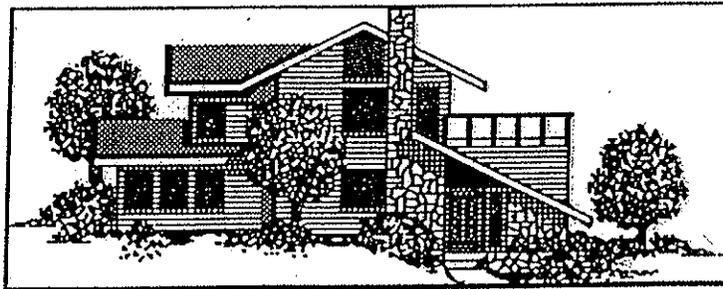




Borough of Throop
Lackawanna County, PA

ZONING ORDINANCE



Adopted: March 13, 2000
Ordinance # 11 of 2000

Second Edition

BOROUGH OF THROOP
LACKAWANNA COUNTY
PENNSYLVANIA

THROOP BOROUGH COUNCIL

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George Marushock
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Robert J. Lokuta, Assistant Zoning Officer

Edward Krowiak, Solicitor

BOROUGH CONSULTING PLANNER

Marvin A. Brotter Consulting Services

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- §103 Purpose
- §104 Interpretation and Conflict
- §105 Validity
- §106 Repealer
- §107 Effective Date

ORDINANCE NO. _____

THROOP BOROUGH ZONING ORDINANCE

ORDAINING CLAUSE

BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Throop, County of Lackawanna, by authority of and pursuant to the provisions of Act 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1967, known and cited as the "Pennsylvania Municipalities Planning Code, and any amendments and supplements thereto, as follows:

ARTICLE I**GENERAL PROVISIONS****§101 Title**

An Ordinance permitting, prohibiting, regulating, restricting, and determining:

- a. the uses of land, watercourses, and other bodies of water;
- b. the size, height, bulk, location erection, construction, repair, maintenance, alteration, razing, removal and use of structures;
- c. the areas and dimensions of land and bodies of water to be occupied by uses and structures as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures;
- d. the density of population and intensity of use;
- e. the protection and preservation of natural resources and agricultural land and activities; and,

providing for the administration of such Ordinance.

§102 Short Title

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Borough of Throop".

§103 Purpose

This Ordinance is enacted for the following purposes:

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

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

§104 Interpretation and Conflict

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

§105 Validity

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

§106 Repealer

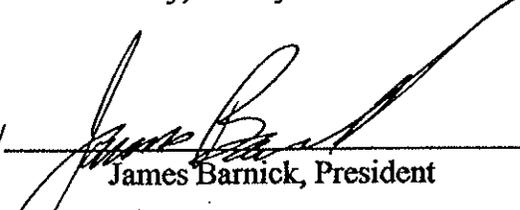
Inconsistent Ordinances: The Zoning Ordinance of the Borough of Throop of 1986, as amended, is hereby repealed and any resolution, ordinance, or part of any ordinance or resolution inconsistent herewith and any amendments thereof are hereby expressly repealed.

§107 Effective Date

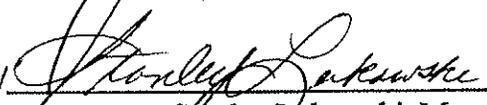
This Zoning Ordinance shall become effective five (5) days after its adoption by the Borough Council of the Borough of Throop, Lackawanna County, Pennsylvania.

The Borough Council of the Borough of Throop
Lackawanna County, Pennsylvania

By: /s/


James Barnick, President

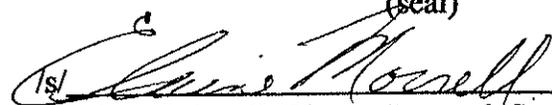
/s/


Stanley Lukowski, Mayor

ATTEST

March 13, 2000

I, Elaine Morrell, Throop Borough Secretary, do hereby certify that the foregoing is a true copy of an Ordinance adopted by the Borough Council of the Borough of Throop, Lackawanna County, Pennsylvania at a duly called Special Meeting held on March 13, 2000.

(seal)

Elaine Morrell, Throop Borough Secretary

ARTICLE 2

COMMUNITY DEVELOPMENT OBJECTIVES

- §201** **Community Development Objectives**
- §202** **Residential Development Objectives**
- §203** **Commercial Development Objectives**
- §204** **Industrial Development Objectives**
- §205** **Special Use Development Objectives**
- §206** **Flood Plain Development Objectives**

ARTICLE 2

COMMUNITY DEVELOPMENT OBJECTIVES

§201 - Community Development Objectives

This Zoning Ordinance has been adopted in part to assist in carrying out the community development objectives of Throop Borough for promoting, protecting and facilitating the public health, safety and general welfare of Throop Borough residents.

The overall community development objectives of the Borough aim to:

1. Create a functional environment for each type use of land, including residential, commercial, industrial, agricultural and public uses whether major or minor. This requires providing adequate community facilities and utilities, as well as prohibiting and eliminating incompatible uses.
2. Encourage concentrations of development where it is physically and financially feasible to provide appropriate municipal services, and to keep development to a minimum in areas where such services cannot practically be provided.

3. Determine the most appropriate use for sites where there may be competition for land. Factors considered in such determination include: character and compatibility of adjoining development, the availability of facilities and services, and the needs for each use.
4. Reserve suitable sites and create a desirable environment for industrial activity which will serve to attract manufacturing firms to the community.
5. Encourage a development pattern which will result in a sound tax base in order to permit the Borough to provide the services and facilities which are essential amenities of residential, commercial and industrial areas.
6. Encourage the conservation of our natural resources, including particularly our overall water supply through minimal disturbance of our aquifers.
7. Encourage the development of land in an energy efficient manner, including the use of renewable energy such as solar, water and wind.

§202 - Residential Development Objectives

The Residential Development Objectives of the Borough are to:

1. Create attractive residential areas free from adverse environmental influences.
2. Regulate residential densities to prevent overcrowding, to provide adequate privacy and open space and to maintain the low-to-moderate density character of the community.
3. Exclude unnecessary through-traffic from residential areas.
4. Exclude incompatible land uses from residential areas.
5. Provide for essential services and facilities.

§203 - Commercial Development Objectives

The Commercial Development Objectives of the Borough are to:

1. Establish sufficiently large areas for commercial development to permit concentrations of businesses in well-defined locations as opposed to scattered interspersing of such facilities throughout the Borough.
2. Provide for adequate regulations and buffering which would minimize adverse environmental influences on nearby residential areas, such as noise, heavy traffic and odors.
3. Provide for highway-oriented commercial uses such as automobile service establishments, drive-in eating and drinking places, motels, etc.
4. Regulate such highway commercial uses in order to preclude the inherent disadvantages of this form of development, especially in terms of traffic hazards resulting from continuous, unrestricted access to highway commercial frontage.
5. Provide development standards to improve the aesthetic appearance of highway commercial development, so that it is not detrimental to the visual image of the Borough.

§204 - Industrial Development Objectives

The Industrial Development Objectives of the Borough are to:

1. Reserve areas of flat land with access to utilities and transportation.
2. Locate sites and establish operating standards for their use to prevent any adverse influences on other areas of the community.
3. Separate light and heavy industrial activities so that functional environments will be created to serve the various forms of development.

§205 - Special Use Development Objectives

The Special Use Development Objectives of the Borough are to:

1. Minimize development in such areas.
2. Limit development to low-intensity uses which will not create a demand for extensive municipal services.
3. Permit only those uses which will be compatible with special uses and with each other as well as with adjacent development.

§206 - Flood Plain Development Objectives

The Flood Plain Development Objectives of the Borough are to:

1. Minimize hazards to the safety and well-being of the populace.
2. Minimize property losses to individual property owners as well as the various units of government.
3. Maintain the Municipality's eligibility for Federal Flood Insurance.

ARTICLE 3

DEFINITIONS

§301 **Application and Interpretation**

§302 **Definition of Terms**

ARTICLE 3

DEFINITIONS

§301 **Application and Interpretation**

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

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

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

§302 **Definition of Terms**

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

Abandon

To desert, surrender, forsake, or cede. To relinquish or give up with no public indication given of an intent of ever again resuming one's right or interest. To give up or cease to use. To give up absolutely; to forsake entirely; to renounce utterly; to relinquish all connection with or concern in; to desert. It includes consideration of the intention, as publicly communicated, and also the external act by which it is carried into effect.

Abut

To touch at the end; be contiguous; join at a border or boundary. The term "abutting" implies a closer proximity than the term "adjacent". No intervening land. The word "abut" shall also include the words 'directly across from'.

Access

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

Accessory Building

A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

Accessory Use

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building, except that off-street parking need not be located on the same lot.

Adjacent

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

Adult Entertainment Establishments

These include, but are not limited to, adult bookstores, adult cabarets, adult drive-in theaters, adult massage businesses, adult mini-motion picture theaters, adult motion picture theaters, adult video cassette rental and sales stores and any and all such other adult uses which exclude minors by virtue of age. Each is defined as follows:

1. **Adult Bookstore**: - An establishment which excludes access to minors by virtue of age from a substantial or significant portion (10% or more) of its stock in trade, books, magazines or other periodicals.

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

Agent of Owner

Any person who can show written proof that he has authority to act for the property owner.

Agriculture

The tilling of the soil, the raising of crops, livestock, and horticulture.

Alley

A minor public right-of-way used primarily for secondary vehicular service access to the rear or side of properties otherwise abutting on a street.

Alteration

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

Alteration, Structural

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

Amendment

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

Animal Hospital

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

Animal Kennel

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

Appeal

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

Area, Building (See Building, Area)**Area, Lot (See Lot Area)****Attic**

That part of a building which is immediately below, and wholly or partly within, the roof framing.

Automobile or Trailer Sales Area

An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automobile Service Station or Filling Station

A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicles trade at retail, and where the following services may be rendered.

a. Minor Repair

1. Sale and servicing of spark plugs and batteries.
2. Tire repair and servicing, no recapping.
3. Replacement of mufflers and tailpipes, water hose, fan belts, brake and transmission fluids, light bulbs, floor mats, seat covers (where this shall not be the principal use), windshield wipers, grease retainers and wheel bearings.
4. Radiator cleaning and flushing.
5. Washing and polishing, not including mechanical and/or automatic car wash establishments.
6. Installation of fuel pumps and fuel lines.
7. Minor servicing and replacement of carburetors.
8. Adjustment and installation of brakes.
9. Tuning engines, except for grinding valves, cleaning carbon or removing the head of engines and/or crankcases.
10. Greasing and Lubrication.
11. Emergency Wiring Repairs.
12. Any similar minor service or repair not listed below under "major repair".

b. Major Repair

In addition to those repairs and services listed above as "minor repair", any general repair, rebuilding or reconditioning not listed above; collision service including body, frame or fender straightening or repair; painting or paint shops; mechanical car wash establishments; but not including any operations which require the heating or burning of rubber.

Basement

A story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes, other than a game or recreation room. (See also Cellar.)

Board, or Zoning Hearing Board

The Zoning Hearing Board of the Borough of Throop.

Boarding House (See Rooming and Boarding House)**Borough**

Refers to the Borough of Throop, Lackawanna County, Pennsylvania.

Borough Council

Refers to the Borough Council of the Borough of Throop.

Buffer Area

An area of land, with plantings as specified by this Ordinance, and any structures which may be required between land uses to eliminate or minimize conflicts between them.

Building

Any structure having a roof supported by walls and intended for shelter, housing, or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements.

Building, Accessory (See Accessory Building)**Building Area**

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

Building Height

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the building square for flat roofs, to the top of the ceiling line for mansard roofs, to the building square for gable and hip roofs, and to the top story ceiling line for gambrel roofs.

Building Line

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

Building, Principal

A building in which is conducted the principal use of the lot on which it is located. In any residential district any dwelling shall be deemed to be a principal building on the zone lot on which the same is located.

Carport

An open space for the storage of one or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one or more walls may be the walls of the main building to which the carport is an accessory building or extension.

Cellar

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

Certificate of Zoning Compliance

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

Clear Sight Triangle

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

Club

The room, building, or other facilities used for the meetings of a group of people organized for a common purpose.

Cluster Residential Development

A residential development in which a land area developed as a single entity according to a plan contains dwelling units of various types or of one type clustered together in one or more clusters on smaller than usual lots and having open space owned either publicly or commonly for the benefit of the residents of the development.

Commercial

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

Commercial Vehicle

A commercial vehicle shall be any vehicle other than a private passenger vehicle, including trucks, trailers, and construction equipment.

Community Living Facility

A living arrangement whereby unrelated individuals with diagnosed mental health or mental retardation problems reside on a permanent basis with twenty-four (24) hour supervision and whose primary purpose is the development and maintenance of community living skills.

Comprehensive Plan

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

Conditional Use

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

County Planning Commission

The Lackawanna County Regional Planning Commission.

Coverage

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

Decision

Final adjudication of any board or other body granted jurisdiction under any land use ordinance or Act 247 to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of Lackawanna County.

Deck

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

Density

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

Density, Gross

The maximum density permitted in any zoning district. It is calculated by dividing the total number of dwelling units by the total site area. This density is illustrative only; net density is controlling.

Density, Net

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

Developer

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

Development (See Land Development)**Determination**

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

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

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

District or Zone

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

Dwelling

A building designed or used as the living quarters for one or more families or households, but not intended to include tourist home, hotel or motel.

Dwelling Types

1. **Single-Family Dwellings**: - A detached building, designed for and occupied exclusively by one family, containing not more than one dwelling unit, and having two (2) side yards.
2. **Two-Family Dwellings (Duplexes and Flats)**: - A detached structure containing two dwelling units accommodating two families whose dwelling units are attached either side-by-side through the use of a party wall and having one side yard adjacent to each dwelling unit (duplex), or which are attached one over the other and having two (2) side yards for the lower dwelling.
3. **Townhouses (Row Houses)**: - Three to eight dwelling units accommodating one family per unit, which are attached side by side through the use of common party walls, which have side yards adjacent to each end unit and where each unit contains a separate and private entrance to the outside..
4. **Garden Apartment Dwelling**: - A group of rental units, generally under single ownership (but a condominium is not precluded) where there shall not be more than eight (8) dwelling units contained within each structure which are located one over the other and are attached by the use of common party walls. Such structures containing garden apartment units are generally less than four (4) stories in height although in the municipality they shall not exceed a height of 2.5 stories or thirty-five feet.
5. **Multifamily Dwellings**: - A structure containing three (3) or more dwelling units including but not limited to garden apartments, condominium units or townhouses.
6. **Residential Conversion Units**: - To be a conversion any proposed alteration must be confined to the interior of an already existing structural shell. Any proposal to extend the sides or increase the height of an existing structure shall not be considered a conversion.
7. **Mobile Homes**: - (See Mobile Home.)

Dwelling Unit (Housing Unit)

A building or portion thereof providing complete housekeeping facilities for one family or household.

Easement

A limited right of use granted on private land for public or quasi-public purposes.

Essential Services

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

Excavation

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

Family

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

Flood One Hundred-Year

A flood that on the average is likely to occur once every 100 years, i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year; for the purpose of this ordinance, the Regulatory Flood.

Flood Plain

A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and/or any area subject to the unusual and rapid accumulation of surface water from any source.

Flood Regulatory

The flood which has been selected to serve as the basis upon which the flood plain management provisions of the Flood Plain Ordinances have been prepared; for the purpose of this ordinance, the One Hundred-Year Flood.

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 as measured by the outside dimensions of the building or portion thereof

Forestry Production

The production of forest products through the cultivating, maintaining, and developing of forests.

Garages, Automotive Service and Major Repairs

A garage, other than a private garage, used for gasoline refueling and for the storage, equipping for operation, major repairing (including body work), maintaining, keeping for remuneration, hiring or selling of motor vehicles.

Garages, Automotive Service and Minor Repairs

A garage, other than a private garage, used for gasoline refueling and for storage and minor repairing.

Garages, Private Parking

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

Garage, Public Parking

A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles not including a structure or part thereof used only for storage or display of automobiles for other than transients.

Governing Body

The Borough Council of the Borough of Throop.

Hazardous Waste

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

Hearing

An administrative proceeding conducted by a board pursuant to Section §1002.

Home Gardening

The cultivation of herbs, fruits, flowers, or vegetables on a piece of ground adjoining the dwelling, excluding the keeping of livestock, and which are not generally cultivated with the intention of sale, either for retail or wholesale markets.

Home Nurseries and Greenhouses

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

Home Occupation

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

Hotel (See Motel or Hotel)**Impervious Cover**

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

Industrial Park

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

Junk

Junk shall include scrap iron, scrap linen, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, waste paper, rags, used cloth, used rubber, used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used fires, and other manufactured goods, any of which are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled or processed for reclamation, salvage or recycling. This definition is to be construed as including two (2) or more abandoned or unlicensed vehicles, or the major part thereof.

Junk Yard

A junk yard shall consist of buildings, structures or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

Land Development

Any of the following activities:

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

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

Landfill

A land area used for the dumping of solid waste, the operation of which is licensed by the Pennsylvania Department of Environmental Resources. A landfill shall also consist of machinery and appurtenant buildings used in the landfill process.

Landowner

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

Land Use Ordinance

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

Large-Scale Development

- a. **Residential**. A large scale residential development shall be planned for a site of not less than five (5) acres.
- b. **Commercial**. A large scale commercial development shall be planned for a site of not less than three (3) acres.

- c. Manufacturing. A large scale manufacturing development shall be planned for a site of not less than five (5) acres.

Limited Access Highway

A highway designed in such a manner so as to provide no direct access to properties abutting its right-of-way and including all highways designated as limited access highways as adopted by the Planning Commission.

Livestock

Farm animals such as cattle, horses, sheep, hogs, or goats or any animals which are not customarily fed and housed in a residential unit.

Loading Space

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

Lodge

The meeting hall of a social or fraternal organization.

Lot

Land occupied or to be occupied by a building and its accessory buildings, or by a building group and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance for a lot in the district in which such land is situated, and having its principal frontage on a public street or public right-of-way or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a building on such land.

