replatting to fewer lots which would comply with the minimum requirements of this Ordinance.

7.02 Yards

A. Front Yards

In any A-1 or "R" District, the front yard depth for any residential building hereafter erected, shall be the average of the front yard depths of the lots immediately adjoining on each side, provided such adjoining lots are improved with principal buildings situated within 200 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall not be less than the average depth of the front yards of all improved lots in the same block front within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 60 feet in the C-1 and A-1 Districts or more than 50 feet in 'R' Districts, and shall not be less than ten (10) feet.

In any "R" District, where a lot runs through a block from street to street, a front yard as required by this Ordinance shall be provided along each street lot line which is not a side street lot line.

In any "B" District, the front yard setback of any building or other structure hereafter erected shall be the average of the front yard depths of the lots immediately adjoining on each side, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall not be less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above.

B. Side Yards

The Board may authorize the required width of one side yard for a single or two-family dwelling to be reduced to not less than three (3) feet, provided that the combined side yards shall not be less than the required minimum, and provided the distance between the proposed dwelling, and another dwelling, existing or proposed on an adjacent lot, is not less than the required minimum sum of the two (2) side yards.

Where the side wall of a building is irregular, or not parallel with the side lot line, the average width of the side yard shall not be less than the otherwise required least width, provided that the side yards shall not be narrower at any point than five (5) feet where the Ordinance would ordinarily would require five (5) feet or more.

C. Other Yards

Non-residential buildings constructed or uses hereafter established shall not be located or conducted closer to any lot line in a C-1, A-1 or “R” District than the distance specified in the following schedule, except as provided in Section 7.2 D or Section 6.14D:

Minimum Side or Rear Yard (Feet)	Use
50	Off-street parking spaces and access drives for non-residential uses
80	Churches, schools, and public or semi-public buildings
100	Recreation facilities, entertainment facilities, motels trailer camps, strip mining, culm banks
150	Facilities for the commercial boarding or care of domestic animals, outside sale or storage of building material or construction equipment, auto salvage operations, breakers, and truck terminals

For non-residential uses listed in the Table above abutting a lot in a C-1, A-1 or “R” District, the minimum yards may be reduced to ten percent (10%) of the above requirements if acceptable landscaping or screening, approved by the Zoning Officer, is provided. Such screening shall be a masonry wall or solid fence, between five (5) and six (6) feet in height, maintained in good condition and free from all advertising or other signs. Landscaping, provided in lieu of such wall or fence, shall consist of a strip of land not less than 15 feet in width, planted with an evergreen hedge or dense planting of evergreen shrubs, not less than five (5) feet in height.

D. Projections Into Yards and Courts

A wall or fence under six (6) feet in height, or higher if a retaining wall, may be erected within the limits of any yard or outer court and may not block visibility from side streets, or adjoining property driveways.

Patios, terraces and open porches may be located in side and rear yards, not closer than three (3) feet to any adjacent property line. If located closer than eight (8) feet in any District except an R-3 District, or five (5) feet in an R-3 District, they shall be adequately screened from the adjoining lot.

Chimneys, leaders, cornices, eaves, gutters and bay windows, and the like, may extend not more than 18 inches into any required yard, except that fully cantilevered projections no less than seven (7) feet in height are permitted in commercial districts up to the property line.

Utility facilities necessary to serving any area are exempt from height limitations applicable to the various zoning districts.

Ramp entranceways to structures for disabled persons shall be exempt from setback requirements.

7.03 Regulations Governing Communications Antennas and Communications Equipment Buildings

- A.** Building mounted Communications Antennas shall not be located on any single family, two family, or multiple family dwelling. Building mounted Communications Antennas shall be permitted to exceed the height of the applicable zoning district by no more than twenty (20) feet.
- B.** Omni-directional or whip Communications Antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter,
- C.** Directional or panel Communications Antennas shall not exceed five (5) feet in height and three (3) feet in width.
- D.** Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence from a Pa. registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the building or other structure, considering wind and other loads associated with the antenna location.
- E.** Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit detailed construction and elevation drawings indicating how the antennas will be mounted on the structure for review for compliance with the applicable local municipal building code.

- F. Any applicant proposing Communications Antennas to be mounted on a building or other structure shall submit evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the antennas and Communications Equipment Building can be accomplished.
- G. Communications Antennas shall comply with all applicable standards established by the FCC governing human exposure to electromagnetic radiation. Communications Antennas shall not cause radio frequency interference with other communications facilities located in Luzerne County.
- H. A Communications Equipment Building shall be subject to the height and setback requirements of the applicable zoning district for an accessory structure.
- I. The owner or operator of Communications Antennas shall be licensed by the FCC to operate such antennas.

ARTICLE 8 - ZONING HEARING BOARD

8.01 Organization and Procedure

A. Organization

The Zoning Hearing Board shall consist of three (3) members to be appointed by the Governing Body of Luzerne County, one (1) of whom shall be designated to serve until the first day of January following the adoption of the Zoning Ordinance, one (1) until the first of the second January thereafter, and one (1) until the first day of the third January thereafter. On the expiration of their appointed terms, their successors shall be appointed for a three (3) year term. Vacancies shall be filled for the unexpired term of any member. At the expiration of a member's term, he shall remain in office until he is reappointed or replaced.

B. Procedure

The Board shall organize and adopt rules of procedure not inconsistent with this Ordinance or the Pennsylvania Municipalities Planning Code, Act 247.

C. Meetings

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. The Chairman, or in his absence the acting Chairman, or Hearing Officer appointed from the membership of the Board, may administer oaths and compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties. All meetings of the

Board shall be open to the public. The Board or the Hearing Officer, as the case may be, shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of the examinations and other official actions. The records of the Board shall be kept in the office of the Zoning Officer and shall be a public record. The Board shall meet at least once a month, if it has any cases to come before it.

D. Quorum

For the conduct of any hearing and the taking of any action, a quorum shall not be less than two (2) members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Board as provided in Section 908, Act 247, Pennsylvania Municipalities Planning Code.

8.02 Applications and Appeals To The Board

A. Applications

Application for special exception, in cases in which the Board has original jurisdiction, under the provisions of this Ordinance, shall be filed with the Zoning Officer who shall transmit same to the Board.

B. Application Requirements

Applications shall be submitted to the Zoning Officer upon such forms and accompanied by such data and information as may be prescribed for that purpose by him or the Board, so as to assure the fullest practicable presentations of facts for the record. Each application shall be verified in writing by the owner or majority of owners for the area proposed for development or use, attesting to the truth and correctness of all facts and information presented with the application. It shall contain an assessment map of the subject property, and for all of the properties within 100 feet, a listing of the name and address of property owners. The Zoning Officer shall check the application to determine whether it conforms with the requirements listed above, and if satisfactory, shall immediately submit it to the office of the Zoning Hearing Board.

C. Appeals

Appeals may be taken by an officer of the County or the city, borough or township affected, or by any other person aggrieved by any decision of the Zoning Officer or other administrative official or agency. Such appeal shall be taken within 30 days after said decision, by filing with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall arrange for the proper notices, and shall bring the appeal before the Board at its next meeting. Nothing contained herein shall be construed to deny to the

appellant the right to proceed directly in court, where appropriate, pursuant to Pennsylvania Rules of Civil Procedure, Sections 1091 to 1098 relating to mandamus.

D. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer shall certify to the Board, after the notice of appeal shall have been filed with it, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Common Pleas Court, after notice to the Officer from whom the appeal is taken, and on due cause shown.

E. Decision Of The Board

The Board may in conformity with the provisions of this Article reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end, shall have all powers of the Zoning Officer from whom the appeal is taken.

F. Refiling Of Disapproved or Withdrawn Cases

If a case is disapproved by the Board, thereafter the Board shall take no further action on another case for substantially the same proposal on the same property, until one (1) year after the date of such disapproval. If a case before the Board is advertised, and thereafter withdrawn by the applicant before or at the meeting of the Board, he shall be precluded from filing another application for substantially the same proposal on the same premises for six (6) months, and the case shall be re-advertised.

G. Transcript Fees

The cost of the original transcript and any additional copies shall be paid by the person appealing from the decision of the Board if such appeal is made. In other cases the parties requesting the original transcript shall bear the cost thereof and any additional copies.

H. Filing

The Board may require the applicant to furnish such information as it deems necessary when filing an appeal.

8.03 Hearings

Upon filing of an appeal or application, the Board shall fix a time and place for a hearing, and give due notice as follows:

A. Public Notice

“Public Notice”, notice given not more than ten (10) days and not less than seven (7) days in advance of any public hearing required by Act 247, Pennsylvania Municipalities Planning Code. Such notice shall be published once 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 hearings of the Board shall be public. However, the Board may go into executive session.

B. Adjourned Hearings

Upon the day for hearing any application or appeal, the Board may adjourn in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be substantially interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides, provided the Board publicly states the date of hearing at the time, otherwise they shall be notified.

C. Decisions Of The Board

The Board shall decide all applications and appeals within 45 days after the final hearing thereon. Notice of decision shall be given to all parties so requesting. The Board’s decision shall be binding on the Zoning Officer, and he shall incorporate the terms and conditions of the same in any permit issued. If the Board does not render its decision within 45 days of the final hearing, it shall be deemed that the Board has decided in favor of the party making the request.

8.04 Powers, And Limitations of Powers, Of The Board

A. Administrative Review

The Board shall have the power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the Zoning Officer or other administrative official or agency, based on or made in the enforcement of the Zoning Ordinance.

B. Standards for Communications Towers

1. The applicant shall demonstrate that it is licensed by the FCC to operate a Communications Tower, if applicable, and Communications Antennas.
2. The applicant shall demonstrate that the proposed Communications Tower and Communications Antennas thereon comply with all applicable standards established by the FCC governing human exposure to electromagnetic radiation.
3. Communications Towers shall comply with all applicable Federal Aviation Administration (FAA), Commonwealth Bureau of Aviation and applicable Airport Zoning Regulations.
4. Any applicant proposing construction of a new Communications Tower shall demonstrate that a good faith effort has been made to obtain permission to mount the Communications Antennas on an existing building, structure, or Communications Tower. A good faith effort shall require that all owners of a potentially suitable structure within a two-mile (2) radius of the Communications Tower site be contacted and that one (1) or more of the following reasons for not selecting such structure apply:
 5. The proposed antennas and related equipment would exceed the structural capacity of the existing structure and its reinforcements cannot be accomplished at a reasonable cost.
 6. The proposed antennas and related equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
 7. Such existing structures do not have adequate location, space, access, or height to accommodate the proposed equipment or to perform its intended function.
 8. Addition of the proposed antennas and related equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the FCC governing human exposure to electromagnetic radiation.
 9. A commercially reasonable agreement could not be reached with the owners of such structures.
10. Access shall be provided to the Communications Tower and Communications Equipment Building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.