Lot Area

The total area within the lot lines, excluding any area within a street right-of-way, but including the area of any easement.

Lot, Corner

A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner".

Lot Depth

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

Lot, Double Front

A through lot which abuts two (2) streets, one in the front and the other directly opposite or the rear. In the case of new development double front lots are prohibited, except in the case of reverse front lots.

Lot, Flag

A uniquely configured residential lot which is subdivided from a larger plot where the subdivided parcel shall be substantially to the rear of the original parcel. In this configuration the width of the property to the rear will be less than that required at a right-of-way but it does contain the required lot width at some point distant from the right-of-way and continuing to the rear property boundary (usually at the rear property line for the front parcel). In this case the lot frontage is determined by taking the measurement at the building line which shall be located at the minimum distance from the point where the lot substantially widens (the rear boundary of the front parcel and the front boundary of the rear parcel). The only frontage on a right-of-way that a flag lot shall contain is that point where access is provided to the right-of-way, which in no case may be less than fifteen (15) feet in width and this access width shall be maintained to the parcel, but in no case shall the length of the access exceed 750 feet. The appearance of the lot when viewed from above would appear to be a flag on a pole; i.e. the narrow access is the pole with the parcel constituting the flag. Further, only one flag lot shall be allowed to be subdivided from a parcel. If the original lot contains sufficient land area for more than one subdivision, the access to the rear parcel shall be from an access of sufficient width to construct a public right-of-way should future subdivision be proposed, however such construction is not required for approval of the flag lot subdivision.

Lot Frontage

That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot except for flag lots, which shall be measured from the point the where the property line substantially widen.

Lot, Interior

A lot other than a corner lot.

Lot Lines

The property lines bounding the lot.

1. Lot Line, Front. The ultimate right-of-way line of the street or road or the widened point of a flag lot.
2. Lot Line, Rear. The lot line opposite and most distant from the front lot line.
3. Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
4. Lot Line, Street or Alley. A lot line separating the lot from a street or alley.

Lot, Reverse Front

A through lot which abuts two (2) streets, one in the front and the other directly opposite, to which access is permanently restricted from the lot to one of the streets through various means, including buffer or planting strips.

Lot of Record

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

Lot Width

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

Mediation

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

Mobile Home

A transportable, single family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operation, and constructed so that it may be used without a permanent foundation. The unit shall be considered as real property if it is placed on a permanent foundation.

Mobile Home Lot

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

Mobile Home Park

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

Model Home or Model Apartment

A dwelling unit used initially for display purposes which typifies the type of unit that will be constructed in a subdivision or development.

Motel or Hotel

A building or group of buildings designed for occupancy as the temporary residence of more than ten (10) persons for compensation, who are lodged with or without meals and in which no provision is made for cooking in individual rooms or suites.

Municipality

The Borough of Throop, Lackawanna County, Pennsylvania.

Net Buildable Site Area

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

Net Developed Area

Total acreage excluding any area within a public right-of-way.

Net Land Area

The net land area of any development parcel shall include only the area contained within the property line and the ultimate right-of-way line. The area within the right-of-way (public right-of-way or other thoroughfare) shall not be computed as part of the "net land area".

Nightclub

An establishment that stays open late at night and provides food, drink, and entertainment.

Non-Conforming Lot

Any zone lot in single ownership which was lawful prior to the adoption or amendment of a Zoning Ordinance which does not conform with the minimum area and/or dimensions required in the District where such lot is situated or for any special use, as the case may be, by reasons of such adoption or amendment, and where the owner of said lot does not own any adjoining property, the subdivision or development of which in conjunction with the non-conforming lot could create one (1) or more conforming lots.

Non-Conforming Structure

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

Non-Conforming Use

A use, whether of land or of a structure, which does not comply with the applicable use provisions in the Zoning Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. No Principal Permitted Use or Special Use shall be considered nonconforming if the yards, height, area, coverage dimensions, signs or off street parking do not conform with the regulations of the district in which it is located.

Non-Profit

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

Nurseries and Day Care Centers for Children

Any location licensed by the Commonwealth of Pennsylvania or for which such permit is required (other than their home residence) at which more than four children are kept and cared for. The children are generally of pre-school age.

Nursery (Plants)

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

Nursing or Convalescent Home

Any premises providing sleeping rooms where patients are lodged and furnished with meals and nursing care.

Outdoor Advertisement

An outdoor sign or billboard, including painted walls or rock faces, for a product or service unrelated to the use of the land or structure on which it is located, but not including Official notices or directional road signs of a governmental body.

Parcel (See Lot)**Parking Area, Private**

An open area for the same uses as a private garage, and regulated as a private garage.

Parking Area, Public

An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Parking Lot

An open lot where passenger vehicles may be stored for short-term, daily or overnight off-street parking.

Parking Space, Off-Street

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

Patio

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

Pavilion

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

Permanent Foundation

A support for a building or structure reaching below the frost line and consisting of either poured concrete, concrete blocks, cinder blocks, brick, pressurized wood, or stone to form a horizontal pad, columns or vertical wall on which the building or structure is placed and is intended to remain indefinitely. In the case of mobile homes, permanent placement on such a foundation is intended to be governed by this ordinance and the applicable BOCA Codes with the more stringent requirements governing and to first require the removal of the wheels and chassis from the mobile home and the anchoring of the mobile home by cable or clip with maximum spacing of 15 feet between devices.

Place of Religious Worship

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

Planning Commission

The Planning Commission of the Borough of Throop, Lackawanna County, Pennsylvania.

Porch

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

Poultry

Domestic fowls, such as chickens, turkeys, ducks, or geese.

Principal Building (See Building, Principal)**Principal Use (See Use, Principal)****Private**

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

Professional Office

The office of a member of a recognized profession. When conducted in a residential district, a professional office shall be incidental to the residential occupancy, shall be conducted by a member of the residential family entirely within a residential building, and shall include the offices of such professionals as doctors, or physicians, dentists, optometrists, ministers, urban planners, architects, landscape architects, professional engineers, lawyers, artists, authors, musicians and such other similar professional occupations which may be so designated by the Zoning Hearing Board upon finding by the Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to a greater extent than for the professional activities listed herein. The issuance of a State or Local license for regulation of any gainful occupation need not be deemed requisite as indicative of professional standing.

Public

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

Public Hearing

A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with this Ordinance.

Public Meeting

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

Public Notice

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

Public Utilities (See Essential Services)**Recreation****a. Recreation Commercial**

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

b. Recreation, Private/Non-Commercial

Clubs or recreation facilities, operated by a nonprofit organization and open only to bonafide members of such organization and their guests.

c. Recreation, Public

Recreation facilities operated as a non-profit enterprise by the Municipality, and other governmental entity or any non-profit organization and open to the general public.

Report

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

Residential Conversion Unit (See Dwelling Type)**Residential Street**

A street, between two intersecting streets, upon which an R-District abuts, or where fifty percent (50%) or more of the abutting street frontage is in predominantly residential use.

Rooming and Boarding Houses

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

Sanitary Sewage Disposal System, Community

A sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a central area for treatment and disposal. Said location may be a treatment plant with discharge to waters of the Commonwealth, subsurface disposal after treatment by other means, or other methods approved by the Pennsylvania Department of Environmental Resources, the total system being publicly or privately owned.

Sanitary Sewage Disposal System, On Lot

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

Screen Planting

A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining zones the structures and uses on the premises on which the screen planting is located.

Seasonal Dwelling

A seasonal dwelling shall be any dwelling not designed for year-round use by virtue of the absence of central heating and similar facilities.

Semi-Public

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

Setback Line

A line established by the subdivision regulations and/or zoning ordinance generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in said codes.

Shopping Center

A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

Sign

A "sign" is a name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a "sign" shall not include any display of official court, or public office notices, nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or any civic, charitable, religious, fraternal, or similar organization or a religious group. A "sign" shall not include a sign located completely within an enclosed building except for illuminated or animated signs within show windows. Each display surface of a sign shall be considered to be a "sign". (See also Outdoor Advertisement.)

Sign Area

The area defined by a frame or edge of a sign. Where there is no frame or edge to the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

Sign, Business

A "business sign" is a sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

Sign, Directional

A sign which is for directing patrons or attendees to an establishment off the main traveled highway or to service clubs, churches or other non-profit organizations.

Sign, Flashing

A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance any revolving, illuminated sign shall be considered a "flashing sign".

Sign, Freestanding

A sign supported by uprights or braces placed upon the ground and not attached to a building.

Sign, Gross Surface Area of

The "gross surface area" of a sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such and in no

case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements, lying outside the limits of such sign and not forming an integral part of the display.

Sign, Projecting

A sign which is attached to a building or other structure and extends beyond the line of a building or structure or beyond the surface of that portion of the building or structure to which it is attached.

Site Plan

A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearing and any other information deemed necessary by the Zoning Hearing Board or other agency of the Municipality.

Social Hall

A room or building used for friendly or convivial gatherings.

Solid Waste Facility (ies)

Any and all facilities, including all facilities as defined and regulated by the Act 101 Lackawanna County SolidWaste Plan, which are designed and/or used for the collection, transfer, temporary storage/holding, or permanent storage or disposal of any and/or all classes of solid waste as defined by the Pennsylvania Department of Environmental Resources. Solid waste facilities include the following operations as defined by the Pennsylvania Department of Environmental Resources: Landfills, Transfer Facility, Refuse Vehicle Staging Area, Composting Facility, Resource Recovery Facility and Recycling Facility. Solid waste facilities shall also include Solid Waste Storage Areas and Vehicular Waste transportation Staging Areas -- defined as areas designated for the use or staging of any type of vehicle or container utilized for the transportation of solid waste.

Special Exception

Any uses considered to have special requirements in certain zones or districts where the conditions described for permitting each such use have been enumerated in the Zoning Ordinance and where permission for such use can only be given by the Zoning Hearing Board who may require certain conditions and safeguards before such a use is permitted.

Story

A story is that part of a building between the surface of any floor and the next floor above it or, in its absence, then the finished ceiling or roof above it. A split-level is six (6) feet or more above the level of the line of the finished floor next below it. Any floor under a sloping roof at the top of a building which is more than four (4) feet below the top plate shall be counted as a story; and, if less than four (4) feet below the top plate, it shall be counted as a half-story. A basement shall be counted as a story if it averages more than five (5) feet above grade.

Story, First

The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

Street

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

1. **Arterial Road**: - A road whose function is to provide for the movement of high volumes of through traffic (in excess of 1000 AADT) as well as both limited access and direct access to the abutting properties, subject to necessary control of entrances, exits, and curb use. The right-of-way is in excess of sixty (60) feet wide.
2. **Collector Street**: - A road or street which provides for the movement of large volumes of traffic between arterials and local streets (between 500 and 1000 AADT) as well as direct access to abutting property. The right-of-way is usually between fifty (50) and sixty (60) feet wide.
3. **Local Access Street**: - A street or road whose function is to provide for local traffic movement (below 500 AADT) and direct access to abutting properties. The right-of-way is usually fifty (50) feet or less in width.

Street Right-of-way Line

The line dividing a lot from the full street right-of-way, not just the cartway.
The word "street" shall be defined as above.

Structural Alteration (See Alteration, Structural)

Structure

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

Structure, Accessory (See **Accessory Building**)

Subdivider (See **Developer**)

Subdivision

The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access for any residential dwelling, shall be exempted. (See also **Land Development**.)

Swimming Pool

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

Temporary Uses (See **Use, Temporary**)

Terrace

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

Tourist Home

A private house operated by the resident owner for the commercial purpose of providing bedrooms and breakfast to paying guests who are short-term (not longer than one week) visitors in the community. (Also known as "Bed and Breakfast".)

Trailer

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

Use

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

Use, Accessory (See **Accessory Use**)**Use, Principal**

The main use on a lot.

Use, Temporary

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

Variance

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

Water Supply and Distribution System, Community

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

Water Supply and Distribution System, On-Lot

A system for supplying and distributing water to a single dwelling or other building from a source located on the same lot.

Yard

An unoccupied space open to the sky, on the same lot with a building or structure, but not intended to mean "court".

Yard, Front

An open, unoccupied space, unobstructed from the ground upward except as herein permitted, on the same lot with a main building, extending the full width of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street right-of-way line or, in the case of waterfront lots, between the front line of the building and the street right-of-way line, or in the case of a flag lot, from that point where the lot substantially widens. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

Yard, Rear

An open, unoccupied space, unobstructed from the ground upward except as herein permitted, on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building.

Yard, Side

An open, unoccupied space, unobstructed from the ground upward except as herein permitted, on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

Zoning

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

Zoning Hearing Board (See Board)

The Zoning Hearing Board of the Borough of Throop.

Zoning Map

The officially adopted Zoning Map of the Borough of Throop, Lackawanna County, Pennsylvania, containing zoning districts, together with all amendments subsequently adopted.

Zoning Officer

The Zoning Officer or his/her authorized representative appointed by the Throop Borough Council.

Zoning Ordinance

The Zoning Ordinance of the Borough of Throop as amended.

Zoning Permit

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

ARTICLE 4

ESTABLISHMENT OF DISTRICTS

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

ARTICLE 4 - ESTABLISHMENT OF DISTRICTS**§401 Names of Zoning Districts**

For the purposes of this Ordinance, the Borough of Throop is divided into the following districts:

- E-1 Environmental Conservation District
- R-1 Low Density Residential District
- R-2 Medium Density Residential District
- C-1 Main Street Commercial District
- C-2 Highway Commercial District
- C-3 Office Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District

§402 Zoning Map

The boundaries of the above districts are delineated on a map entitled "Borough of Throop Zoning Map", which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance.

§403 Interpretation of Boundaries

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

§404 District Boundaries

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

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

3. In unsubdivided land or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the Zoning Map or by survey of a registered surveyor hired and paid for by the property owner questioning or contesting the boundary location.

§405 State-Owned Property

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

§406 Federally-Owned Property

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

§407 Public Utility Exemptions

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

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

Throop Borough Zoning Ordinance - Residential Use Schedule

	E-1 Environmental Conservation*	R-1 Low Density Residential*	R-2 Medium Density Residential*
Principal Permitted Uses	<ul style="list-style-type: none"> a. Agriculture b. Nurseries and greenhouses c. Forestry d. Conservation and watershed land e. Game lands and bird sanctuaries f. Single-family residences, including mobile homes on permanent foundations g. Public and semi-public buildings and uses, including storage yards h. Public and semi-public parks, playgrounds, and open space 	<ul style="list-style-type: none"> a. Single-family dwellings, including mobile homes on permanent foundations b. Public and semi-public buildings, excluding storage yards c. Public and semi-public parks, playgrounds, and open space 	<ul style="list-style-type: none"> a. Single-family dwellings, including mobile homes on permanent foundations b. Two-family dwellings c. Public and semi-public buildings, excluding storage yards d. Public and semi-public parks, playgrounds, and open space
Accessory Uses	<p>Customary accessory uses and buildings including, but not limited to: private garages and carports, barns, silos, sheds, farm produce stands, private swimming pools, licensed day care homes and essential services provided by public utilities</p> <p>Animal hospitals and kennels Golf course, driving range, country club Home occupations Non-profit social halls, clubs & fraternal organizations Nursery schools and day care centers Nursing and convalescent homes Personal care centers Places of religious worship and cemeteries Public and parochial schools Radio and television towers Temporary structures and buildings, including trailers</p>	<p>Customary accessory uses and buildings including, but not limited to: private garages and carports, home gardening, garden houses, tool sheds, private swimming pools, licensed day care homes and essential services provided by public utilities</p> <p>Group homes Home occupations Model homes Places of religious worship, not including cemeteries Temporary structures and buildings, including trailers Two family dwellings</p>	<p>Customary accessory uses and buildings including, but not limited to: private garages and carports, home gardening, garden houses, tool sheds, private swimming pools, licensed day care homes and essential services provided by public utilities</p> <p>Home occupations Model homes Non-profit social halls, clubs & fraternal organizations Nursery schools and day care centers Personal care centers Places of religious worship, not including cemeteries Nursing and convalescent homes Rooming and boarding homes Temporary structures and buildings, including trailers</p>
Conditional Uses	None	<p>Cluster housing</p> <p>Multi-family housing</p>	<p>Multi-family housing</p> <p>Mobile home parks</p>
Minimum Lot size	2 acres	15,000 sq. ft.	7,500 sq. ft.
Min. Lot area per D.U.	One Family 80,000 s.f.	<p>One family 15,000 s.f.</p> <p>Two family 7,500 s.f.</p> <p>Multi-family and cluster housing 5,000 s.f.</p>	<p>One family 7,500 s.f.</p> <p>Two family 3,750 s.f.</p> <p>Multi-family and Garden apartments 3,000 s.f.</p>
Min. Yards	<p>Front 100 ft.</p> <p>Rear 100 ft.</p> <p>Side 75 ft.</p>	<p>25 ft.</p> <p>30 ft.</p> <p>20 ft.</p>	<p>10 ft.</p> <p>20 ft.</p> <p>10 ft.</p>
Min. Lot Frontage	150 ft.	80 ft.	1 unit 40 ft. 2 units 60 ft. 3 units 75 ft.
Min. Lot Depth	300 ft.	125 ft.	100 ft.
Max. Lot Coverage	10%	25%	35%
Max. Bldg. Height Stories Feet	2 1/2 35	2 1/2 35	2 1/2 35

* This Schedule is supplemented by Articles 6, 7 and 8 hereof.

Throop Borough Zoning Ordinance - Commercial Use Schedule

	C-1 Main Street Commercial Zone*	C-2 Highway Commercial Zone*	*C-3 Office Commercial
Principal Permitted Uses	<p>a. Retail business establishments similar to the following: automotive (and other vehicular) parts and supplies, clothing, footwear, yard goods, drugs and notions, flowers and garden supplies, groceries, bakeries, liquor sales, hardware and paint, household goods, appliances and furniture, including electrical, video and musical appliances, gifts, galleries, office supplies, sporting goods, pets and pet supplies, books, magazines and greeting cards, hobby supplies and toys.</p> <p>b. Customer and business service establishments similar to the following: appliance repair with inside storage, automotive service garages, gasoline stations and car washes, billiard parlors, libraries and cultural establishments, social halls, clubs, and lodges, theaters, barber and beauty shops, nursery schools and day care centers, business offices, such as real estate, insurance, banking and finance, dry cleaning pick-up stations and self-service dry cleaning and laundromats, eating and drinking establishments (excluding drive-in service), funeral homes and crematories, photographic studios, professional offices, including but not limited to medical clinics, doctors' offices, law offices, architects' offices and engineers' offices, radio and television studios, shoe repair shops, tailoring and dressmaking shops.</p> <p>c. Commercial educational establishments similar to the following: art, music, and dancing schools, business schools, photography schools, technical trade schools.</p> <p>d. Other similar uses, as determined in accordance with the procedures set forth in Article 12</p>	<p>All C-1 permitted uses</p> <p>Animal hospitals, kennels and pounds, provided however that no such use shall be located closer to any R district than 100 feet</p> <p>Automobile, motorcycle and trailer sales</p> <p>Automobile, truck trailer and motorcycle repairs, including major repairs</p> <p>Building material yards, roofing</p> <p>Carpentry, including custom woodworking and custom furniture making</p> <p>Commercial recreation and entertainment establishments similar to the following: bowling alleys, video arcades, skating rinks, nightclubs, swimming clubs.</p> <p>Drive-in establishments, including eating places, movies, motels, miniature golf courses, and similar uses</p> <p>Electrical, glazing, heating, painting, paper hanging, roofing, ventilating and general contractors</p> <p>Fuel, ice, oil, coal and wood open or enclosed</p> <p>Household & office equipment machinery repairs</p> <p>Laundries</p> <p>Linen towel, and diaper service suppliers</p> <p>Light Manufacturing uses not involving any danger of fire or explosion, nor of offensive noise, vibration, smoke, dust, heat, odors, glare or other objectionable influences</p> <p>Machinery rental and sales</p> <p>Motels and Hotels</p> <p>Nurseries and greenhouses</p> <p>Packing and crating</p> <p>Sign painting</p> <p>Trucking terminals and motor freight stations</p> <p>Wholesale office & showrooms including storage</p> <p>Wholesale produce and meat markets</p> <p>Other similar uses, as determined in accordance with the procedures set forth in Article 12</p>	<p>Corporate headquarters</p> <p>Computer centers</p> <p>Professional offices</p> <p>Health Care providers, including ambulatory surgery facilities, medical testing facilities and medical laboratories</p> <p>Business services</p> <p>Personal services</p>
Special Exception Uses	<p>Auto Body Shops</p> <p>Dwellings Related to Businesses</p> <p>Mini-Markets with Gas Pumps</p> <p>Mixed use residential/commercial structures</p> <p>Nursery Schools and Day Care Centers</p> <p>Places of Worship, not including cemeteries</p> <p>Public Utility Buildings</p> <p>Rooming and Boarding Homes</p> <p>Temporary Structures and buildings, including trailers</p>	<p>Animal Hospitals & Kennels</p> <p>Auto Body Shops</p> <p>Golf Course, Driving Range, Country Club</p> <p>Mobil Home Parks</p> <p>Nursery Schools and Day Care Centers</p> <p>Nursing Homes and Personal Care Centers</p> <p>Outdoor Advertising</p> <p>Places of Worship, not including cemeteries</p> <p>Public Utility Buildings</p> <p>Radio and Television Towers</p> <p>Temporary Structures and buildings, including trailers</p>	<p>Research, engineering and testing laboratories</p> <p>Nurseries and Day Care Centers</p> <p>Temporary Structures and buildings, including trailers</p>
Conditional Uses	None	<p>Adult Entertainment Establishments</p> <p>Office Parks</p>	None
Accessory Uses	<p>Private parking and loading</p> <p>Signs per regulations Sect. 801</p> <p>Other accessory uses customarily appurtenant to a permitted use</p>	All C-1 accessory uses	Distribution centers and warehousing
Min. Lot Size	7,000 sq. ft.	40,000 sq. ft.	2 acres
Min. Yards			
Front	0 ft.	100 ft.	150 ft.
Rear	20 ft.	50 ft.	100 ft.
Side	0 ft.	40 ft.	50 ft.
Min. Lot Frontage	40 ft.	100 ft.	200 ft.
Min. Lot Depth	100 ft.	200 ft.	300 ft.
Max. Lot Coverage	50%	25%	10%
Max. Building Ht. Stories	2	2	2
Feet	35	35	35

* This Schedule is supplemented by Articles 6, 7 and 8 hereof

Throop Borough Zoning Ordinance - Industrial Use Schedule

	I-1 Zone*	I-2 Zone*
Principal Permitted Uses	<p>Automobile and metal appliance manufacturing and assembly, structural steel fabricating shops, machine shops, forges and foundries.</p> <p>Bakeries</p> <p>Manufacturing, assembly or packing of products from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones.</p> <p>Manufacturing of electric and electronic instruments and devices, such as television, radio & phonograph equipment.</p> <p>Manufacture of food products, pharmaceuticals, and the like, but not including production of fish or meat products, sauerkraut, vinegar, or the like, or the rendering or refining of fats and oils.</p> <p>Meat packing but no stockyards, slaughterhouses or tanneries</p> <p>Outdoor Skating Rinks.</p> <p>Public and institutional uses.</p> <p>Radio-television transmission facilities, except towers.</p> <p>Railroad yards and freight station.</p> <p>Other similar uses, as determined in accordance with procedure set forth in Article 12.</p>	<p>All I-1 manufacturing, research, wholesale or storage permitted uses.</p> <p>Any of the following manufacturing use</p> <p>Brewing or distilling of liquors</p> <p>Brick, pottery manufacturing, stone or monument works.</p> <p>Large-scale bleaching, cleaning and dyeing establishments.</p> <p>Poultry slaughterhouse and meat packing, but no other stockyards</p> <p>Any manufacturing use involving primary production from raw materials.</p> <p>Other similar uses, as determined in accordance with the procedure set forth in Article 12.</p> <p>Solid Waste Facilities, but not incinerators</p>
Accessory Uses	<p>All C-2 accessory uses</p> <p>Private parking and loading</p> <p>Signs per regulations Sect. 801</p> <p>Other accessory uses customarily appurtenant to a permitted use</p>	All I-1 accessory uses
Special Exception Uses	<p>Lumber mills</p> <p>Outdoor advertising</p> <p>Public Utility Structures</p> <p>Radio and Television Towers</p> <p>Temporary Structures and buildings, including trailers</p>	<p>Lumber mills</p> <p>Natural Resource Production</p> <p>Outdoor advertising</p> <p>Public Utility Structures</p> <p>Radio and Television Towers</p> <p>Temporary Structures and buildings, including trailers</p>
Conditional Uses	None	None
Min. Lot Size	20,000 sq. ft.	40,000 sq. ft.
Min. Yards		
Front	50 ft.	75 ft
Rear	50 ft.	100 ft
Min. Lot Frontage	100 ft.	100 ft
Min. Lot Depth	150 ft.	200 ft.
Max. Lot Coverage	25%	20%
Max. Building Ht		
Stories	2	2
Feet	40	40

* This Schedule is supplemented by Articles 6, 7 and 8 hereto

ARTICLE 5

DISTRICT REGULATIONS

- §501** **E-1 Environmental Conservation District**
- §502** **R-1 Low Density Residential**
- §503** **R-2 Medium Density Residential**
- §504** **C-1 Village Commercial District**
- §505** **C-2 Highway Commercial**
- §506** **C-3 Office Commercial**
- §507** **I-1 Light Industrial District**
- §508** **I-2 Heavy Industrial District**

ARTICLE 5 - DISTRICT REGULATIONS**§501 E-1 Environmental Conservation District**

1. **Purpose:** The purpose of this district is to protect and preserve the open, undeveloped character of areas of the Municipality used for public utility watersheds, river-based and other recreation, forest land and very low-density residential development.
2. **Principal Permitted Uses**
(See attached Residential Use Schedule - Schedule A)
3. **Accessory Uses**
(See attached Residential Use Schedule - Schedule A)
4. **Special Exception Uses** (See Article 6.)
 - a. Animal hospitals and kennels
 - b. Golf courses, golf driving ranges, and country clubs
 - c. Home occupations
 - d. Non-profit social halls, clubs & fraternal organizations
 - e. Nursery Schools and Day Care Centers
 - f. Nursing and convalescent homes
 - g. Personal Care Centers
 - h. Places of religious worship and cemeteries
 - i. Public and parochial schools
 - j. Radio and television transmission or receiving towers
 - k. Temporary structures and buildings including trailers
5. **Conditional Uses** (See Article 7.)
None
6. **Dimensional Regulations**
(See attached Residential Use Schedule - Schedule A)
 - a. **Minimum Yards for Unattached Accessory Buildings:** 75 feet for side yards, 100 feet for front and rear yards
 - b. **Maximum Lot Coverage:** The maximum land area covered by buildings shall be 10%, and the maximum total impervious cover shall be 15%.
7. **Supplementary Regulations** (See Article 8.)
8. **Subdividing and Developing:** Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.

S502 R-1 Residential - Low Density District

1. Purpose: The purpose of this district is to provide for suburban-type residential development at low densities in areas already developed in this manner and in areas where similar development is desirable and appropriate.
2. Principal Permitted Uses
 - a. Single-family dwellings, including mobile homes on permanent foundations.
 - b. Public and semi-public buildings, excluding storage yards, public schools, and parochial schools.
 - c. Public and semi-public parks, playgrounds, and open space
3. Accessory Uses

(See attached Residential Use Schedule - Schedule A) .

 - a. Customary accessory uses and buildings including, but not limited to: private garages and carports, home gardening, garden houses, tool sheds, private swimming pools and essential services provided by public utilities.
4. Special Exception Uses (See Article 6.)
 - a. Group homes
 - b. Home occupations
 - c. Model homes
 - d. Places of religious worship, not including cemeteries
 - e. Temporary structures and building including trailers
 - f. Two family dwellings
5. Conditional Uses (See Article 7.)
 - a. Cluster housing
 - b. Multi-family housing
6. Dimensional Regulations

(See attached Residential Use Schedule - Schedule A)

 - a. Minimum Yards for Unattached Accessory Buildings: 20 feet for side and rear yards
 - b. Maximum Lot Coverage: The maximum land area covered by buildings shall be 25%, and the maximum total impervious cover shall be 30%.
7. Supplementary Regulations (See Article 8.)
8. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.

S503 R-2 Residential, Medium Density District

1. Purpose: The purpose of this district is to provide for urban-type residential development at medium densities in areas already developed in this manner and in areas where similar development is desirable and appropriate.
2. Principal Permitted Uses
 - a. Single-family dwellings, including mobile homes on permanent foundations.
 - b. Public and semi-public buildings, excluding storage yards, public schools, and parochial schools.
 - c. Public and semi-public parks, playgrounds, and open space
3. Accessory Uses

(See attached Residential Use Schedule - Schedule A).

 - a. Customary accessory uses and buildings including, but not limited to: private garages and carports, home gardening, garden houses, tool sheds, private swimming pools and essential services provided by public utilities.
4. Special Exception Uses (See Article 6.)
 - a. Group homes
 - b. Model homes
 - c. Non-profit social halls, clubs & fraternal organizations
 - d. Nursery Schools and Day Care Centers
 - e. Nursing and convalescent homes
 - f. Personal Care Center
 - g. Places of Worship, not including cemeteries
 - h. Rooming and boarding homes
 - i. Temporary structures and building including trailers
5. Conditional Uses (See Article 7.)
 - a. Multi-family housing
 - b. Mobil Home Parks
6. Dimensional Regulations (See attached Residential Use Schedule-ScheduleA)
 - a. Minimum Yards for Unattached Accessory Buildings: 10 feet for side and rear yards
 - b. Maximum Lot Coverage: The maximum land area covered by buildings shall be 35%, and the maximum total impervious cover shall be 45%.
7. Supplementary Regulations (See Article 8.)
8. Subdividing and Developing: Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.

§504 C-1 Main Street Commercial District

1. **Purpose:** The purpose of this district is to provide the type of commercial facilities which supply goods and services to resident of the Borough and neighboring communities as well as to businesses in a traditionally dense, sidewalk-oriented, "Main Street" environment.
2. **Principal Permitted Uses**
(See attached Commercial Use Schedule - Schedule B)
3. **Accessory Uses**
(See attached Commercial Use Schedule - Schedule B)
4. **Special Exception Uses** (See Article 6.)
 - a. Animal hospitals
 - b. Automobile body shops
 - c. Dwellings directly related to certain businesses
 - d. Mini-markets (grocery) with gas pumps
 - e. Nursery Schools and day-care centers
 - f. Places of worship, not including cemeteries
 - g. Public utility buildings, except telephone offices and booths
 - h. Rooming and boarding homes
 - i. Temporary structures and buildings including trailers
5. **Conditional Uses** (See Article 7.)
 - a. None
6. **Dimensional Regulations**
(See attached Commercial Use Schedule - Schedule B)
 - a. **Minimum Yards for Unattached Accessory Buildings:** 5 feet for side and rear yards and 0 feet for front yards
 - b. **Maximum Lot Coverage:** The maximum land area covered by buildings shall be 50%, and the maximum total impervious cover shall be 80%.
7. **Supplementary Regulations** (See Article 8.)
8. **Subdividing and Developing:** Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.
9. **Buffer Area:** Buffer areas shall be required between zoning districts. No commercial activities, including areas for parking of vehicles and storage of equipment and supplies, shall be allowed in an area measured twenty-five (25) feet at right angles to the district boundary within the commercial district. All buffer areas shall be landscaped, except for roadways crossing these buffer areas, with trees, shrubbery, or hedges at least six (6) feet high and maintained in good condition, as provided for in Section §801.7.

§505 C-2 Highway Commercial District

1. **Purpose:** The purpose of this district is to provide automobile-oriented commercial facilities which supply goods and services to residents and businesses of the Borough and the region and those passing through the area.
2. **Principal Permitted Uses**
(See attached Commercial Use Schedule - Schedule B)
3. **Special Exception Uses** (See Article 6.)
 - a. Auto body shops
 - b. Golf course, driving range, country club
 - c. Mobil home parks
 - d. Nursery Schools and day-care centers
 - e. Nursing homes and personal care centers.
 - f. Outdoor advertising signs
 - g. Places of worship, not including cemeteries
 - h. Public and parochial schools
 - i. Public utility buildings
 - j. Radio and television transmission or receiving towers
 - k. Temporary Structures and buildings including trailers
4. **Conditional Uses** (See Article 7.)
 - a. Adult uses
 - b. Office Parks
5. **Dimensional Regulations**
 - a. **Minimum Yards for Unattached Accessory Buildings:** 40 ft. for side and rear yards
 - b. **Maximum Lot Coverage:** The maximum land area covered by buildings shall be 25%, and the maximum total impervious cover shall be 50%.
6. **Supplementary Regulations** (See Article 8.)
7. **Subdividing and Developing:** Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.

§506 C-3 Office Commercial District

1. **Purpose:** The purpose of this district is to provide regional office commercial facilities which supply office employment to residents of the Borough as well as those from the region at large.
2. **Principal Permitted Uses**
(See attached Commercial Use Schedule - Schedule B)
3. **Special Exception Uses** (See Article 6.)
 - a. Research, engineering and testing laboratories
 - b. Nursery Schools and day care centers
 - c. Temporary structures and buildings including trailers
4. **Conditional Uses** (Sec Article 7.)
 - a. None
5. **Dimensional Regulations**
 - a. **Minimum Yards for Unattached Accessory Buildings:** 50 ft. for side and rear yards
 - b. **Maximum Lot Coverage:** The maximum land area covered by buildings shall be 10%, and the maximum total impervious cover shall be 25%.
6. **Supplementary Regulations** (See Article 8.)
7. **Subdividing and Developing:** Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.

§507 I-1 Light Industrial District

1. **Purpose:** The purpose of this district is to provide for light industrial activities and related service activities which, with sufficient buffering, can be located near residential neighborhoods and commercial areas.
2. **Principal Permitted Uses**
(See attached Industrial Use Schedule - Schedule C)
3. **Special Exception Uses** (See Article 6.)
 - a. Lumber mills
 - b. Outdoor advertising signs
 - c. Public utility structures
 - d. Radio and television transmission or receiving towers
 - e. Temporary structures and buildings including trailers
4. **Conditional Uses** (See Article 7.)
 - a. none
5. **Dimensional Regulations**
 - a. **Minimum Yards for Unattached Accessory Buildings:** 20 ft. for side and rear yards
 - b. **Maximum Lot Coverage:** The maximum land area covered by buildings shall be 25%, and the maximum total impervious cover shall be 40%.
6. **Supplementary Regulations** (See Article 8.)
7. **Subdividing and Developing:** Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.
8. **Buffer Area:** Buffer areas shall be required between zoning districts. No activities permitted by this district, including areas for parking of vehicles and storage of equipment and supplies, shall be allowed in an area measured twenty-five (25) feet at right angles to the district boundary within the I-1 Light Industrial District. All buffer areas shall be landscaped, except for roadways crossing these buffer areas, with trees, shrubbery, or hedges at least six (6) feet high and maintained in good condition, as provided for in Section §801.7.
9. **Performance Standards:** All activities and uses allowed in this district shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial wastes, fire hazards, and any other activities and use's side effects deemed injurious to the public health, safety, and welfare by the U.S. Environmental Protection Agency (EPA), the U.S. Occupational Safety and Health Agency (OSHA), the Pennsylvania Department of Environmental Resources (DER), and the Pennsylvania Department of Labor and Industry (DL & I).

§508 I-2 Heavy Industrial District

1. **Purpose:** The purpose of this district is to provide for industrial activities and related services which require greater regulations due to the intense characteristics of the operations involved.
2. **Principal Permitted Uses** (See attached Industrial Use Schedule - Schedule C)
3. **Special Exception Uses** (See Article 6.)
 - a. Lumber mills
 - b. Natural resource production
 - c. Outdoor advertising
 - d. Public utility structures
 - e. Radio and television transmission or receiving towers
 - f. Temporary structures and buildings including trailers
4. **Conditional Uses** (See Article 7.)