11. Communications Tower may be located on a lot occupied by other principal structures and may occupy a leased parcel within a lot meeting the minimum lot size requirements for the zoning district.
12. Land development approval shall not be required for a lease parcel on which a Communications Tower is proposed to be constructed, provided the Communications Equipment Building is unmanned.
13. Subdivision approval shall be required for a lease parcel on which a Communications Tower is proposed to be constructed. The applicant shall demonstrate that the proposed height of the Communications Tower is the minimum height necessary to perform its function.
14. In all zoning districts except Mining (M-1), the maximum height of any Communications Tower shall be one hundred fifty (150) feet; provided, however, that such height may be increased to no more than two hundred (200) feet, provided the required setbacks from adjoining property lines (not lease lines) are increased by one (1) foot for each one (1) foot of height in excess of one hundred fifty (150) feet. In the Mining (M-1) zoning district, the maximum height of any Communication Tower shall be one hundred eighty (180) feet.
15. The foundation and base of any Communications Tower located adjacent to any residentially occupied property, or adjacent to any residential zone, shall be set back from a property line (not lease line), at least one hundred (100) feet and shall be set back from any other property line (not lease line) at least fifty (50) feet.
16. The base of a Communications tower shall be landscaped so as to screen the foundation and base and Communications Equipment Building from abutting properties. The Communications Equipment Building shall comply with the required setbacks and height requirements of the applicable zoning district for an accessory structure.
17. The applicant shall submit certification from a Pa, registered professional engineer that a proposed Communications Tower will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Associations / Telecommunications Industry Association
18. The applicant shall submit a copy of its current FCC license; the name, address, and emergency telephone number for the operator of the Communications Tower; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount \$1,000,000 per occurrence covering the Communications Tower, Communications Antennas, Communications Equipment and

Communications Building. Proof of said insurance certificate to be submitted annually to the Luzerne County Planning Commission.

19. All guy wires associated with guyed Communications Towers shall be clearly marked so as to be visible at all times and shall be included within a fenced enclosure.
20. The site of a Communications Tower shall be secured by a fence with a maximum height of eight (8) feet to limit accessibility by the general public. No signs or lights shall be mounted on a Communications Tower, except as may be required by the FCC, FAA, Luzerne County, or other governmental agency which has jurisdiction.
21. If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the Communications Tower within six (6) months of the expiration of such twelve (12) month period.
22. One off street parking space shall be provided within the fenced area.

C. Special Exceptions

The Board shall have the power to hear and decide requests for special exceptions set forth in this Ordinance as follows, but not limited to: Articles 2.05, 2.06, 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.09, 4.10, 4.11, 4.13J, 6.14C, 6.15B, 6.18, 6.20, 6.24A, 6.27, and 7.1.

In considering an application for special exception, the Board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance for the particular special exception, as the Board may deem necessary to implement the purposes of this Ordinance.

D. Temporary Uses And Permits

In addition to permitting the special exception heretofore specified, the Board shall have authority to hear and decide on requests for temporary structures and uses in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Ordinance for the district in which it is located, provided that such use be of a temporary nature which does not involve the erection of a substantial structure. Any request for such structure or use, when approved, shall be granted in the form of a temporary and revocable permit, for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

E. Interpretations Of The Zoning Map

Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this Ordinance, and shall make findings on all relevant issues of fact, which shall become part of the record on appeal to court. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board, who, after a public hearing, shall decide all questions of interpretation and shall make findings on all relevant issues of fact, which shall become part of the record on appeal to Court.

8.41 Variances

On an appeal from an order, requirement, decision or determination of the Zoning Officer, or any other administrative officer or agency, the Board may grant a variance in the application of the provisions of the Zoning Ordinance, only if all of the following findings are made: (except for industrial variances where a substantial number of persons will be employed or retained and where more flexibility may be exercised).

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 to circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;

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;

That such unnecessary hardship has not been created by the appellant;

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; and

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance.

8.42 Specific Limitations Of Powers Of The Board

The Board does not have the power to amend any zoning ordinance, to rezone any land, to declare this Zoning Ordinance or any amendment thereto invalid, or to allow any use not permitted by this Zoning Ordinance.

The fact that a property owner will suffer financial hardship if not granted a special exception or a variance from the Zoning Ordinance, is of itself insufficient ground for granting a variance.

ARTICLE 9 - ADMINISTRATION AND ENFORCEMENT

9.01 Administration

A. Zoning Officer

The provisions of this Ordinance shall be administered by the Luzerne County Planning Director as Zoning Officer, the office of which is hereby established.

The duties of the Zoning Officer shall be: to receive and check all applications for zoning permits and certificates of occupancy.

To issue zoning permits and certificates of occupancy only for construction and uses which are in accordance with the regulations of this Ordinance and subsequent amendments, or through Board or Court approval. Zoning permits and certificates of occupancy shall not be issued where the request concerns a lot, parcel or tract in a subdivision required to be approved under the applicable Subdivision Regulations, which subdivision has not had the required approval.

To record and file all applications for zoning permits and certificates of occupancy together with accompanying plans and documents and keep them for public record.

The Zoning Officer shall issue certificates of occupancy for non-conforming uses. He shall examine them periodically to determine that they do not expand beyond the limitations prescribed in the Ordinance.

Upon specific request of the Commission or Board, to furnish such facts, records and similar information, which will assist such body in reaching the decision.

To be responsible for keeping this Ordinance including the Zoning Map, up to date, and to include any amendments thereto.

If the Zoning Officer shall find that any provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; order discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or prevent violation of its provisions.

B. Zoning Permits

A zoning permit shall be required prior to the erection, construction, moving or alteration of any building, structure or portion thereof, but not including normal repairs, maintenance, or interior remodeling.

Applications for zoning permits shall be made in writing to the Zoning Officer and shall contain all information necessary to ascertain whether the proposed erection, construction, alteration or use complies with the provisions of the Ordinance including the following:

Plan in duplicate drawn to scale indicating:

Actual dimensions and shape of the lot to be built upon;

Exact size and location on the lot of all buildings and other structures, if any, and the location and dimensions of proposed buildings and other structures or additions;

Existing and proposed uses, showing the number of families the building is designed to accommodate.

Applications for zoning permits shall be granted or refused within 15 days from date of application. One (1) copy of the plan shall be returned to the applicant marked either approved or disapproved and attested to same by the signature of the Zoning Officer. The second copy of the plans, similarly marked, shall be filed in the office of the Zoning Officer.

C. Certificates of Occupancy

A certificate of occupancy shall be required prior to the occupation for use or change of use of land, building or structure, except for uses accessory to private residences, private recreation or agricultural uses.

Application for a certificate of occupancy shall be made in writing to the Zoning Officer:

When use of premises involves a new building or structure, or additions to an existing building or structure, such application shall be made at the same time application for a zoning permit is made.

When no construction or alteration is involved, application to occupy and use land may be made at any time. Such application shall contain all information necessary for the Zoning Officer to determine whether the proposed occupation and use of land conforms to the provisions of this Ordinance.

An application for a certificate of occupancy shall be granted or refused within fifteen (15) days after the Zoning Officer has been officially notified of (a) completion of construction, or (b) application to occupy and use land where no construction is involved.

D. Enforcement

This Ordinance shall be administered by the Zoning Officer of Luzerne County. No permit or certificate of occupancy provided for in this Ordinance shall be granted by him for any purpose except in compliance with the provisions of this Ordinance, or with a decision of the Board or the courts.

E. Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint stating fully the causes and basis thereof, which shall be filed with the Zoning Officer. He shall acknowledge such complaint, immediately investigate, and take action thereon as provided in this Ordinance.

9.02 Schedule of Fees (See Section 9.02 at the end of this Ordinance)

9.03 Enforcement

A. Enforcement Notice

If it appears to Luzerne County that a violation of the Zoning Ordinance has occurred, Luzerne County shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

An enforcement notice shall state at least the following:

The name of the owner of record and any other person against whom the County intends to take action;

The location of the property in violation;

The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance;

The date before which the steps for compliance must be commenced and the date before which the steps must be completed;

That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Ordinance;

That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

B. Causes of Action

In case of any building, structure, landscaping or land is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of the Luzerne County Zoning Ordinance, an officer of Luzerne County or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of Luzerne County. No such action may be maintained until such notice has been given.

C. Jurisdiction

District Justices shall have initial jurisdiction over proceedings brought under Section 9.3D.

D. Enforcement Remedies

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of the Luzerne County Zoning Ordinance, shall upon being found liable therefore in a civil enforcement proceeding commenced by Luzerne County, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by Luzerne County. 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, Luzerne County may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day

following the date of the determination 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 zoning ordinance shall be paid over to Luzerne County.

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 to any person or entity other than Luzerne County the right to commence any action or enforcement pursuant to this section before a District Justice. Aggrieved owners or tenants must commence equity actions at the county court level.

ARTICLE 10 - AMENDMENTS TO MAP OR TEXT

10.01 General

Whenever the public necessity, convenience, general welfare or good zoning practices require, the Governing Body of Luzerne County by Ordinance, may, after receipt of recommendation thereon from the Planning Commission, and subject to the procedures provided by law, amend, supplement or change the regulations, district boundaries or classifications of property, now or hereafter established by this Ordinance or amendments thereof.

10.2 Procedure For Change In Zoning District

A. Applications

Applications for any change in the text of the Zoning Ordinance or of district boundaries or classifications of property shown on the Zoning Map, shall be submitted to the Zoning Officer upon such forms and accompanied by such data and information as may be prescribed for that purpose by him, so as to insure the fullest practicable presentations of facts for the record. Each application for a change of district boundaries or classification of property shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the application. It shall contain a map of the area proposed to be rezoned, and the area within 200 feet, giving the name and address of property owners and all district boundary lines, and streets and alleys located therein. The Zoning Officer shall check the application to determine whether it conforms with the requirements listed above, and if satisfactory, shall immediately submit it to the Office of the Commission Amendments to the Zoning Ordinance may also be initiated by the Commission by resolution, and recommended to the Governing Body of Luzerne County for adoption.

B. Action of Commission

The Commission may recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application be not granted. These recommendations shall then be certified to the Governing Body of Luzerne County.

C. Public Hearings by the Governing Body of Luzerne County.

After receiving from the Commission the certification of said recommendations on the proposed amendment, and before adoption of such amendment, the Governing Body of Luzerne County (Body) shall hold a public hearing thereon, notice of the first publication of which shall not be more than thirty (30) days and not less than fourteen (14) days from the date of the hearing. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. It shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality affected by the amendment. The notice shall state the purpose, place or places and times at which the proposed amendment to the Ordinance, including text and maps, may be examined.

The Body, through the Zoning Officer, shall give notice of the time, place and purpose of public hearings to be held by it on proposed amendments or supplements, by mailing a postal card or letter notice to the owners of all properties lying within 200 feet of any part of the property proposed to be changed. The failure to notify as provided in this Section, shall not invalidate any recommendations adopted hereunder; it being the intention of this Section to provide, so far as may be possible, due notice to the persons substantially interested in the proposed change that an application is pending before the Body, proposing to make a change in the Zoning Map or the regulations set forth in this Ordinance. In the case of storage of explosives, in addition to the above, property owners within 500 feet of the structure in which the explosives are stored, shall also be notified.