None
5. **Dimensional Regulations**
 - a. **Minimum Yards for Unattached Accessory Buildings:** 100 feet for side and rear yards
 - b. **Maximum Lot Coverage:** The maximum land area covered by buildings shall be 20%, and the maximum total impervious cover shall be 35%.
6. **Supplementary Regulations** (See Article 8.)
7. **Subdividing and Developing:** Any area divided into parcels or developed according to the definitions of subdivision and land development as found in Article 3 shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of Throop Borough.
8. **Buffer Area:** Buffer areas shall be required between zoning districts. No activities permitted by this district, including areas for parking of vehicles and storage of equipment and supplies, shall be allowed in an area measured twenty-five (25) feet at right angles to the district boundary within the I-2 Heavy Industrial District. All buffer areas shall be landscaped, except for roadways crossing these buffer areas, with trees, shrubbery, or hedges at least six (6) feet high and maintained in good condition, as provided for in Section §801.7.
9. **Performance Standards:** All activities and uses allowed in this district shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, industrial wastes, fire hazards, and any other activities and use's side effects deemed injurious to the public health, safety, and welfare by the U.S. Environmental Protection Agency (EPA), the U.S. Occupational Safety and Health Agency (OSHA), the Pennsylvania Department of Environmental Resources (DER), and the Pennsylvania Department of Labor and Industry (DL & I).

ARTICLE 6

SPECIAL EXCEPTION USES

601 Purpose

602 General Provisions

603 Specific Provisions

1. Animal Hospitals and Kennels
2. Automobile Body Shops
3. Dwellings Directly Related to Certain Businesses
4. Golf Courses, Golf Driving Ranges, and Country Clubs
5. Home Occupations
6. Lumber Mills
7. Mini-Markets (Grocery) with Gas Pumps
8. Mobil home parks
9. Model Homes
10. Natural Resource Production
11. Non-profit social halls, clubs & fraternal organizations
12. Nurseries and Day Care Centers
13. Nursing and Convalescent Homes
14. Outdoor Advertising Signs
15. Personal Care Centers
16. Places of Religious Worship, Not Including Cemeteries
17. Public and Parochial Schools
18. Public Utility Buildings except Telephone Offices and Booths
19. Radio and Television Transmission or Receiving Towers
20. Research, Engineering and Testing Laboratories
21. Rooming and Boarding Houses
22. Temporary Structures and Buildings including Trailers
23. Two family dwellings

ARTICLE 6 - SPECIAL EXCEPTION USES**601 Purpose**

The purpose of special exception use regulations is to provide additional standards for controlling the unique or special characteristics of certain uses with limited potential for Borough-wide impact which otherwise conform to uses permitted in their respective districts.

602 General Provisions

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

1. **Decisions**:: Decisions of the Board shall be made pursuant to standards and criteria expressed in this Article, to regulations for the respective districts in which the uses are located, and to all other requirements of this Ordinance. Further, only those uses which are specifically enumerated as Special Exception Uses in the appropriate table for the Zone District may be reviewed as to establishment of said use in said Zone District.

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

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

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

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

3. Site Plan:: A plan for the proposed development of a site for a special exception use shall be submitted with the application for a special exception permit. Such plan shall show the location of all buildings, open space, parking areas, traffic access and circulation, landscaping and any and all other information required for determining the conformance of the special exception use with the regulations for that use.
4. General Standards:: Decisions for granting all special exception uses shall be guided by the following general standards:
 - a. The proposed use shall not jeopardize the objectives of the Comprehensive Plan.
 - b. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use.
 - c. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
 - d. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the site relative to the proposed operation, and the nature and intensity of the operation involved.
 - e. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that the neighboring property is not impaired.
 - f. The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibrations, smoke, fly ash, or flashing lights than would be the operations of any permitted use in the district.
 - g. Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be implemented by the Board if the Board deems it necessary for implementing the purposes of the Pennsylvania Municipalities Planning Code (Act 247, as amended) and this Ordinance.

S603 Specific Provisions

Uses permitted by Special Exceptions in this Ordinance include the following for which additional regulations are prescribed.

1. **Animal Hospitals Kennels;** (E-1, C-2 Districts)

Animal kennels in which animals are kept, boarded, or trained may be operated in either enclosed buildings or a combination of buildings and open runways. If all activities are maintained within a completely enclosed, sound-proof building, district yard regulations for the district shall apply. If open runways are used, the building shall be located fifty (50) feet from such property lines and runways shall be located at least one hundred (100) feet from such property lines. The parcel on which such a use is conducted shall be a minimum of one (1) acre in land area.

Hospitals for pets shall be located in either a sound-proof building with no objectionable odors evident outside the building or a combination of buildings and open runways. If located in a totally enclosed building, district yard regulations for the district shall apply. If open runways are used, the building shall be located at least fifty (50) feet from such property lines and runways shall be located at least one hundred (100) feet from such property lines. The parcel on which such a use is conducted shall be a minimum of one (1) acre in land area.

2. **Automobile Body Shops;** (C-1, C-2 Districts)

No part of any front yard setback shall be utilized for the storage of any motor vehicle(s), in whole or in part, which is inoperable due to any of the following: non-licensure by the Commonwealth of Pennsylvania Department of Motor Vehicles or similar agency, lack of proper inspection certificates, lack of insurance as required by the Commonwealth or non-operational due to mechanical or structural problems. No open pit or non-protected hoist will be allowed outside of a completely enclosed structure. Storage of any vehicle or part thereof awaiting repair shall be maintained in any required side or rear yard behind a completely opaque fence and shall be located no nearer than 25 feet from any property line. Drainage from any storage area shall not be directed off-site without adequate treatment to ensure that oils, fuels, or other potentially contaminated liquids do not mitigate to adjacent property or to public waterways.

3. Mixed use residential/commercial structures; (C-1 District)

In a C-1 District, mixed use residential/commercial structures shall be permitted to house, within the same building, any principal permitted use as well as dwellings, provided that such dwellings shall be designed as living quarters, having adequate natural light and kitchen and bathroom facilities. Such dwellings shall also have private access and the required residence parking spaces in addition to required commercial parking spaces.

4. Golf Courses, Golf Driving Ranges, and Country Clubs; (E-1 and C-2 District)

The minimum size of a tract for a regulation nine-hole course shall be fifty (50) acres and for a regulation eighteen-hole course one hundred ten (110) acres. Where the golf course adjoins residential properties along its borders, a line of trees or shrubs at least twenty (20) feet deep shall be planted along the fairways and greens, but no closer than twenty (20) yards behind the greens. Access roads to the course shall meet the requirements for minor roadways as defined in the Borough Subdivision and Land Development Regulations. Parking spaces shall be as required by Article 8. Club houses and other golf course structures shall be located at least one hundred (100) feet from any property line. Golf Driving Ranges shall be oriented so that no ball hit shall interfere with traffic on adjacent roadways and all sides abutting residential uses shall be screened from view by trees or shrubs of a size and density adequate to protect adjacent areas from stray golf shots.

5. Home Occupations; (E-1, R-1, and R-2 Districts)

A home occupation shall be the incidental use of a dwelling unit or of a building or other structure accessory to a dwelling unit and shall be conducted by a person or persons residing in the dwelling unit and not more than two (2) non-resident employees working on the premises. Not more than thirty percent (30%) of the habitable floor area of the house shall be used for calculating the area to be used for the home occupation, although the home occupation may be located in either the house or an accessory structure on the same zone lot. If the use is located in an accessory structure the same 30% allowable area of the principle structure shall prevail.

The exterior appearance of the structure or premises shall be maintained in its residential character with the home occupation conducted entirely within the enclosed structure and with no goods publicly displayed on the premises other than a permitted sign as provided for in Article 8. The home occupation shall not involve display windows, the storage or sale of articles, except those incidental to the service, frequent truck deliveries, or the production of offensive noise, smoke, vibration, dust, odors, heat, or glare. Any outdoor storage of materials or products is also prohibited. Off-street parking requirements for both the dwelling and home occupation uses shall be met in accordance with Article 8.

Home occupations may include an office or studio of a physician, dentist, artist, photographer, architect, engineer, accountant, surveyor, lawyer, realtor, insurance salesperson, or member of some similar recognized profession. This list is not all-inclusive, but is intended to serve as a guideline.

Home occupations may also include beauty and barber shops, dressmaking and tailoring shops, small appliance repair, and tutoring and music instruction but shall not include animal hospitals, commercial kennels, funeral homes, clothing stores, restaurants, dance studios, business schools or automotive repair service. This list is not all-inclusive but is intended to serve as a guideline.

6. Lumber Mills; (I-1 and I-2 Districts)

Lumber or saw mills shall be located at least five hundred (500) feet from the boundary of the nearest residence. The operation shall consist of the preparation of lumber for market and shall not include display and sales yards. The use shall be on a tract of land of not less than ten (10) acres.

7. Mini-Markets (Grocery) with Gas Pumps; (C-1 District)

The principal structure as well as the canopy over gasoline pumps shall meet all the minimum setback requirements for all yards in the district in which it is located. When the property abuts a property containing a residence, a screen and buffer shall be provided according to the requirements of Article 8. A parking area accommodating all spaces required by Article 8 shall be provided. Access driveways shall be no more than twenty five (25) feet in width at the street line, and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets, as measured from the right-of-way line. All lighting of parking areas and access driveways shall be directed away from adjoining property and shall be shielded to prevent upward fugitive light emissions. The developer shall demonstrate that all relevant State and Federal regulations pertained to the storage and sale of gasoline products has been met and that the necessary permits have been obtained.

8. Mobil Home Parks; (C-2 District) Follow guidelines listed under Conditional Uses, Article 7
9. Model Homes; (R-1, and R-2 Districts)

The exterior appearance of a model home and its premises shall be maintained and operated consistent with the residential character of the neighborhood in which it is located. Landscaping shall be provided consistent with that of the neighborhood within six (6) months of the use of the structure as a model home. The home shall be used only as a model display of homes available for sale or rent with accessory sales office and not as a realtor's office or for the storage of construction equipment and materials. Off-street parking for patron use and one (1) space for each employee shall be provided in accordance with Article 8 in such a manner as to be removable upon cessation of the model use and sale as a residence with no discernible remains of such parking area. No construction or delivery trucks shall be allowed on the premises upon completion of the construction of the structure. Only signs allowed by provisions of Article 8 shall be permitted.

This special exception use shall be temporary, being valid for thirty (30) months after the excepted use is approved by the Zoning Hearing Board. At the expiration of the permit, the premises shall either revert to use as a dwelling or continue as a special exception upon application to and approval by the Board. In making its decision the Board shall consider the effects of the previous permit on the neighborhood, the construction activity remaining in the development, and adherence to the terms of the previous permit.

10. Natural Resource Production; (I-2 District)

Natural resource production uses shall include excavating, quarrying, mining, drilling, processing of mineral resources; growing, harvesting, processing, and sale of forest products; collecting, processing, storing, bottling, and sale of water resources; and the collecting or otherwise handling of any other natural resources.

Natural resource production uses shall meet the following requirements:

- a. The lot or tract on which the use is located shall be not less than ten (10) acres in area with a width of no less than four hundred (400) feet;
- b. The minimum front, side and rear yard setbacks shall be one hundred (100) feet in depth as measured from the street line, from the side or rear district lines, from the property line of any adjacent property in the same ownership but different use or in different ownership but the same use. All yard areas shall also serve as buffer areas landscaped in trees and shrubbery and with no parking of vehicles or storage of equipment and supplies allowed;
- c. The maximum height of any building shall be that permitted in the district where the use is located, with exceptions for chimneys, conveyors, crushers, and other structures which are not buildings;
- d. No more than two percent (2%) of the tract shall be covered with buildings, whether principal or accessory;
- e. All activities and uses shall comply with performance standards governing odors, fumes, dust, smoke, vibration, noise, soil erosion and sedimentation and any other side effects of the natural resource operation deemed injurious to the public health safety, and welfare by such agencies as the U.S. Environmental Protection Agency (EPA), the U.S. Occupational Safety and Health Agency (OSHA), the U.S. Soil Conservation Service (SCS), the Pennsylvania Department of Environmental Resources (DER), and the Pennsylvania Department of Labor and Industry (DL&I);
- f. Any natural resource operation involving mining, quarrying, drilling or excavating shall be required to provide a fence six (6) feet high completely enclosing that activity on the property. Such a fence shall be so constructed as to have openings no larger than six (6) inches, and, if pickets are used, the openings shall not exceed six (6) inches.
- g. No mining, excavating, drilling, lumbering, bottling, or processing operations of any sort shall be allowed earlier than 7:00 a.m. or later than 5:00 p.m. local time Monday through Saturday; and
- h. Verification of bonding and insurance, if such bonding and insurance are required by the Pennsylvania Department of Environmental Resources (DER) or some other agency, shall be supplied to the Borough Council upon request.

11. Non-profit social halls, clubs & fraternal organizations: (E-1 and R-2 Districts)

Non-profit social halls, clubs & fraternal organizations shall comply with the all construction, maintenance, fire and safety standards of the Pennsylvania Department of Labor & Industry. They shall be located on either an arterial or collector street.

12. Nursery Schools and Day Care Centers: (E-1, R-2, C-1, C-2 and C-3 Districts)

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

13. Nursing and Convalescent Homes: (E-1, R-2 and C-2 Districts)

The minimum size of the tract shall be one (1) acre. The tract shall front on an arterial or collector street. Where the tract abuts residences on the side or rear property lines, a screening fence six (6) feet in height shall be placed no farther than one (1) foot from the property line, and a landscaped buffer area having a depth of not less than ten (10) feet shall be provided within the property line. The fence, shrubs, and/or buffer shall be maintained in good condition. A parking area accommodating all spaces required by Article 8 shall be located within the buffer area. Access drives shall be no more than twenty-five (25) feet wide at the street line and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets as measured from the right-of-way line. Proof of licensure from the PA Department of Public Welfare shall be provided to the Borough upon request. They shall be located on either an arterial or collector street.

14. Outdoor Advertising Signs (Billboards): (C-2, I-1, I-2 Districts)

Outdoor advertising signs shall be permitted by Special Exception. No such sign, including its structure or standards, shall be permitted within one hundred (100) feet of any residence nor within one thousand (1,000) feet of another such sign. The advertising surface area of any panel shall not exceed two hundred forty (240) square feet, and not more than two (2) panels (or [1] double-faced panel) shall be permitted on the same structure or standard. The yard setback requirements of the district in which the sign is to be located shall apply. All other provisions for signs as found in Article 8 shall apply.

15. Personal Care Centers; (E-1, R-2 & C-2 Districts)

Personal Care Centers shall be permitted by Special Exception. The tract shall front on an arterial or collector street. Where the tract abuts residences on the far side or rear property lines, a landscaped buffer area having a depth of not less than ten (10) feet shall be provided within the property line. The buffer shall be maintained in good condition. A parking area accommodating all spaces required by Article 8 shall be located within the buffer area. Access drives shall be no more than twenty-five (25) feet wide at the street line and in the case of a corner lot, access driveways shall be at least sixty (60) feet from the intersection of the two streets as measured from the right-of-way line. Proof of application for licensure from the appropriate PA Department shall be provided to the Borough with the application for Zoning approval. A copy of the approved license shall be provided to the Borough with the application for the Certificate of Zoning Compliance. They shall be located on either an arterial or collector street.

16. Places of Worship and Cemeteries; (E-1, R-1, R-2, C-1 and C-2 Districts; provided, however, that cemeteries are only allowed in the E-1 District)

The property shall be at least one (1) acre in area and front on an arterial or collector street. A parking area shall accommodate all parking spaces as required by Off-Street Parking and Loading regulations (See Article 8), as well as circulation and access areas. Access driveways shall be no more than twenty-five feet in width, and, in the case of a corner lot, access driveways shall be at least sixty (60) feet from the right-of-way line. Where the property abuts existing residences on the side or rear property line, a solid wall, a substantial attractive, tight fence, or evergreen hedges a minimum of six (6) feet in height and maintained in good condition shall be provided. The evergreens should be of such height at the time of planting that they will attain a height of six (6) feet within three (3) years. Minimum side and rear yards shall be fifty (50) feet. They shall be located on either an arterial or collector street.

17. Public and Parochial Schools; (E-1 Districts)

The size of the school tract shall be at least the minimum prescribed by the Pennsylvania Department of Education. Access to the tract shall be from an arterial or collector street, and access driveways shall be no more than thirty-five (35) feet in width. In the case of a corner lot access driveways shall be at least sixty (60) feet from the intersection of the two streets as measured along the right-of-way lines. Loading and unloading areas, parking areas, and circulation and access areas shall be provided in accordance with Article 8. They shall be located on either an arterial or collector street.

18. Public Utility Buildings, Except Telephone Offices and Booths; (C-1, C-2, I-1, I-2 Districts)

Such buildings are intended to include telephone exchanges, electric stations and substations, and gas, water, and sewerage pumping stations, water tanks and reservoirs, and sewage treatment plants. The property on which any such activity is located shall conform to the following regulations: (a) Access and parking shall be provided only for maintenance and servicing of such activities. (b) A chain-link fence and locked gate at least six (6) feet high and maintained in good condition shall surround the building, except for the telephone exchange, which may be controlled by a locked door. (c) A buffer area at least twenty (20) feet deep and containing trees and shrubs to conceal the chain-link fence and building shall be provided along all boundaries of the property. (d) The premises shall be kept in good condition and free of litter and junk. (e) Outside lighting shall be directed away from adjacent activities. (f) The location, design, and operation of such facility shall not adversely affect the character of any adjacent residential property.

19. Radio and Television Transmission or Receiving Towers; (E-1, C-2, I-1, and I-2 Districts)

Any radio and television transmission or receiving tower shall be set back from all tract boundary lines a distance equal to 1.2 times its height, and the base of such tower shall be surrounded by a chain-link fence and locked gate at least six (6) feet high and located at least six (6) feet from the outer edge of the base. The fence and gate shall be maintained in good condition.