If the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by Luzerne County at points deemed sufficient by Luzerne County along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

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

D. Action of the Governing Body of Luzerne County.

The Governing Body of Luzerne County shall consider the recommendations of the Planning Commission, and other information given at its public hearing, and vote on the proposed amendment to the text or map of the Zoning Ordinance. The applicant and others so requesting, shall receive notice of the decision of the Governing Body of Luzerne County, through the Zoning Officer.

ARTICLE 11 - DEFINITIONS

Unless the context otherwise requires, the following definitions shall be used in the interpretations and construction of this Ordinance, and words used in the present tense include the future; the singular number shall include the plural, and the plural, the singular; the word “building” shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used; and the word “shall” is mandatory and not directory.

Accessory Use: A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

Adult Bookstore (Theater): An establishment having as a significant or substantial portion of its stock in trade, books, magazines, other periodicals, or films, video tape recordings for viewing off or on the premises which display specified anatomical areas or specified sexual activities (see Adult Entertainment definition).

Adult Entertainment: Any operation or facility providing as a primary or accessory use acts, shows, performances, pictures, books, magazines or models for the purpose of displaying specified anatomical areas or engaging in specified sexual activities. This shall include bartenders, waiters, waitresses, other employees, agents, contractors or customers exposing specified anatomical areas, or engaging in specified sexual activities. These facilities shall include, but not be limited to: BYOB Club, nude modeling studio, massage parlors, etc.

A. Specified Anatomical Areas: Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola, human genitals in an aroused state, whether covered or not covered.

B. Specified Sexual Activities: Acts of human masturbation, sexual intercourse, sodomy, oral copulation, bondage, sadomasochism, fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

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

Alley: A public or private way affording secondary means of access to abutting property.

Board or Zoning Hearing Board: The Zoning Hearing Board appointed by the Governing Body of Luzerne County in connection with the Luzerne County Zoning Ordinance.

Building: Any structure for the shelter or enclosure of persons, animals or chattels.

Building Height: The vertical distance from the grade to the highest point on the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Commission, Planning Commission, County Planning or Luzerne County Planning

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

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

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

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

Correctional Institutions: A jail, or other institutional facility, used to confine and/or provide treatment, or rehabilitation, of violators of criminal laws, including juvenile inmates/detainees and including facilities for persons who are participating in supervised work release programs, whether such facilities provide confinement for all of each 24 hour period, or only a portion thereof, but not including temporary holding facilities that are

necessary to a police station. These uses include, but are not limited to, detention centers, honor camps, houses of correction, jails, juvenile detention centers, penitentiaries, prison farms, reformatories, training schools for delinquents, offenders, and other adjudicated individuals.

Crematory: A facility used for incineration of deceased individuals.

Districts: A portion of the territory of Luzerne County, within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance. The term “R” or Residence District shall include “S-1”, “R-1”, “R-2”, and “R-3” districts. The term “B” or Business District shall include the “B-1”, “B-2”, “B-3” and “B-4” districts.

Drive-In Commercial Uses: Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters and similar uses.

Dwelling: Any building or portion thereof which is designed for or used for residential purposes.

Dwelling, Single-Family: A detached building arranged or used for occupancy by one (1) family.

Dwelling, Two-Family: A detached or semi-detached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

Dwelling, Multiple: A building used or designed as a residence for three (3) or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats, townhouses and group houses.

Dwelling Unit: A dwelling unit consists of one (1) or more rooms for living purposes, together with separate cooking and sanitary facilities used or intended to be used by one (1) or more persons living together and maintaining a common household, and accessible from the outdoors either directly, or through an entrance hall shared with other dwelling units.

Entertainment Facilities: Any activity conducted for gain which is generally related to the entertainment field, such as motion picture theaters, bowling alleys, roller skating rinks, miniature golf, golf driving ranges, commercial swimming pools, carnivals, and related uses.

Family:

- A. A single person occupying a dwelling unit and maintaining a household.
- B. Two or more persons related by blood or marriage, occupying a dwelling unit, living together and maintaining a common household, including not more than one boarder, roomer or lodger.
- C. Not more than three (3) unrelated persons occupying a dwelling unit, living together and maintaining a common household.

Farm: An area of land not less than five (5) acres in size, and used for agricultural purposes, as defined under “Agriculture”.

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

Flood-Fringe: That portion of the One Hundred (100) Year flood plain outside the floodway.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the One Hundred (100) Year flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area: For the purpose of applying the requirements for off-street parking and loading, “floor area”, in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting or alteration rooms.

Garage, Private: A space or structure on the same lot with or in the building to which it is accessory, for storage only, having no public shop or service in connection therewith, and in which no occupation, business or industry is conducted. Except on farms, only one (1) commercial motor vehicle not exceeding two (2) tons capacity or weight may be parked in a private garage, or driveway.

Garage, Service: A garage, other than a private garage, where motor driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale.

Governing Body of Luzerne County or Body: The organization designated by Pennsylvania Code, or a Home Rule Charter, to conduct the business and functions of Luzerne County.

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

Hotel: A building designed or used primarily as a temporary abiding place in which lodging is provided for compensation, with or without meals, containing ten (10) or more guest rooms, and having an outside entrance in common.

Junk Yard: A place where waste, discarded or salvaged materials are bought, sold exchanged, stored, baled, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building, and excluding pawn shops and establishments for the sale, purchase, or storage of used cars in operable condition, salvaged machinery, used furniture, and household equipment, and the processing of used, discarded or salvaged materials as part of the manufacturing operations.

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 having a remaining term of not less than forty (40) years, or other person having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this act.

Lot: A parcel of land abutting on a street, whose area, in addition to the parts thereof occupied or which may thereafter be occupied by a principal building or one (1) unit group of buildings and its accessory buildings is sufficient to provide the open spaces required by this Ordinance.

Lot, Corner: A lot abutting on, and at the intersection of, two (2) or more streets, or upon two (2) parts of the same street, where in either case the interior angle formed by intersection of the street lines does not exceed 135 degrees.

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

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

Lot Width: The width of a lot at the front building line, measured at right angles to its depth.

Mortuaries: A building, or part thereof, used for funeral services. These activities may include embalming, preparation of the dead for burial, autopsies, storage of funeral supplies and vehicles; but shall not include a Crematory.

Motel, Motor or Tourist Court: One (1) or more buildings for the accommodation of transient guests, chiefly motorists, containing guest rooms for rent, each of which has a separate outside entrance.

No-Impact Home Occupations: A business conducted from a residence which involves no customer traffic, pickup, delivery, or removal functions in excess normal.

Non-Conforming Building or Structure: A lawful building or other structure which does not conform to one (1) or more of the applicable area regulations of the district in which it is located, either on the effective date of this Ordinance, or as a result of a subsequent amendment thereto.

Non-Conforming Use: The legal use of land, or a building or other structure, which does not conform to the applicable use regulations of the district in which it is located, either on the effective date of this Ordinance, or as a result of subsequent amendments thereto.

One Hundred Year Flood: A flood that, on the average, is likely to occur once every One Hundred (100) years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year.

One Hundred (100) Year Floodplain District or Area: The district (s) or area(s) that has a one (1) percent chance of being flooded in any given year.

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

Parking Area: A parking lot or garage, used for parking of automobiles, available to the public, and which is not an accessory use.

Personal Care Boarding or Domiciliary Care Houses: Operations meeting the criteria of “Rooming or Boarding Houses”, plus providing of personal care including, but not limited to money management, transportation, medical assistance, nutritional guidance, dressing and hygiene. Also those operations which obtain their boarders from the Pennsylvania Office for the Aging or other Social Service Agencies.

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.

Planned Residential Development (PRD): An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one (1) residential district created, from time to time, under the provisions of the Luzerne County Zoning Ordinance.

Professional Offices: The use of offices and related spaces for such professional services as provided by doctors, dentists, lawyers, architects, engineers, and realtors.

Public Communications Transmission Tower: A structure, owned and operated by a public utility electric company regulated by the Pa. Public Utility Commission, designed and used to support overhead electricity transmission lines.

Public Uses: Public schools, parks, and administrative, cultural and service buildings and telephone exchange buildings, but not including public land or buildings devoted primarily or solely to the storage and maintenance of equipment and material.

Recreational Facilities, Commercial: Those recreation facilities operated as a business and open to the general public for a fee.

Recreation Facilities, Private: Group recreation facilities other than commercial, or public recreation uses, not operated for profit, and open only to its members.

Rooming or Boarding House: A building or part thereof, other than hotel or restaurant, where meals and/or lodging are provided for compensation, for four (4) or more persons not related to the resident family.

Semi-Public Uses: Churches, Sunday schools, parochial schools, colleges, hospitals, and other institutions of an educational, religious, charitable or philanthropic nature.

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

Sign: An advertisement displayed outside a building, pertaining to a product, service or name, related directly to the permitted activity carried on and use of the lot on which it is placed, including painted walls or structures.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six (6) feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

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

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

Telephone Exchange Building: A building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone and radio messages between subscribers, provided that in a residential district such building shall conform to the architectural design of the neighborhood, and shall not include public access or business facilities, storage of materials, trucks or repair facilities, or housing of repair crews.

Tourist Home: A rooming house primarily for transient guests.

Trailer or Mobile Home:

A. Mobile Home: A use designed to look like a single-family home, to be occupied by a single-family, transportable, which may be towed on its own running gear, and which may be temporarily or permanently affixed to real estate, used for non-transient residence purposes, and constructed with the same, or similar, electrical, plumbing and sanitary facilities as immobile housing.

B. Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, having a body width not exceeding eight (8) feet, and being of any length, provided its gross weight does not exceed 4500 pounds, or being of any weight, provided its body length does not exceed 29 feet.

C. Pick-Up Coach: A structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

D. Motorized Homes: A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

Trailer or Mobile Home Park: A tract of land specifically planned and equipped to accommodate residential trailers or mobile homes for temporary or continuing occupancy, including all buildings, structures, tents, vehicles, utilities, and accessories used or intended as equipment for such trailer or mobile home park.

Trailer, Smaller Utility: Any trailer usually drawn by passenger automobile, used for the occasional transport of personal effects.

Utilities: The erection, construction, alternation or maintenance by public utilities or municipal or other governmental agencies, or underground or overhead gas, electrical, steam or water transmission systems, collection, communication, supply or disposal systems and their essential buildings, excluding Communications Towers and Communications Antennas, as defined herein.

Ventilating Shafts: Any structure designed to furnish air and/or power, (including transformation and conversion of said power) to underground coal mines.

Yard: Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in this Ordinance. The minimum depth or width of a yard shall consist of the horizontal distance between the lot lines and the nearest point of the foundation wall of the main building.

Yard, Front: An open space extending the full width of the lot between a building and the front lot line, measured from the front property line or Edge-of-pave, whichever is closer to the building, but in no case shall it be measured from the center line of the road.