20. Research, Engineering and Testing Laboratories; (C-3 District)

All structures, equipment and activities of Research, Engineering and Testing Laboratories shall comply with all regulations governing such a use by such State agencies as the Pennsylvania Department of Environmental Resources (DER), the Pennsylvania Department of Transportation (DOT) and the Pennsylvania Department of Labor and Industry (Department of Labor & Industry). Where applicable, Federal product and workplace safety regulations will also apply.

21. Rooming and Boarding Houses: (R-2 and C-1 Districts)

The rooming or boarding house shall have no more than four (4) rooms of the residence used for rooming or boarding with not more than two (2) people per room. The property shall maintain all yard areas for the district in which it is located and shall provide parking spaces as required by Article 8. In outward appearance the boarding or rooming house shall be consistent with the character of other residences in the immediate area.

22. Temporary Structures and Buildings Including Trailers: (All Districts)

The proposed temporary use and the reasons for requesting the use of a temporary structure or building shall be supplied by the applicant for such use. Such structure will only be used for offices and storage directly related to a specific, determinate project. It is the duty of the applicant to prove that the requested location is the only site which is feasible to utilize due to access, topography, infrastructure, or other unique characteristics. The Zoning Hearing Board shall make a determination as to the acceptability of this information and shall set a date for the termination of the temporary use one (1) year from the date the special exception was granted. An extension for not more than one (1) additional year shall be considered, provided the applicant can show compliance with the requirements set initially and a need for the extension to the satisfaction of the Board.

23. Two Family House: (R-1)

A two family house, to be built in an R-1 District, must conform visually to the surrounding neighborhood homes. It must provide sufficient off street parking for each unit, including separate access for each unit from the public right-of-way to its own off street parking area. It must also provide separate, private outdoor space for each unit, directly accessible from an entry/exit to that unit and marked by appropriate fencing and/or planting, with neither unit having less than 35% of such outdoor space. A permitted two family house can have either a single owner or a condominium style ownership.

ARTICLE 7

CONDITIONAL USES

701 Purpose

702 General Provisions

703 Specific Provisions

1. Adult Entertainment Establishments
2. Cluster Housing Developments
3. Mobile Home Parks
4. Multi-Family Dwellings
5. Office Parks

ARTICLE 7 - CONDITIONAL USES**701 Purpose**

The purpose of conditional use regulations is to permit certain uses with potential community-wide impact in particular zones or districts when the conditions described for each use have been fulfilled as determined by the Borough Council upon recommendation of the Throop Borough Planning Commission.

702 General Provisions

Decisions for granting or denying conditional use zoning permits shall be made by the Borough Council according to the following procedures.

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

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

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

The Borough Council shall render a final decision on the application within forty-five (45) days after the last public hearing. Where the Borough Council fails to make its decision within the period required, the decision shall be deemed in favor of the applicant.

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

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

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

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

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

3. Site Plan:: A plan for the proposed development of a site for a conditional use shall be submitted with the application for a conditional use permit to the Zoning Officer. Such plan shall show the location of all buildings, open space, parking areas, traffic access and circulation, landscaping and any other information required for determining the conformance of the conditional use with the regulations for that use.
4. General Standards:: Decisions for granting all conditional uses shall be guided by the following general standards:
- a. The proposed use shall not jeopardize the objectives of the Comprehensive Plan.
 - b. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use.
 - c. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion and for providing for the safety and convenience of pedestrian and vehicular traffic.
 - d. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the site relative to the proposed operation, and the nature and intensity of the operation involved.

e. The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls, and fences so that property is not impaired.

f. The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibrations, smoke, fly ash, or lights (such as flashing, neon, flood, spot, etc.) than would be the operations of any permitted use in the district.

g. Any other reasonable conditions and safeguards, in addition to those expressed in this Ordinance, may be implemented by the Borough Council if it deems it necessary for implementing the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Ordinance.

703 Specific Provisions

Uses permitted by Conditional Use include the following for which additional regulations are prescribed:

1. **Adult Entertainment Establishments:** (C-2 District)
 - a. **Purpose:** The purpose of this conditional use is to provide for establishments which have a sex-related nature or purpose in an appropriate environment which prevents the deleterious blighting or downgrading effects which a concentration of such uses or the inappropriate placement of such uses may have upon surrounding neighborhoods.
 - b. **Use Regulations:** The conditional uses shall be adult entertainment establishments as designated herein under subsection (f) "Uses Designated and Regulated".
 - c. **Dimensional Regulations:** The dimensional regulations shall be the same as those applicable to the C-2 Commercial District.
 - d. **Development Regulations:** Adult entertainment establishments (as defined herein) shall be subject to the following development regulations:
 - (1) **Comprehensive Plan:** Proposed adult entertainment establishments shall be consistent with the Comprehensive Plan of the Borough of Throop if one has been adopted.
 - (2) **Site Location:** Adult entertainment establishments shall be located only in the C-2 Commercial District, and the proposed location of such an establishment within such district shall be at least five hundred (500) feet distant from another such adult use, residential district, property lines of churches and related religious institutions, and property lines of schools, playgrounds, and parks.
 - e. **Supplementary Regulations** (See Article 8.)
 - f. **Uses Designated and Regulated:** Uses designated and regulated as adult entertainment establishments include: adult book stores, adult cabarets, adult coffee shops, adult drive-in theaters, adult massage businesses, adult mini-motion picture theaters, adult motion picture theaters, adult video cassette rentals and sales, and any and all such other establishments in which live or photographic nudity is readily visible or from which minors are excluded by virtue of age.

2. Cluster Housing Developments; (R-1 District)

- a. **Purpose:** The purpose of this use is to provide for housing that can be clustered together to achieve greater economies in the construction of roads and utilities, to maximize the preservation of open space on a tract, and to allow for greater flexibility of layout design.
- b. **Use Regulations:** - The types of housing permitted in cluster developments shall be the same as those otherwise permitted in the district in which the tract is located.
- c. **Dimensional Regulations:** - The total area of the site shall not be less than the total area that would be required if the dwellings were placed on individual lots in their respective districts. Height and coverage regulations of the district in which such developments are located shall apply.
- d. **Development Regulations:** - A proposed cluster housing development shall be subject to the following development regulations:
 - (1) **Arrangement of Buildings:** - Although flexibility of design is encouraged, no building shall be closer to any other building, including its projections, than twenty (20) feet.
 - (2) **Buffer Area:** - A buffer area shall be required along all boundary lines of the tract and along access roads within the tract. Such buffer area shall be used for no other purpose than landscaping. The buffer shall be an area of not less than twenty (20) feet in width and shall be planted and maintained in a screen planting of materials prescribed in Article 8.
 - (3) **Subdividing and Developing:** - A cluster housing development shall be subject to the regulations of the Subdivision and Land Development Ordinance of the Borough of Throop.

3. Mobile Home Parks (R-2 District) (Special Exception in a C-2 District per §603.8)
- a. Purpose: - The purpose of this use is to provide for mobile home parks in such a way that their development is safe and sanitary and fit for human habitation and that their development is acceptable and compatible with other development in the district in which they are located.
 - b. Use Regulations: - The uses shall be mobile homes and those accessory uses usually associated with such a facility.
 - c. Dimensional Regulations
 - (1) Minimum Park Area: - A mobile home park shall have an area of at least ten (10) acres.
 - (2) Minimum Park Width: - A mobile home park shall have a minimum width along the principle access roadway of three hundred (300) feet.
 - (3) Minimum Front Yard: - The minimum front yard setback shall be one hundred (100) feet for the park.
 - (4) Minimum Rear Yard: - The minimum rear yard setback shall be one hundred (100) feet for the park.
 - (5) Minimum Side Yards: - The minimum side yard setbacks shall be one hundred (100) feet for each side of the park.
 - (6) Height: - The maximum height for any building, principal or accessory, shall be the lesser of one (1) story or fifteen (15) feet.
 - (7) Coverage: - The maximum park area covered by buildings shall be twenty percent (20%). The maximum impervious cover shall be thirty five percent (35%).

- d. **Development Regulations:** - A mobile home park shall be subject to the following development regulations:
- (1) **Comprehensive Plan:** - A proposed mobile home park shall be consistent with the Comprehensive Plan of the Borough of Throop if one has been adopted.
 - (2) **Site Location:** - A mobile home park shall be located on land having a reasonably flat terrain (having an average slope of 8% or less). The land area shall be free from swamps, marshes, garbage, excessive noise, smoke, or other elements generally considered detrimental to residential development. The location shall be free from flooding by a one hundred (100) year flood and shall have access to public roads.
 - (3) **Placement of Mobile Homes:** - Each mobile home site shall be provided with a stand or pad consisting of two (2) concrete strips to accommodate the wheel base of the mobile home, or a full slab the length and width of the mobile home which is to be placed upon it. The poured concrete base shall measure one (1) foot deep and forty (40) feet long, and if strips, for each of the two strips two (2) feet wide. Each mobile home site shall also be provided with a poured concrete outdoor patio six (6) inches deep and at least one hundred eighty (180) square feet in area at the main entrance to the mobile home. The mobile home shall be required to be provided with anchors and tie-downs which are able to sustain a total tensile load equal to four times the weight of the particular mobile home.
 - (4) **Mobile Home Lots:** - Only one mobile home, including its extensions and additions, may be placed on each mobile home lot which shall have access to a hard surfaced street in the mobile home park. Each lot shall have a minimum area of four thousand (4,000) square feet and a minimum width of forty (40) feet. The minimum front yard shall be ten (10) feet, the rear yard five (5) feet and each side yard five (5) feet. The minimum distance between buildings shall be twenty (20) feet. No more than twenty percent (20%) of each lot shall be covered by buildings.
 - (5) **Subdividing and Developing:** - A mobile home park shall be subject to the regulations of the Subdivision and Land Development Ordinance of the Borough of Old Forge.
- e. **Supplementary Regulations** (See Article 8.)

4. Multifamily Dwellings (R-1 and R-2 Districts)

- a. Purpose: - The purpose of this use is to permit multiple-family dwellings in residential districts provided certain development standards are met.
- b. Use Regulations: - The use shall consist of multiple-family dwellings containing up to six (6) units per building and any accessory uses usually associated with multiple-family dwellings.
- c. Dimensional Regulations
 - (1) Minimum Lot Area: - Multifamily developments shall meet the minimum lot size, tract width, tract depth, yard (front, side and rear) requirements lot coverage and lot area per dwelling unit specified in the Zoning schedule for the Zone district in which it is located.
 - (2) Minimum Distance between Buildings: - No principal building, including its projections on the lot shall be closer than twenty (20) feet to any other principal building on the same lot.
 - (3) Building Height: - The maximum height of any building shall be forty (40) feet or three (3) stories, whichever is less, per Borough Fire Chief approval.
- d. Supplementary Regulations: - (See Article 8.)
- e. Subdividing and Developing: - A multifamily dwelling shall be subject to the regulations of the Subdivision and Land Development Ordinance of the Borough of Throop.

5. Office Parks (C-2 District)

- a. Purpose: - The purpose of this use is to provide for development of planned office park developments
- b. Use Regulations: - The use allowed shall be office parks and accessory uses needed to operate such developments.
- c. Dimensional Regulations
 - (1) Minimum Tract Area: - The minimum tract area shall be thirty (30) acres.
 - (2) Minimum Tract Width: - The minimum tract width shall be three hundred (300) feet.
 - (3) Minimum Yards: - All yard setbacks, front, side, and rear, shall be one hundred (100) feet in depth as measured from the street line or from the side or rear district lines or from a property line in different ownership but in the same use.
 - (4) Height: - The maximum height of any building shall be as required for the district in which the office park is located.
 - (5) Coverage: - The maximum land area covered by buildings and other impervious cover shall be ten percent (10%) of the tract area.
- d. Development Regulations
 - (1) Performance Standards: - All activities of the office park development and operation shall comply with all regulations governing such a use by such agencies as the Pennsylvania Department of Environmental Resources (DER), the Pennsylvania Department of Transportation (DOT) and the Pennsylvania Department of Labor and Industry (DL&I).
 - (2) Buffer Area: - A buffer area shall be required along all boundary lines of the tract and within the tract. The buffer may include the required tract setbacks and shall be used for no other purpose than landscaping and access roads which cross the buffer. The buffer shall be an area of not less than fifty (50) feet in width and shall be planted and maintained in a screen planting of materials prescribed in Article 8.
- e. Supplementary Regulations (See Article 8.)
- f. Subdividing and Developing: - Since an office park is a land development as defined in Article 3, it shall also be subject to the regulations found in the Subdivision and Land Development Ordinance of the Borough of Throop.

ARTICLE 8

SUPPLEMENTARY REGULATIONS

§801 Supplementary Use Regulations

1. Excavation and Removal of Topsoil
2. Flood Plains
3. Home Gardening Nurseries and Greenhouses
4. Nonconforming Structures and Uses
5. Off-Street Parking and Loading
6. Principal Buildings and Uses
7. Screen Planting
8. Signs
9. Swimming Pools
10. Solid Waste Facilities

§802 Supplementary Area Regulations

1. Non-Conforming Lots of Record
2. Reduced Lot Area
3. Residential Habitable Floor Area

§803 Supplementary Yard Regulations

1. Fences and Walls
2. Fire Escapes
3. Front Yards and "Through" Lots
4. Front Yards and "Corner" Lots
5. Porches and Decks
6. Projecting Architectural Features
7. Structures, Attached Accessory
8. Structures, Unattached Accessory
9. Visibility at Intersections

§804 Supplementary Height Regulations

1. Height Exceptions
2. Ornamental Features

ARTICLE 8 - SUPPLEMENTARY REGULATIONS**§801 Supplementary Use Regulations****1. Excavation and Removal of Top Soil**

Excavation or removal of top soil for the purpose of grading a site or preparing for the construction of a building shall be allowed per the requirements of the Municipal Subdivision and Land Development Ordinance. Excavation of earth for sale shall be considered a mining activity and will only be permitted in the proper zone after issuance of the proper permits by the Commonwealth. Excavation and removal activities shall comply with the following:

a. **Drainage:** Any excavations for the removal of top soil or other earth products must be adequately drained to prevent the formation of pools of water and shall not create drainage problems for adjacent properties or public streets.

b. **Storage Piles:** Unless specifically permitted, open excavations shall not be maintained, except those excavations made for the erection of a building or structure for which a permit has been issued.

c. **Dust:** Dust problems shall be minimized during the excavation, storage, removal, and hauling of excavated materials.

2. Flood Plains: (See the Borough Flood Plain Ordinance and the Borough Subdivision and Land Development Ordinance.)**3. Home Gardening Nurseries and Greenhouses**

Home gardening and accessory structures used for nurseries or non-commercial greenhouses are permitted in residential areas provided that they shall not be located in any front yard and shall not include the outdoor storage of equipment and supplies. Structures shall meet the requirements for accessory structures in their respective districts.

4. Nonconforming Structures and Uses

a. **Continuation of Use:** Any lawful use of any dwelling, building, structure or lot existing at the effective date of this Ordinance may be continued even though such use does not conform to the provisions of this Ordinance, except as otherwise provided.

A "certificate of non-conformance" shall be issued by the Zoning Officer upon request of the property owner for all structures, lots and uses which do not conform to the provisions of this Ordinance and shall provide the reasons why they are identified as nonconformities. The Zoning Officer shall maintain a map and register showing the registration, identity, and location of nonconforming structures, lots, and uses periodically to determine that they do not expand beyond the limitations prescribed in this Ordinance.

- b. Change of Non-Conforming Use: The Zoning Hearing Board may grant a special exception for a change from one non-conforming use to another non-conforming use if it finds that all of the following standards are met:
- i) No structural alterations are made;
 - ii) The proposed change will be less objectionable in external effects than the previous non-conforming use and will be more consistent physically with its surroundings;
 - iii) No increases in traffic generation or congestion, including both vehicular and pedestrian traffic, will result from the change;
 - iv) No increase in noise, smoke, dust, fumes, vapor, gases, heat, odor, glare, vibration, or electrical disturbances will result from the change; and,
 - v) No increased threat to health by reason of rodent infestation or otherwise will result from the change.
- c. Extension of Use: The Zoning Hearing Board may grant a special exception for an extension of a non-conforming use if it finds that all of the following standards are met:
- i) The yard and coverage requirements for the district in which it is located are not violated;
 - ii) All off-street parking and loading requirements applicable to the use are retained;
 - iii) No more than one enlargement of a non-conforming use or structure is made; and,
 - iv) The extension is not more than thirty-three percent (33%) of the floor or land area as it existed at the time the structure or use first became nonconforming.
- d. Abandonment of Use: If a non-conforming structure or use is abandoned for a continuous period of at least one (1) year, it shall not again be used except in conformity with the regulations of the district in which it is located.
- e. Structures Condemned: A non-conforming structure which has been legally condemned shall not be rebuilt or used except in accordance with the provisions of this Ordinance.
- f. Restoration of Structure or Use: A nonconforming building or other structure which has been damaged or destroyed by fire, explosion, windstorm, flood or other similar active cause to the extent of more than sixty percent (60%) of its reproduction value at the time of the damage shall not be restored except in conformity with the regulations of the district in which it is located. Notwithstanding the above, a damaged residential nonconforming building or structure can be restored to residential use, regardless of the extent of any damage.

When damage is less than sixty percent (60%) of its reproduction value, a nonconforming building or other structure may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within (1) year of the date of such damage. Reconstruction of damaged residential nonconforming structures must be completed within 18 months.

For residential structures non-conforming only as to yard spaces, in districts where residences are permitted and 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 of the majority of the lots in the particular area.

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

- g. Nonconforming Use of Open Land: All nonconforming signs, billboards, junk storage areas, storage areas, and similar nonconforming use of open land, when discontinued for a period or ninety (90) days or damaged to an extent of sixty percent (60%) or more of replacement costs, shall not be continued, repaired, or reconstructed.

5. Off-Street Parking and Loading

- a. Size of Off-Street Parking Space: Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet and have dimensions of ten (10) feet in width and eighteen (18) feet in depth, exclusive of access drives or aisles. All such spaces shall be kept in usable shape and condition. Except in the case of dwellings, no parking area shall contain fewer than three (3) spaces. Open parking areas shall be calculated as yard area except as otherwise provided.
- b. Garages and Carports: A garage or carport may be located wholly or partly inside the walls of the principal building, attached to the outer walls of the principal building, or completely separated from the principal building. If connected to the principal buildings, it shall be considered part of the principal building in calculating yard requirements. If separated from the principal building, it shall be considered an accessory building. A garage may be constructed under a yard or court, in which case the space above the underground garage shall be deemed to be part of the open space of the lot on which it is located.

- c. Location of Parking Spaces: Required parking spaces shall be located either:
- on the same lot as the use to which they are accessory or
 - on another lot zoned the same, under the same ownership, and within four hundred (400) feet of the boundary of the property of the principal use.
- If the spaces are on another lot, such spaces shall be subject to deed restrictions filed with the County Recorder of Deeds binding the owner of such lot and his heirs or assigns to maintain the required number of spaces throughout the life of such use on the parcel for which the parking spaces are required.
- d. Size of Off-Street Loading Space: Each off-street loading space shall be a minimum of eighty (80) feet in length, twelve (12) feet in width, and have an overhead clearance of at least fourteen (14) feet.
- e. Access to Off-Street Parking and Loading Areas: There shall be adequate ingress and egress to all parking and loading areas. There shall be provided a driveway leading to the parking or storage areas or loading spaces. Such driveway shall be not less than ten (10) feet in width in the case of a dwelling, and not less than twenty (20) feet in width in all other cases. Access to off-street parking areas shall be limited to several well-defined, separate or common access points which shall comply with the following:
- (1) Driveways shall not open upon any public right-of-way within forty (40) feet of the nearest right-of-way line of any intersecting public street or highway.
 - (2) Driveways shall not open upon any public right-of-way where the sight distance in either direction along the public thoroughfare would be less than five hundred (500) feet when the posted speed limit is 35 miles per hour or more; however, when the posted speed limit is less than 35 miles per hour, the sight distance requirement may be reduced to two hundred fifty (250) feet.
 - (3) Driveways opening onto state highways shall require a highway occupancy permit from the Pennsylvania Department of Transportation.
 - (4) In no case shall there be unrestricted access along the length of a street.

(5) Driveways shall be so designed that there is ample space for safe ingress and egress to and from both the designated parking spaces and the public right-of-way. In every case in which parking is allowed within the front yard of a lot and four or more parking spaces are needed in that configuration, there shall be two driveways for ingress to and egress from said parking spaces to the adjacent right of way plus sufficient driveway space to enter and exit all parking stalls safely. Sufficient driveway space shall be no less than a total of 360 sq. ft. per required parking stall for the overall parking area.

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

(1) Off-street parking areas for more than five (5) vehicles and all off-street loading areas shall be effectively screened by a planting strip at least five (5) feet in depth along all abutting property lines. The planting strip shall include a solid wall or substantial, attractive, tight fence, and evergreen hedges a minimum of six (6) feet in height, and/or other shrubbery, vines, flowers grass, and other foliage. The evergreens shall be of such height at the time of planting that they will attain a height of six (6) feet within three (3) years,

(2) A planting strip at least ten (10) feet in depth shall be located between the parking lot and abutting right-of-way except for accessways crossing the strip. Such a strip shall contain one (1) shade tree for each forty (40) linear feet of the strip, and no tree shall be less than eight (8) feet in height at the time of planting. The planting strip shall also contain shrubbery, vines, flowers, grass and other foliage. All plants and trees in the planting strip shall be so spaced as not to interfere with the sight distance requirements of this or any other section.

(3) The interior area of a parking lot, in addition to all border planting strips, shall contain planting areas dispersed throughout with not less than five percent (5%) of such interior area in landscaping. Such planting areas shall contain shade trees, with no tree less than eight (8) feet in height at the time of planting, shrubbery, vines, flowers, grass, and other foliage. No interior area of a parking lot shall be constructed without at least one shade tree for each eight (8) parking stalls or fraction thereof.

(4) All screening and landscaping areas shall be maintained in good condition, free of paper and rubbish, and free from all advertising signs. All trees, shrubbery, and other landscaping materials shall be maintained in a healthy and growing condition, with dead materials replaced expeditiously as necessary.

(5) Any parking lot or loading area which qualifies as a nonconforming lot or use upon enactment of this Ordinance shall comply with the requirements for screening and landscaping upon any enlargement, extension, reconstruction or structural alteration.

- g. Parking Lot Surfacing: Surfacing shall consist of any asphaltic, cement or other binder pavement graded and drained to dispose of all surface water and designed to provide for orderly and safe loading and parking. Improved gravel surfaces may be used for parking and loading areas, except for commercial and industrial establishments.
- h. Parking Lot Lighting: Any lighting used to illuminate off-street parking and loading areas shall be arranged so as to reflect the light away from adjoining premises and public rights-of-way and to prohibit fugitive emissions into the night sky.
- i. Parking Spaces Required: Any structure or building hereafter erected, converted or enlarged for any of the following uses, or any open area hereafter used for commercial or industrial purposes, shall be provided with not less than the minimum spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

Parking for Residential Uses

- (1) Single-family houses and mobile homes shall be provided with two (2) parking spaces per dwelling unit. An attached or unattached garage or carport on the premises, or that portion of the driveway not included in the public right-of-way, may be considered as parking space.
- (2) Two-family houses (duplexes and flats) shall be provided with a minimum of two (2) parking spaces per dwelling unit.
- (3) Townhouses and multi-family low-rise apartments shall be provided with a minimum of two (2) parking spaces per dwelling unit plus one (1) additional space for each three (3) units.
- (4) Residential conversion units shall be provided with a minimum of two (2) spaces per dwelling unit. The required parking spaces shall not be located between the street right-of-way line and the front setback line.
- (5) Dwellings above or in combination with commercial establishments shall be provided with a minimum of one (1) parking space per dwelling unit in addition to all spaces required for the business.
- (6) Rooming or boarding houses shall be provided with a minimum of one (1) parking space for each guest room and two (2) for the resident manager.

Parking for Public and Semi-Public Uses

(1) Places of religious worship and cemetery chapels, school auditoriums, other public auditoriums, stadiums, assembly or meeting rooms, or other similar places of public or private assembly shall be provided with one (1) parking space for every three (3) seats provided for assembly.

(2) Elementary and secondary public or parochial schools shall be provided with one (1) parking space for each fifteen (15) classroom seats. Where a school also has an auditorium, the total number of parking spaces required shall be calculated per section (1) above and provided according to the highest requirements.

(3) Nursing and convalescent homes shall be provided with one (1) parking space for every three (3) beds plus three (3) spaces for every four (4) employees on the largest shift.

(4) Clinic and medical, osteopathic, chiropractic, or dental offices shall be provided with five (5) patient spaces per doctor and one (1) space for each staff member.

(5) Commercial schools such as art, music, dancing, photography, business, and technical trade schools shall be provided with one (1) parking space for every two (2) classroom seats for the maximum capacity of the facility.

(6) Nursery and day care centers for children shall be provided with one (1) space for each employee and an off-street loading and unloading area to accommodate one (1) space for every six (6) children cared for in the center.

(7) Community centers, municipal administration buildings, libraries, and similar places shall be provided with one (1) space for every three hundred (300) square feet of gross floor area.

(8) Public utility buildings and structures, such as telephone exchanges, electric stations and substations, and gas, water and sewage pumping stations, water tanks and reservoirs, sewage treatment plants, and radio and television transmission or receiving towers, shall be provided with at least two (2) parking spaces per facility.

(9) Public and private utility maintenance garages and storage yards shall be provided with one (1) parking space per employee assigned to work on the largest shift at such facility.

(10) Parks and playgrounds which include spectator seating for baseball fields, tennis courts and similar facilities shall be provided with parking spaces relative to spectator seating accommodations for stadiums, as described at #1 above. Where no spectator seating accommodations are involved, the facility shall be provided with two (2) parking spaces per swimming lane when a pool is present, two (2) parking spaces per playing court when such facilities are provided, twenty (20) parking spaces per baseball diamond or soccer field, and one (1) parking space for each two thousand (2,000) square feet of area or fraction thereof in the recreation site.

Parking for Commercial Uses

- (1) Retail stores or shops shall be provided with one (1) parking space for every three hundred (300) square feet of floor space used for sales purposes.
- (2) Supermarkets, grocery stores, mini-markets with gas pumps and dairy stores shall be provided with one (1) parking space for every one hundred (100) square feet of floor space used for sales purposes.
- (3) Eating and drinking establishments, social halls, clubs, including country clubs, lodges and other places serving food and beverages shall be provided with one (1) parking space for every two and one-half (2 1/2) seats for patron use.
- (4) Drive-in and fast-food restaurants shall be provided with one (1) space for every fifty (50) square feet of floor area.
- (5) Bowling alleys shall be provided with five (5) parking spaces for each pair of lanes.
- (6) Skating rinks shall be provided with one (1) space for every one hundred (100) square feet of skating area.
- (7) Billiard and pool rooms shall be provided with two (2) spaces per billiard or pool table.
- (8) Golf driving ranges shall be provided with one (1) parking space per tee.
- (9) Miniature golf ranges shall be provided with one and one half (1.5) spaces per hole.
- (10) Golf courses shall be provided with six (6) spaces per hole.
- (11) Other open space areas used for commercial purposes shall be provided with one (1) parking space for each two thousand (2,000) square feet of area or fraction thereof
- (12) Animal kennels shall be provided with one (1) parking space for every three (3) kennel runs.
- (13) Animal hospitals shall be provided with five (5) client/patron spaces per veterinarian.
- (14) Office buildings shall be provided with one (1) parking space for each three hundred fifty (350) square feet of floor area or fraction thereof.

(15) Professional offices and banks shall be provided with one (1) space for each three hundred (300) square feet of floor area or fraction thereof

(16) Funeral homes and crematories shall be provided with a minimum of one (1) space for each two (2) seats for public use. Such spaces shall be in addition to one (1) space for mobile equipment such as hearses and ambulances.

(17) Motels, hotels and tourist homes shall be provided with one (1) parking space for each unit for overnight accommodations.

(18) Barber and beauty shops and hair styling shops shall be provided with one space per chair.

(19) Personal service and repair establishments shall be provided with one (1) space for each three hundred (300) square feet of floor area or fraction thereof. Establishments with less than three hundred (300) square feet shall provide at least one (1) parking space per establishment.

(20) Self-service dry cleaning establishments and laundromats shall be provided with one (1) parking space for each two (2) washing, drying, and cleaning machines.

(21) Shopping centers shall be provided with at least one (1) parking space for each three hundred fifty (350) square feet of gross leasable floor area or fraction thereof.

(22) Home occupations shall be provided with two (2) parking spaces for each dwelling unit, one (1) space for each non-resident employee, and additional space for customers or clients in accordance with the intended use and the spaces allocated for such a use.

(23) Vehicular sales and body repair and service garages shall be provided with one (1) exterior parking space for each two hundred (200) square feet of interior floor space.

(24) Home center sales and building sales establishments and contractors yards shall be provided with one (1) client parking space for each one thousand five hundred (1,500) square feet of sales area, whether indoor or outdoor.

(25) Gasoline service stations and car washes shall be provided with one (1) parking space for each one hundred (100) feet of floor area.

(26) Other commercial buildings not listed above shall be provided with one (1) space for every three hundred (300) square feet of floor area or fraction thereof.

Parking for Industrial Uses

(1) Industrial, wholesale and warehouse establishments, truck terminals, manufacturing plants, and research and testing laboratories, etc., shall be provided with one (1) parking space for each 200 feet of floor area or a parking lot of 25% of such floor area, which ever is greater. Additional space shall also be provided for company vehicles and for visitors and sales representatives in addition to the above parking requirements, according to specific needs.

- j. Parking Prohibitions: Required parking spaces for non-residential uses shall not be met by spaces on any street right-of-way.
 - k. Loading Facilities Required: Any structure used for public and semi-public uses or for commercial or industrial uses shall be provided with loading and unloading space for the transfer of goods and products and with commercial vehicle storage space adequate for their needs. In no case shall public rights-of-way be used for these purposes, and such loading areas shall be in addition to required off-street parking areas for employees and patrons.
6. Principal Buildings and Uses: In any district in which dwellings are a principal permitted use, no lot intended for a residential purpose shall contain more than one principal building or use except as otherwise permitted.
7. Screen Planting: Yard screening shall be provided along the boundaries of any industrial or commercial lot where the lot abuts a residential use and along the boundaries of any lot containing a use permitted by special exception where such screening is required. Such screening shall consist of a visual screen or obstruction of suitable shrubs, hedges, fences, or walls at least six (6) feet high and maintained in good condition.
- Fences, walls, shrubs, or hedges under six (6) feet high may be located in any yard or court and shall be maintained in good condition. Trees and other plant material designed to enhance the livability and attractiveness of any lot may also be located in any yard or court. (See also: Section §803.9 - Visibility at Intersections.)
8. Signs: Signs may be erected and maintained only when in compliance with the provisions of this Article and any and all other ordinances and regulations relating to the erection, alteration, or maintenance of signs and similar devices. Signs shall comply with both the regulations for the district in which they are located and the regulations generally pertaining to signs.

a. General Regulations

- (1) Signs must be constructed of durable material, maintained in good condition, and not be allowed to become dilapidated.
- (2) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the sight distance or by causing confusion with traffic signs or signals.
- (3) No sign, other than an official traffic sign, shall be erected within the right-of-way lines of any street, unless authorized by municipal officials for a special purpose.
- (4) Mailboxes and newspaper pigeon holes shall be exempt from all sign regulations.
- (5) No sign at its highest point shall exceed the height of the primary structure on the property on which it is located except for outdoor advertising signs.
- (6) Permits shall be required for the erection, alteration, or maintenance of any signs permitted in residential districts.
- (7) A permit shall be required for the erection or alteration of outdoor advertising or billboard signs and for commercial and industrial identification signs in commercial, and industrial districts.
- (8) Advertising painted upon or displayed upon a building, structure, wall or rock surface shall be regarded as an outdoor advertising sign, and the regulations pertaining thereto shall apply unless the sign applies to services or products sold on the premises.
- (9) Each sign shall be removed when the circumstances leading to its erection no longer apply.
- (10) In all districts, only those residential, commercial and industrial identification signs referring directly to services provided or materials or products made, sold, or displayed on the premises shall be permitted, except as otherwise noted. Such signs shall comply with all other requirements, as stated herein, for the district in which they are erected.
- (11) No animated, sequential, flashing, or oscillating signs shall be permitted in any district. Any sign by reason of its intensity, color, location, or movement that may interfere with traffic lights, signals or other controls, or abrogate public safety shall not be permitted in any district.
- (12) Signs for which illumination is permitted shall have the light confined to the surface of the sign and directed and shielded so as to avoid glare or reflection which could endanger highway or street traffic and which could create a nuisance for adjacent residences or fugitive emissions into the night sky.
- (13) Signs which emit objectionable or excessive noise created by electric current or air movement shall not be permitted.

(14) Sign surfaces shall include the entire face or faces and, if composed of individual letters, figures, or designs, the space between and around such letters, figures, or designs, but shall not include the supports.

(15) A temporary sign made of paper, cardboard or similar material and intended to attract public attention shall not be attached to any lamp post, utility pole, shade tree, or public structure or building except as authorized by permit from the Zoning Officer. Where such signs are permitted, they shall not be posted sooner than forty-five (45) days before the date of the event advertised and they shall not remain posted for more than seven (7) days after the date of the event advertised.

b. Signs in Residential Districts

(1) Signs advertising the sale or rental of the premises upon which they are erected, when erected by the owner or broker or any other person interested in the sale or rental of such premises, may be erected and maintained, provided:

i) the size of any such sign is not in excess of six (6) square feet; and,

ii) not more than one (1) such sign is placed upon any property in single and separate ownership, unless such property fronts upon more than one street, in which case one (1) such sign may be erected on each frontage. The signs shall be set back at least ten (10) feet from any public right-of-way line. The signs shall be removed from the premises within seven (7) days after the sale or rental of the property.

(2) Signs indicating the location and direction of land available for or in the process of development and of model homes available for inspection, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder, or agent, may be erected and maintained, provided:

i) the size of any such sign shall not be in excess of six (6) square feet and not in excess of four (4) feet in length; and

ii) not more than one (1) such sign shall be erected on each five hundred (500) feet of street frontage. The signs shall be setback at least ten (10) feet from any public right-of-way and shall be removed from the premises within thirty (30) days after the sale of the last lot or home.

(3) Signs advertising the sale of lots in a subdivision in which the sign is to be located may be erected and maintained, provided:

- i) the size of the sign shall not be in excess of sixty (60) square feet in area; and,
- ii) not more than one (1) such sign shall be erected in any subdivision. The signs shall be set back at least thirty-five (35) feet from any public right-of-way line. The signs shall be removed from the premises within thirty (30) days after the last lot is sold.

(4) Signs bearing the word "sold" or the word "rented" with the name of the persons effecting the sale or rental may be erected and maintained provided the conditions in paragraph (1) above are complied with.

(5) Signs of contractors, mechanics, painters, and artisans may be erected and maintained on the premises where the work is being performed during the period in which such work is being performed, provided:

- i) the size thereof shall not be in excess of twelve (12) square feet; and,
- ii) not more than one (1) such sign per trade shall be allowed on any property. Such a sign shall be removed upon completion of the work.

(6) Trespassing signs and signs indicating private ownership of a driveway or property may be erected on the premises to which they refer, provided:

- i) the size of any sign shall not exceed two (2) square feet; and,
- ii) signs shall be spaced at intervals of not less than one hundred (100) feet of street frontage.

(7) Signs of schools, places of religious worship, clinics, day-care centers, or other institutions of a similar nature may be erected and maintained provided:

The following motion was passed at the monthly council meeting on July 28, 2003:

To amend the Zoning Ordinance # 11 of 2000, Page 93, Article 8 Paragraph (7) and/or Resolution that all non-profit organizations located in Throop will not have to pay a permit fee for signs. (Example: Churches, Hose Companies, Ambulance Association, Booster Club, Scouts or other Sports Groups or Clubs.)