Yard, Rear: An open space extending the full width of the lot between the building and the rear lot line.

Yard, Side: An open space extending from the front yard to the rear yard, between a building and the nearest side lot line.

Zoning Certificate: The written authorization issued by the Zoning Officer, for the use of land, or buildings or other structures.

Zoning Map: The map or maps containing the zoning districts of Luzerne County, Pennsylvania, together with all amendments subsequently adopted.

Zoning Officer: The Zoning Officer or his authorized representative, appointed by the Governing Body of Luzerne County of Luzerne County.

ARTICLE 12 - INTERPRETATION AND VALIDITY

12.01 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or issued, pursuant to law, relating to the use of buildings or premises and likewise not in conflict with this Ordinance; nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties.

12.02 Validity

If any article, section, subsection, paragraph, sentence or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

12.03 Repeal

All ordinances or parts thereof which are in conflict with the provisions of this Ordinance are hereby repealed.

12.04 Effective Date

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

ARTICLE 13 - FLOOD PLAIN DISTRICT(S)

13.1 General Provisions

A. Purpose

The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause increases in flood heights, velocities and frequencies;

Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding;

Requiring all those uses, activities and developments that do occur in identified One Hundred (100) Year flood plain districts to be protected and/or flood proofed against flooding and flood damage.

Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

B. Applicability

These provisions shall apply to all lands within the jurisdiction of the Luzerne County Zoning Ordinance and shown on the Official Zoning Map as being located within the boundaries of the various One Hundred (100)Year flood plain district(s).

C. Interpretation of District Boundaries

Where interpretation is needed concerning the exact location of any boundary of the various One Hundred (100) Year flood plain district(s), the Zoning Hearing Board shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

D. Warning and Disclaimer of Liability

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

natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the One Hundred (100)Year flood plain district(s), or that land uses permitted within such districts, will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of Luzerne County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

13.2 Establishment of Zoning Districts(s)

A. Basis For District Delineation

The various One Hundred (100) flood plain districts include all identified One Hundred (100)Year flood plain districts within each municipality of the County subject to the provisions of this Ordinance. Sources of information used as a basis for the identification and delineation of One Hundred (100) Year flood plain districts, will include but not be limited to, the National Flood Insurance Program Data, United States Geological Survey Maps and the United States Army Corps of Engineers Flood Plain Information.

Where available, the final, or most recent, National Flood Insurance Study and the Flood Hazard Boundary Maps, shall take precedence over all other information.

Certain municipalities subject to the provisions of this Ordinance will have areas which have been delineated by the Federal Insurance Administration as being within the One Hundred (100) Year flood plain, but for which there is incomplete, or total lack of information concerning the One (100) Hundred Year flood elevation. In such instances, if any supplemental information is available which contains more complete information concerning the One (100) Hundred Year flood elevation, then such information shall be used wherever possible.

B. Identification of One (100) Hundred Year Flood Plain Districts

The One (100) Hundred Year Floodway District (FW) is that area designated to carry and discharge the waters of the One Hundred (100) Year flood, without increasing the water surface elevation of that flood more than one (1) foot at any point. Such districts are based upon delineation of a floodway districts(s) in the National Flood Insurance studies and accompanying maps.

The One Hundred (100) Year Flood Fringe District (FF) is that position of the One Hundred (100)Year flood plain outside the floodway. The delineation of such districts is based upon the One Hundred (100) Year flood profiles and floodway delineations contained in the National Flood Insurance studies and accompanying maps.

The One Hundred (100) Year General Flood Conservation District (FA) is that identified One Hundred (100) Year flood plain district for which no flood elevation information is

provided. Such area is shown as Zone A in the National Flood Insurance Study and accompanying maps, if such study is available, or the Official Flood Hazard Boundary Maps. In this case, supplemental data must be used to determine the One Hundred (100) Year flood elevation. Supplemental data may be maps and/or studies from the United States, Geological Survey, U.S. Army Corps of Engineers, Soil Conservation Services, etc.

The One Hundred (100) Year Special Flood Conservation District (FO) is that identified One Hundred (100) Year flood plain district having shallow flood depths (between 1 and 3 feet) and/or unpredictable flow paths. Such district is shown as AO in the National Flood Insurance Studies and accompanying maps, if such study is available.

C. Zoning Map

The boundaries of the various One Hundred (100) Year flood plain district(s) are established as shown on the Official Zoning Maps of the County of Luzerne, which are declared to be a part of this Ordinance, and which shall be kept on file at the Office of the Luzerne County Planning Commission.

D. District Boundary Changes

The delineation of the various One Hundred (100) Year flood plain district(s) may be revised by the Governing Body of Luzerne County where natural or man-made changes have occurred, and/or where the need for such revisions are documented by additional and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, the Susquehanna River Basin Commission or other qualified agency or individual. Any such changes shall first be approved by FEMA.

E. Overlay To Existing Ordinance(s)

The various One Hundred (100) Year flood plain district(s) shall be overlays to the existing underlying district(s) as shown on the Official Zoning Maps of the County of Luzerne, and as such, the provisions for those districts shall serve as a supplement to the underlying district provisions. Where there happens to be any conflict between the provisions or requirements of any of the One Hundred (100) Year flood plain district(s) and those of any underlying districts, the more restrictive provisions and/or those pertaining to the One Hundred (100) Year various flood plain district(s) shall apply.

13.3 District Provisions

All uses, activities, and development occurring within the various One Hundred (100) Year flood plain district(s) shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances such as Building Code or Subdivision and Land Development Ordinance.

Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

Where there is any proposed change to a watercourse, a permit must first be obtained from the Pennsylvania Department of Environmental Protection. The community shall notify adjacent communities of such proposed change, with copies of notification going to FEMA and PEMA.

A. Floodway District (FW)

In the One Hundred (100) Year Floodway District, no structural development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying stream improvements which have been approved by all appropriate local and/or State authorities.

B. Uses Permitted By Right

The following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials and equipment:

Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, and wild crop harvesting.

Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet ranges, and hunting and fishing areas.

Accessory residential uses such as yard areas, gardens, play areas, and pervious parking areas.

Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.

C. Uses Permitted By Special Exception

The following uses and activities may be permitted by Special Exception provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance.

Structures accessory to the uses and activities in Section 13.3 B.

Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants, and other similar or related uses.

Water-related uses and activities such as marinas, docks, wharves, piers, etc.

Extraction of sand, gravel, and other materials.

Temporary uses such as circuses, carnivals, and similar activities.

Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily moved from the area within the time available after flood warning.

Other similar uses and activities provided that they do not increase flood heights and velocities.

All uses, activities, and structural developments, shall be undertaken in strict compliance with the flood proofing provisions contained in all other applicable codes and ordinances.

D. Considerations For Special Exceptions and Variances

In passing upon applications for special exceptions and variances in the various One Hundred (100) Year flood plain district(s), the Zoning Hearing Board shall consider all relevant factors specified in other sections of the ordinance.

The danger to life and property due to increased flood heights or velocities caused by encroachments, the danger that materials may be swept on to other lands or downstream to the injury of others, and the safety of access to the property in time of flood or by ordinary and emergency vehicles.

The proposed water supply and the sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

The importance of the services provided by the proposed facility to the community.

The requirements of the facility for a waterfront location.

The availability of alternative locations not subject to flooding for the proposed use.

The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

The relationship of the proposed use to the comprehensive plan and flood plain management program for the area. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site, and such other factors which are relevant to the purposes of this ordinance.

E. One Hundred (100) Year Flood Fringe (FF), One Hundred (100) Year General Flood Conservation (FA) and One Hundred (100) Year Special Flood Conservation (FC) Districts

In the One Hundred (100) Year FF and FA Districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in all other applicable codes and ordinances. In the One Hundred (100) Year Special Flood Conservation (FO) District, the same provisions as above shall apply; however, specific uses shall be flood proofed and/or elevated above the crown of the nearest street and/or road as set forth in all applicable Building Codes and/or Building Permit Ordinances, and the Subdivision and Land Development Ordinances.

Under no circumstances, however, shall materials that are buoyant, flammable, explosive or which at times of flooding could be injurious to human, animal, or plant life, be stored below an elevation of one and one-half feet above the One Hundred (100) Year flood elevation.

13.4 Existing Structures And/Or Uses In The One Hundred (100) Year Flood Plain District(s)

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

Existing structures and/or uses located in the One Hundred (100) Year Floodway District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements).

The modification, alteration, repair, reconstruction, or improvement of any kind to an existing structure and/or use regardless of location in the various One Hundred (100) Year Flood Plain District(s), to an extent or amount of fifty (50) percent or more of its value, shall be undertaken only in full compliance with the provisions of this and any other applicable ordinance. Uses or adjuncts thereof which are, or become, nuisances, shall not be permitted to continue.

LUZERNE COUNTY PLANNING COMMISSION
ZONING FEE SCHEDULE
EFFECTIVE JANUARY 1, 2012

Section 9.02 Schedule of Fees:

<u>Application Type</u>	<u>Fee</u>	
<u>Zoning Permits:</u>		
Residential	\$ 85.00 per unit	
<u>Commercial and Industrial*</u>	<u>Commercial</u>	<u>Industrial</u>
Less than \$ 50,000	\$ 480.00	\$ 725.00
\$ 50,000 to \$ 100,000	\$ 780.00	\$1025.00
For each additional \$ 1,000, or portion thereof, over \$ 100,000, an additional fee of	\$4/\$1,000	\$5/\$1,000
<ul style="list-style-type: none"> • No permit under this section shall exceed \$ 25,000. • 		
Communications (Cell) Towers	\$ 1000.00	
Outdoor Advertisements	\$ 800.00	
Other Principal Buildings/Uses (e.g., churches, schools, public buildings)	\$ 85.00	
Signs	\$ 85.00	
<u>Additions and Accessory Uses:</u>		
Residential – Accessory Uses Up To 1000 Sq. Ft.	\$ 45.00	
Residential - Accessory Uses 1001 Sq. Ft. and Greater And In-Ground Pools	\$ 50.00	
Residential – Additions	\$ 50.00	
Commercial	\$ 230.00	
Industrial	\$ 430.00	
All Other	\$ 85.00	
<u>Occupancy Permits:</u>		
Residential	\$ 37.00	
Commercial (Including Home Occupations)	\$ 85.00	
Industrial	\$ 200.00	

Mining, Junkyards, Solid Waste Disposal, Waste Transfer Facility and Extraction and Storage Of Gas and Oil	\$ 1,500.00
All Others	\$ 65.00

Zoning Hearing Board Applications:

Residential (Single Family Residences)	\$ 210.00
Residential (Multiple Unit Structures)	\$ 650.00
Commercial and Industrial	\$ 710.00
Home Occupation	\$ 375.00
All Other	\$ 190.00

Amendments to Zoning Map, or Text-- \$ 700.00

Planned Residential Developments \$ 1000.00

Correctional Institution \$ 1000.00