The following motion was passed at the special monthly council meeting on August 14, 2003:

To amend Throop Borough Zoning Ordinance regarding permits for signs: No Permits for signs will be required for non-profit organizations.

(8) Signs indicating professional offices or home occupations of the occupants of dwellings shall not exceed four (4) square feet and shall be limited to one (1) sign per dwelling. Such sign may include the name, occupation, address, logo-type and trade mark of the professional or home occupation.

(9) Official traffic or street name signs may be erected only by or with the written approval of municipal officials.

(10) Signs necessary for the identification, operation or protection of public utility facilities and municipal uses shall be permitted provided:

- i) the size of the sign shall not be in excess of eight (8) square feet; and,
- ii) the sign shall be located on the same premises as the use to which it refers.

Such signs shall be set back at least ten (10) feet from any public right-of-way line.

(11) Signs indicating the name of the owner or number of the premises, or the name of the premises itself, shall be permitted provided:

- i) such sign shall not exceed two (2) square feet; and,
- ii) not more than one (1) such sign shall be erected on any premises.

Such sign shall be set back at least ten (10) feet from any public right-of-way line.

(12) Temporary signs shall be permitted as provided in (a) (15) above.

c. Signs in Commercial, Special and Industrial Districts

- (1) Any sign permitted in any Residential District shall also be permitted in any Commercial and Industrial District.
- (2) Signs in Commercial and Industrial Districts may be erected and maintained provided:
 - i) the sign shall be on the same premises to which it refers;
 - ii) such sign shall not exceed sixty (60) square feet for each lot, but may contain identification signs of all the businesses or industries on that lot; and,
 - iii) not more than one (1) such sign shall be erected on any one street frontage with a setback of at least twenty (20) feet from any public right-of-way line.

In addition, each business located on one lot or in one building may have its own identification sign, provided such sign is attached to the building in which the activity is located and is no larger than eight (8) square feet.

(3) In shopping centers or office complexes or parks one (1) sign shall be permitted at each entrance provided that there is only one sign allowed along each public right-of-way. Such sign shall indicate the name of the shopping center or office complex or park and establishments located therein. Such sign shall not exceed two hundred (200) square feet and shall not be located within one hundred (100) feet of any existing principal building on an adjoining residential premises. The sign shall be set back at least twenty (20) feet from any public right-of-way line. In addition, each establishment located in the shopping center or office complex or park may have its own identification sign, provided such sign is attached to the building in which the activity is located and is no larger than thirty-five (35) square feet.

(4) Signs within display windows shall not be considered a part of the permitted sign area unless such signs are self-illuminating, in which case the area shall be considered part of the permitted sign area.

(5) Outdoor advertising signs or billboards may be erected and maintained only in the C-2, I-1 and I-2 Districts even though not referring to the activity produced or conducted on the premises. Such signs shall be permitted only as special exception uses approved by the Zoning Hearing Board. (See Article 6.)

(6) Temporary signs shall be permitted as provided in (a) (15) above.

9. Swimming Pools (Private): Private swimming pools in districts where permitted shall comply with the following conditions and requirements;
- a. The pool shall be intended and shall be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
 - b. The pool shall be located in either the rear or side yard of the property on which it is an accessory use.
 - c. The pool, including any walks or paved areas or accessory structures adjacent thereto, shall not be located closer to the rear and side property lines than the minimum distance required for unattached accessory structures as provided for in Section 803.8.
 - d. For all pools, the pool area or entire property on which the pool is located shall be so walled or fenced or otherwise protected so as to prevent uncontrolled access by children from the street or from adjacent properties. Said barrier shall not be less than six/ (6) feet in height and it shall be maintained in good condition. Said barrier shall be so constructed as not to have openings, holes, or gaps of such size that a sphere with a diameter of four inches (4") can pass through. All gates or doors opening onto the pool area shall be secured at all times when the pool is not in actual use, except that the door any dwelling which forms a part of the enclosure need not be so equipped.

10. Solid Waste Facilities (I-2 District)

- a. Purpose: The purpose of this use is to regulate the siting of Solid Waste Facilities within the Borough and to provide for the appropriate disposal of solid waste in accordance with the requirements of the Pennsylvania Department of Environmental Resources.
- b. Use Regulations: Solid Waste Facilities, when authorized by this Ordinance, shall be permitted in the I-2 District, Heavy Industry. Under no circumstances, however, shall a landfill proposed under this ordinance be utilized for the storage of wastes characterized by the Pennsylvania Department of Environmental Resources as toxic, hazardous or radioactive waste. Such Solid Waste Facilities shall comply with all of the regulations of the Pennsylvania Department of Environmental Resources for such facilities and for the following additional regulations and conditions:
- (1) Evidence of compliance with all other local, State and Federal laws regulating the design, siting, permitting and use of such facilities.
 - (2) All such uses shall provide a fifty (50) foot deep buffer zone along the perimeter of the property line. Said buffer zone shall include natural screening (i.e. trees and shrubs) adequate to completely visually screen such uses from neighboring properties. The fence or wall required in this section must be located inside of the buffer zone at least 15 feet from the perimeter of the property.
 - (3) All such uses shall be permitted to operate only between the hours of 6:00 AM and 4:00 PM, Monday through Friday and 6:00 AM to 12:00 Noon on Saturday and are not permitted to operate on Sundays or legal holidays. In no event shall filled or partially filled solid waste vehicles be allowed to remain on site after closing time.

Exemptions

- (1) Exempt from the provisions of this part of the ordinance are vehicles having less than 1 cubic yard of solid waste and vehicles parked in retail business establishments for a reasonable amount of time, not to exceed three hours, while the operator makes use of the establishment.
- (2) Exempt from this ordinance are solid waste containers, limited to (15) fifteen cubic yards in size, designed to store, but not transport the solid waste from retail business establishments, wholesale business establishments and residences.
- (3) This ordinance is not intended to regulate the solid waste facilities and/or operations of the Borough of Throop, a Municipal Corporation; and therefore, by this statement, the Borough of Throop is exempt from all aspects of this ordinance except for the administration and enforcement of this Ordinance with respect to others.

c. Dimensional Regulations

(1) Minimum Tract Area: The minimum tract area shall be three hundred (300) acres.

(2) Minimum Tract Width: The minimum tract width shall be five hundred (500) feet.

(3) Minimum Yards: All yard setbacks, front, side, and rear, shall be three hundred (300) feet in depth as measured from the street line or from the side or rear district lines or from a property line in different ownership but in the same use.

(4) Height: The maximum height of any building shall be as required for the district in which the facility is located.

(5) Coverage: The maximum land area covered by buildings and other impervious cover shall be one percent (1%) of the tract area.

(6) Distance to Nearest Use: All such uses shall be located no closer than three hundred (300) feet from any residential or commercial zone, existing public right-of-way, rivers and streams, the property lines of a residential property, recreational facility or cemetery.

d. Development Regulations

(1) Performance Standards: All Solid Waste Facilities shall comply with all regulations governing odors, fumes, dust, smoke, vibration, noise, sewage, rodents, hazards, soil erosion and sediment runoff, and any other side effects of the operation deemed injurious to the public health, safety, and welfare by such agencies as the U.S. Environmental Protection Agency (EPA), the U. S. Occupational Safety and Health Administration (OSHA), the U.S. Soil Conservation Service (SCS), the Pennsylvania Department of Environmental Resources (DER), the Pennsylvania Department of Health and the Pennsylvania Department of Labor and Industry (DL&I).

(2) Buffer Area: A buffer area shall be required along all boundary lines of the tract and within the tract. The buffer may include the required tract setbacks and shall be used for no other purpose than landscaping and access roads which cross the buffer. The buffer shall be an area of not less than one hundred (100) feet in width and shall be planted and maintained in a screen planting of materials prescribed in Article 8. In addition, all such facilities shall be surrounded by fence or wall having a minimum height of 10 feet and such fence or wall shall be of such quality as not to detract from the character of the surrounding area. The required fence must be located inside of the required buffer zone at least 15 feet from the perimeter of the property.

(3) Design and Operation: No Solid Waste Facilities shall be allowed until approved as to design by the Pennsylvania Department of Environmental Resources, and no operation shall be allowed to continue except in conformance with the operational regulations for landfills or other Solid Waste Facilities of the Pennsylvania Department of Environmental Resources.

(4) Sewer Authority Approval: Evidence of the approval of the Lackawanna River Basin Sewer Authority of a pre-treatment permit for the facility, if required.

(5) Fencing: All such facilities shall be surrounded by fence or wall having a minimum height of 10 feet, which height shall be adequate to screen such uses and the contents thereof from adjacent property. Such fence or wall shall not detract from the character of the adjacent land uses.

(6) Evidence of Nuisance Control: Provide adequate documentation to the satisfaction of the Borough that the proposed facility will take effective measures to prevent and control hazards and/or nuisances from vectors, odors, noise, vibrations, dust and other nuisances, including litter.

(7) Erosion and Sedimentation Control Plan: Provide an erosion and sedimentation control plan and a stormwater control plan prepared in accordance with State and Federal guidelines for such studies by a professional engineer using accepted engineering principals and implement such plans prior to the beginning of construction and of operation.

(8) Protection of Surface and Ground Water: Provide the Borough with a surface water and ground water study for proposed operation prepared in accordance with State and Federal guidelines for such studies by a professional engineer. This study shall detail the surface and sub-surface water conditions and explain the precautions that will be undertaken to prevent any sub-surface or ground water contamination from the proposed facility.

§802 Supplementary Area Regulations

1. Non-Conforming Lots of Record: In any district in which single-family residences are permitted, a single-family house and customary accessory buildings and uses may be erected on any lot of record in existence at the effective date of this Ordinance even though the lot area and width are less than the minimum requirements set forth herein. However, the front, side, and rear yards shall conform as nearly as possible to the requirements of the district in which the lot is located, as determined by the Zoning Hearing Board in granting a variance.

Where two or more adjacent lots with less than the required area and width are held by one owner, the request for a zoning permit shall be referred to the Zoning Hearing Board, which may require the owner of said lots to combine or realign the existing lots or lot lines of said nonconforming lots in such a manner so as to create a lot or lots that conform, or conform as nearly as possible (where total conformance is impossible), with the minimum applicable requirements for lot dimensions and area as set forth in this Ordinance; provided, however, that the Zoning Hearing Board shall not require any such action on the part of the owner until the Board has reviewed and considered the advisability and feasibility of compelling such action by the owner.

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

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

§803 Supplementary Yard Regulations

1. Fences and Walls: A fence or wall a maximum of six (6) feet in height--or higher if a retaining wall--may be erected within the limits of any yard not extending beyond the front setback line. Within the front yard a fence or wall a maximum of forty eight (48) inches in height shall be permitted, except as provided in Section §803.9 below. The height shall be measured from the average grade level. A fence intended to mark a boundary shall be located either on the boundary line or within six (6) inches thereof.
2. Fire Escapes: Open fire escapes shall not extend into any required yard more than four and one-half (4 1/2) feet.

3. Front Yards and "Through" Lots: In any district a lot which runs through a block from street to street shall have the required front yard for the district in which it is located for the frontage on both streets.
4. Front Yards and "Corner" Lots: In any district a lot which abuts on and is at the intersection of two or more streets or upon two parts of the same street shall have the required front yard for the district in which it is located for the frontage on both streets.
5. Porches and Decks: Any porch or deck of more than four and one-half (4 1/2) feet in depth shall be considered a part of the building in the determination of the size of yards or lot coverage.
6. Projecting Architectural Features: Chimneys, cornices, eaves, gutters, and bay windows and similar architectural features may extend not more than two (2) feet into any required yard.
7. Structures, Attached Accessory: Accessory structures, such as garages or carports, which are attached to the principal building shall be considered a part of the building in the determination of the size of the yards or lot coverage.
8. Structures, Unattached Accessory: Unattached accessory structures on residential lots in any district may be erected within the rear or side yards provided that the maximum height of such structure be limited to the lesser of one and one-half (1 1/2) stories or fifteen (15) feet, and that the minimum distance of such structure from the rear and side property lines shall be ten (10) feet, except as otherwise indicated.
9. Visibility at Intersections: On any corner lot in any district no fence, wall, hedge, or other structure or planting more than thirty-six (36) inches higher than the road surface shall be erected or maintained within thirty (30) feet of the "corner" so as not to interfere with traffic visibility across the corner.

For existing non conforming lots of record the above requirement may be reduced if it can be proven that adequate sight distance can be maintained at the intersection in accordance with 67 PA Code Chapter 201.

§804 Supplementary Height Regulations

1. Height Exceptions: The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, fire towers, bulk heads, and similar features; nor to silos, barns and other farm buildings and structures; nor to any accessory mechanical appurtenances usually carried above the roof level.
2. Ornamental Features: The provisions of this Ordinance shall not apply to prevent the erection above the building height limit of a parapet wall or a cornice or ornament (without windows) extending above such height limit not more than five (5) feet.

ARTICLE 9

ADMINISTRATION AND ENFORCEMENT

- §901** **The Zoning Officer**
- §902** **Permits**
- §903** **Certificate of Zoning Compliance**
- §904** **Enforcement, Causes of Action and Remedy**
- §905** **Payment of Fees**

ARTICLE 9 - ADMINISTRATION AND ENFORCEMENT**§901 The Zoning Officer**

1. **The Zoning Officer:** The provisions of the Zoning Ordinance shall be enforced by an agent to be appointed by the Borough Council who shall be known as the Zoning Officer. The Zoning Officer shall not hold any elective Office in the Borough.

The Zoning Officer shall meet qualifications established by the Borough and shall be able to demonstrate to the satisfaction of the Borough Council a working knowledge of municipal zoning. At a minimum he/she shall possess a certificate of completion from the Pennsylvania Department of Community Affairs for attending a workshop for zoning officers within six months of appointment as Zoning Officer. Beyond that, the Zoning Officer shall be required to attend one such workshop per year during the time s/he is Zoning Officer.

2. **Compensation:** The compensation for the Zoning Officer shall be determined by the Borough Council.
3. **Duties and Responsibilities:** The Zoning Officer shall have all the duties and powers conferred by the Zoning Ordinance in addition to those reasonably implied for that purpose. S/he shall not issue a permit in connection with any contemplated erection, construction, alteration, repair, extension, replacement and/or use of any building, structure, sign, and/or land unless it first conforms to the literal requirements of this Zoning Ordinance, all other ordinances of the Borough, and with the laws of the Commonwealth of Pennsylvania. The Zoning Officer is authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his/her employment.

S/he shall:

- a. Receive and check all applications for zoning permits and certificates of zoning compliance and make notations as to special conditions attached thereto.
- b. Issue zoning permits and certificates of zoning compliance only for construction and uses which are in accordance with the regulations of the Zoning Ordinance and subsequent amendments; or through the Borough Council for conditional uses; or through the Zoning Hearing Board; or through Court approval. Zoning permits and certificates of zoning compliance shall not be issued where the request concerns a lot, parcel or tract in a subdivision required to be approved under applicable Subdivision and Land Development regulations, which subdivision or development has not had the required approval.

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- c. Record and file all applications for zoning permits and certificates of zoning compliance together with accompanying plans and documents. All records shall be open to public inspection.
 - d. Be responsible for maintaining the Zoning Map showing the current zoning classifications of all land and the Zoning Text including all amendments thereto.
 - e. Maintain a register showing the registration, identity, and location of non-conforming uses, structures, and lots together with the reasons why they have been identified as non-conformities, and issue certificates of nonconformance for all such nonconformities. The Zoning Officer shall also examine such non-conforming uses, structures, and lots periodically to determine whether their status has changed.
 - f. Participate in all proceedings before the Zoning Hearing Board and the Planning Commission at their request and furnish such facts, records, and similar information which will assist such bodies in reaching their decisions.
 - g. When the Zoning Hearing Board, or the Borough Council in the case of a conditional use, schedules a public hearing on any application over which it has jurisdiction, the Zoning Officer shall conspicuously post a notice of said hearing on the affected property.
 - h. When a proposed amendment to the zoning map is to be considered by the Borough Council, the Zoning Officer shall conspicuously post notice of said public hearing along the perimeter of the tract not more than 100 feet apart and at least one (1) week prior to the date of the hearing to notify potentially interested citizens.
 - i. Issue an enforcement notice in writing to the owner of record of the parcel on which the violation of the Ordinance has occurred, to any person who has filed written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record. Such written notification may be served personally or by certified mail and shall contain all information required by this Article.
 - j. Institute legal proceedings before the District Justice for the enforcement of the provisions of this Ordinance.
 - k. Submit a monthly report to the Borough Council of all permits and certificates of zoning compliance issued and violations and stop work orders recommended or promulgated.

§902 Permits

1. **Requirements:** It shall be unlawful to commence the excavation for, or the construction or erection of any building, including an accessory building, or to commence the moving or alteration of any building, including an accessory building, until the Zoning Officer has issued a zoning permit for such work. No permit shall be required for the repair, maintenance, or interior remodeling of any building, structure, or grounds provided such repairs, maintenance, or remodeling do not change the use or otherwise violate the provisions of this Ordinance.
2. **Form of Application:** The application for a permit shall be submitted in such form as the Zoning Officer may prescribe and shall be accompanied by the required fee as hereinafter prescribed. Application shall be made by the Owner or Lessee of any land, building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making an application that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application.
3. **Description of Work:** The application shall contain a general description of the proposed work, use, and occupancy of all parts of the building, structure, land, or sign and such additional information as may be required by the Zoning Officer. The application for the permit shall be accompanied by a plot plan of the proposed building, structure, use or sign drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking, buffer zones and loading space, if required, the location of new and existing construction, and the distances of the same from the existing lot lines.
4. **Issuance of Zoning Permit:** Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, s/he shall reject such application in writing, stating the reasons therefor. S/he shall inform the applicant of his right of appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, s/he shall issue a permit therefor as soon as practical.
5. **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 the site, which will have a zoning permit properly posted.

6. Expiration of Permit: The permit shall expire after one (1) year from the date of issuance unless work at the site has commenced within such period, but in any case, all work must be completed within two (2) years. If the work for which the permit has been granted has not been started within one (1) year from the granting of such permit or if the work has not been completed within two (2) years, the Zoning Officer shall cancel the permit and shall give written notice thereof to the applicant stating that further work shall not proceed unless and until a new zoning permit has been obtained.
7. Completion of Work: Upon completion of the construction, erection, or alteration of any building, structure or portion thereof authorized by any zoning permit obtained in compliance with this Ordinance, and prior to use or occupancy, the holder of such permit shall notify the Zoning Officer of such completion. Use and occupancy shall not be authorized until the Zoning Officer has certified that the work has been inspected and approved as being in conformity with this and other applicable ordinances, and has issued a certificate of zoning compliance as provided below.
8. Revocation of Permits: The Zoning Officer may revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance.
9. Posting of Permit: A true copy of the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work or use and until the completion of the same as defined on the application.

§903 Certificate of Zoning Compliance

1. Requirements: It shall be unlawful to use and/or occupy any structure, building, sign, and/or land or portion thereof for which a permit is required herein until a certificate of zoning compliance for such structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer.
2. Time of Application: When the use of premises involves a new building or structure or additions to an existing building or structure, the application for zoning compliance shall be made at the same time application is made for a zoning permit. When no construction or alteration is involved, application to occupy and use land may be made at any time.
3. Form of Application: The application for a certificate of zoning compliance shall be in such form as the Zoning Officer may prescribe. The application shall contain the intended use and/or occupancy of any structure, building, sign, and/or land or portion thereof for which a permit is required herein.

4. Issuance of Certificate of Zoning Compliance: The Zoning Officer shall inspect any structure, building, sign and/or use of land within ten (10) days upon notification that the proposed work that was listed under the permit has been completed and if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, s/he shall issue a certificate of zoning compliance for the intended use listed in the original application. The certificate of zoning compliance or a true copy thereof shall be kept available for official inspection at all times.

§904 Enforcement, Causes of Action, and Remedy

1. Enforcement: The construction, erection, replacement, alteration, repair, extension, and/or use of any structure, building, sign, and/or land or the change of use, area of use, percentage of use or extension or displacement of the use of any structure, building, sign, and/or land without first obtaining a permit; or the use of any building, structure, sign, and/or land without receipt of a certificate of zoning compliance; or the failure to comply with any other provisions of this Ordinance are hereby declared to be violations of this Zoning Ordinance.
2. Enforcement Notice
 - a. If it appears to the Borough that a violation of the Zoning Ordinance has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
 - b. 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 written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
 - c. An enforcement notice shall state at least the following:
 - (1) The name of the owner of record and any other person against whom the Borough intends to take action.
 - (2) The location of the property in violation.
 - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the Zoning Ordinance, Article 10, Section 1004.
 - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

3. Cause of Action: In case any building, structure, landscaping or land is, or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of the Zoning Ordinance, the Borough Council or, with the approval of the Borough Council, an officer of the Borough or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structures, 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 Borough at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Borough.

No such action may be maintained until such notice has been given.

4. Jurisdiction: District Justices shall have initial jurisdiction over proceedings brought under subsection 5 below.

5. Enforcement Remedies

- a. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof.

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

If the defendant neither pays nor timely appeals the judgement, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure.

Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there 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 the Zoning Ordinance shall be paid over to the Borough.

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

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

§905 Payment of Fees

1. **Permit Fees:** No permit to begin work for the erection, construction, alteration, repair, extension, replacement, and/or use of any building, structure, sign, and/or land for construction or use purposes shall be issued until the fees prescribed shall be paid to the Zoning Officer. The payment of fees for permits and certificates under this Section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this Ordinance, or any other Ordinance or law.

Specific fees for the Permits and Certificates authorized below shall be set from time to time by resolution of the Borough Council

- (a) Zoning Permits
- (1) New Residential Buildings and Uses
 - (2) New Agricultural, Commercial, Industrial, and Other Buildings and Uses
 - (3) Residential Additions, Structural Changes and Building Size and Accessory Uses
 - (4) Agricultural, Commercial, Industrial, and Other Additions, Structural Changes and Accessory Uses
- (b) Certificates of Zoning Compliance
- (1) Residential
 - (2) Agricultural, Commercial, Industrial and Other
- (c) Signs
- (1) All Signs Except Temporary
 - (2) Temporary Signs (refundable)
- (d) Application for Appeal to Zoning Hearing Board
- (e) Application for Appeal to Borough Council for Conditional Use
- (f) Application for Amendment to Zoning Text or Map
- (g) Application for Landowner Curative Amendment

ARTICLE 10

**ZONING HEARING BOARD AND OTHER ADMINISTRATIVE
PROCEEDINGS**

- §1001** **Zoning Hearing Board Membership, Organization, Operation**
- §1002** **Hearings**
- §1003** **Mediation Option**
- §1004** **Jurisdiction**
- §1005** **Applicability of Judicial Remedies**
- §1006** **Zoning Hearing Board's Functions: Variances**
- §1007** **Zoning Hearing Board's Function: Special Exception Uses**
- §1008** **Governing Body's Functions: Conditional Uses**
- §1009** **Parties Appellant Before the Board**
- §1010** **Time Limitations**
- §1011** **Stay of Proceedings**
- §1012** **Validity of Ordinance: Substantive Questions**
- §1013** **Procedure to Obtain Preliminary Opinion**

**ARTICLE 10 - ZONING HEARING BOARD AND OTHER
ADMINISTRATIVE PROCEEDINGS**

§1001 Zoning Hearing Board Membership, Organization, Operation

1. **Creation and Membership:** There is hereby created, to be appointed by resolution of the Borough Council, a Zoning Hearing Board ("Board") consisting of three (3) residents of the Borough. The terms of Office shall be three (3) years and shall be so fixed that the term of one member of the three member Board shall expire each year. The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Borough.
2. **Alternate Members:** The Borough Council shall appoint three (3) residents of the Borough to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of paragraph (4), below, an alternate shall be entitled to participate in all proceedings and discussions of the Board members, including specifically the right to cast a vote as a voting member during the proceedings and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. Alternates shall hold no other office in the Borough, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to paragraph (5), below, unless designated as a voting alternate member pursuant to paragraph (4), below.
3. **Removal of Members:** Any Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Borough Council which appointed the member, taken after the member has received fifteen (15) days advance notice of the charges and or the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
4. **Organization of Board**
 - a. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all 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 for in Section 1002.

- b. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.
 - c. The Board may make, alter, and rescind rules and forms for its procedure, consistent with the Ordinances of the Borough and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report to the Borough Council as requested by them.
5. Expenditures for Services: Within the limits of funds appropriated by the Borough Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Borough Council.
- Alternate members of the Board may receive compensation, as may be fixed by the Borough Council, for the performance of their duties when designated as alternate members pursuant to paragraph (4), but in no case shall such compensation exceed the rate of compensation to be paid to the members of the Zoning Hearing Board.
6. Meetings: Meetings shall be held at the call of the Board Chairman and at such other times as appeals are brought before the Board.

§1002 Hearings

The Board shall conduct hearings and make decisions in accordance with the following requirements:

1. Notice of Hearings: Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, such other persons whether owners or tenants of property located within two hundred (200) feet of the property of the application at issue, and to any person who has made timely request for the same.
 - a. Public Notice: Public notice of a hearing before the Zoning Hearing Board shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

- b. Written Notice: Written notice of a hearing before the Zoning Hearing Board shall be given by direct individual notice, mailed or hand delivered at least seven (7) days prior to the date of the hearing.
- c. Posting of Property: In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land by the Zoning Officer at least one (1) week prior to the hearing.
2. Hearing Fees: Hearing fees, as prescribed in Section §905, include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultant or expert witness costs.
 3. Hearing Schedule: The hearing shall be held within sixty (60) days from the date the applicant's request for a hearing was accepted by the Zoning Officer, unless the applicant has agreed in writing to an extension of time.
 4. Hearing Officer: The hearings shall be conducted by the Board or the Board may appoint any member as a Hearing Officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the Hearing Officer as final.
 5. Parties to the Hearing: The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
 6. Oaths and Subpoenas: The Chairman or Acting Chairman of the Board or the Hearing Officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and documents requested by the parties.
 7. Representation by Counsel: The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
 8. Rules of Evidence: Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
 9. Stenographic Record: The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by

the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer or shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

10. Conduct of Board or Hearing Officer: The Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
11. Written Decision or Findings: The Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board or Hearing Officer.

Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions or the Pennsylvania Municipalities Planning Code (Act 247 as amended) or any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decisions or findings are final, the Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the decision of the Hearing Officer.

Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall have been deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time.

When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as herein above provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in paragraph (1) of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

12. Copy of Final Decision or Findings: A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date.

To all other persons who have filed their name and address with the Board not later than the last day of the meeting, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

§1003 Mediation Option

1. Parties to Proceedings: Parties to proceedings authorized in this Article and Article 11 Appeals to Court may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediation party.
2. Supplemental Role of Mediation: Mediation shall supplement, not replace, those procedures in this Article and Article 11 Appeals to Court once they have been formally initiated. Nothing in this Section shall be interpreted as expanding or limiting municipal police powers or as modifying any principles of substantive law.
3. Rules for Mediation: Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. The Borough shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:
 - a. Funding mediation.
 - b. Selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning and subdivision procedures and demonstrated skills in mediation.
 - c. Completing mediation, including time limits for such completion.
 - d. Suspending time limits otherwise authorized in the Pennsylvania Municipalities Planning Code (Act 247 as amended), provided there is written consent by the mediating parties, and by an applicant or municipal decision-making body if either is not a party to the mediation.
 - e. Identifying all parties and affording them the opportunity to participate.
 - f. Subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
 - g. Assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in other sections of this Ordinance.

4. Admissibility as Evidence: No offers or statements in the mediating sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

§1004 Jurisdiction:

1. Jurisdiction of Zoning Hearing Board: The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- a. Substantive Challenges to Validity of Land Use Ordinances: Substantive challenges to the validity of any land use ordinance, except those brought before the Borough Council pursuant to Section §1206, Procedures for Landowner Curative Amendments, and Subsection 1012.1 (b).
 - b. Challenges to Validity of Land Use Ordinances on Procedures: Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
 - c. Appeals from the Zoning Officer: Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure, or lot.
 - d. Appeals from Determinations on Flood Plain Matters: Appeals from a determination by the Borough Engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.
 - e. Applications for Variances: Applications for variances from the terms of the Zoning Ordinance and Flood Hazard Ordinance or such provisions within a land use ordinance, pursuant to Section §1006, below.
 - f. Applications for Special Exception Uses: Applications for Special Exception Uses under the Zoning Ordinance or Flood Plain or Flood Hazard Ordinance or such provisions within a land use ordinance, pursuant to Section §1007, below.
 - g. Appeals from Determinations on Provisions Involving Transfers of Development Rights or Performance Density: Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions in the Zoning Ordinance presently or by future amendment.
 - h. Appeals from Zoning Officer on Procedure to Obtain Preliminary Opinion: Appeals from the Zoning Officer's determination under Section §1013, Procedure to Obtain Preliminary Opinion.

provisions of the Zoning Ordinance presently or by future amendment.

Where such determination relates only to development not involving a Subdivision and Land Development or Planned Residential Development application, the appeal from such determination of the Zoning Officer or the Borough Engineer shall be to the Zoning Hearing Board pursuant to Subsection 1004.1 (i), above.

Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this paragraph shall be to the Planning Commission, and all appeals from the decision of the Planning Commission shall be to court.

- g. Applications for Special Encroachment Permit: Applications for a Special Encroachment Permit pursuant to the Pennsylvania Municipalities Planning Code (Act 247 as amended), Article IV, Official Map, Section §405 and applications for a permit pursuant to Section §406, provided the Borough has adopted an Official Map.

§1005 Applicability of Judicial Remedies

Nothing contained in this Article shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relation to action in mandamus).

§1006 Zoning Hearing Board's Functions: Variances:

1. Hear Requests for and Grant Variances: The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer.

The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

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

- c. That such unnecessary hardship has not been created by the appellant.
 - d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.
2. Attach Reasonable Conditions and Safeguards: In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

§1007 Zoning Hearing Board's Functions: Special Exception Uses

Where the Borough Council, in the Zoning Ordinance, has stated Special Exception Uses to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such Special Exception Uses in accordance with such standards and criteria.

1. Attach Reasonable Conditions and Safeguards: In granting a Special Exception use, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

§1008 Governing Body's Functions: Conditional Uses

Where the Borough Council, in the Zoning Ordinance, has stated Conditional Uses to be granted or denied by the Borough Council pursuant to express Standards and criteria, the Borough Council shall hold hearings on and decide requests for such Conditional Uses in accordance with such standards and criteria.

1. Attach Reasonable Conditions and Safeguards: In granting a Conditional Use, the Borough Council may attach such reasonable conditions and safeguards, in addition to those expressed in the Zoning Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code (Act 247 as amended) and this Zoning Ordinance.

§1009 Parties Appellant Before the Board

Appeals under the jurisdiction of the Zoning Hearing Board by Subsection 1004.1 (a), (b), (c), (d), (g), (h), and (i) may be filed with the Board in writing by the landowner affected, any officer or agency of the Borough, or any person aggrieved. Requests for a variance under Section §1006 and for Special Exception Uses under Section §1007 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

§1010 Time Limitations

1. Time Limitations for Filing by Any Person

- a. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.
- b. The failure of anyone, other than the landowner, to appeal from an adverse decision on a tentative plan pursuant to Zoning Ordinance provisions for Planned Residential Development "findings" or from an adverse decision by the Zoning officer on a challenge to the validity of an ordinance or map pursuant to Section §1013, Procedure to Obtain Preliminary Opinion, shall preclude an appeal from the final approval except in the case where the final submission substantially deviates from the approved tentative approval.

2. Time Limitations for Filing by Landowners: All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

§1011 Stay of Proceedings

1. Conditions for Stay of Proceedings During Appeal

- a. **Exceptions to Stay of Land Development Proceedings:** Upon filing of any proceeding referred to in Section §1009 and during its pendency before the Board, all land development pursuant to the challenged ordinance, order or approval of the Zoning Officer or any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction for zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body.
- b. **Developer's Petition for Appellant to Post Bond:** When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

2. **Hearing to Determine if Filing or Appeal is Frivolous:** After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
3. **Petition Granting Bond if Petition is Frivolous:** The question whether or not such petition should be granted and the amount or the bond shall be within the sound discretion of the court. An order directing the responding party to post a bond shall be interlocutory.
4. **Appeal by Respondent to Petition for Granting Bond:** If an appeal is taken by a respondent to the petition for a bond from an order or the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

§1012 Validity Of Ordinance: Substantive Questions

1. Submission or Challenge by Landowner: A landowner, who, on substantive grounds, desires to challenge the validity of an ordinance or map or any provisions thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:
 - a. To the Zoning Hearing Board under Subsection 1004.1 Jurisdiction of Zoning Hearing Board; or
 - b. To the Borough Council under Subsection 1004.2(d), Jurisdiction of the Borough Council: Applications for Curative Amendment, together with a request for a curative amendment under Section §1206 Procedures for Landowner Curative Amendments.
2. Submission of Challenge by Persons Aggrieved: Persons aggrieved by a use or development permitted on the land of another by an ordinance or map or any provisions thereof, who desires to challenge its validity on substantive grounds shall submit their challenge to the Zoning Hearing Board for a decision thereon under Section §1004.1(a.), Jurisdiction of Zoning Hearing Board, Substantive Challenges to Validity of Land Use Ordinances.
3. Rules Governing Submission of Challenges: The submission referred to in paragraphs (1) and (2), above, shall be governed by the following:
 - a. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reason for the challenge.

Where the landowner desires to challenge the validity of such ordinance and elects to proceed by curative amendment under Section §1206, Procedures for Landowner Curative Amendments, his application to the Borough Council shall contain, in addition to the requirements of the written request hereof the plans and explanatory materials describing the use or development proposed by the landowner in lieu of the use or development permitted by the challenged ordinance or map.

Such plans or other materials shall not be required to meet the standards required for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed use or development and a sufficient basis for evaluating the challenged ordinance or map in light thereof.

Nothing herein contained shall preclude the landowner from first seeking a final approval before submitting his challenge.
 - b. If the submission is made by the landowner to the Borough Board or Supervisors under paragraph (1) (b), above, the request also shall be accompanied by an amendment or amendments to the ordinance proposed by the landowner to cure the alleged defects therein.

- c. If the submission is made to the Borough Council, the Borough Solicitor shall represent and advise it at the hearing or hearings referred to in Subsection 1004.2 (d) Jurisdiction of the Borough Council, Applications for Curative Amendment.
- d. The Borough Council may retain an independent attorney to present the defense of the challenged ordinance or map on its behalf and to present the witnesses on its behalf
- e. Based upon the testimony presented at the hearing or hearings, the Borough Council or the Zoning Hearing Board, as the case may be, shall determine whether the challenged ordinance or map is defective, as alleged by the landowner.

If a challenge heard by the Borough Council is found to have merit, the Borough Council shall proceed as provided in Section §1206.

Procedures for Landowner Curative Amendments

If a challenge heard by the Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged ordinance which will cure the defects found.

In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:

- (i) The impact of the proposal upon roads, sewer facilities, water supplies, school and other public service facilities;
 - (ii) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the ordinance or map;
 - (iii) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
 - (iv) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
 - (v) The impact of the proposal on the preservation of agricultural and other land uses which are essential to public health and welfare.
- f. The Borough Council or the Zoning Hearing Board, as the case may be, shall render its decision within forty-five (45) days after the conclusion of the last hearing.

Within the two-year period, no subsequent change or amendment in zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge.

Upon the filing of the preliminary or tentative plan, the provisions of Section §508 (4) of the Pennsylvania Municipalities Planning Code (Act 247 as amended) shall apply.

- b. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any Subdivision or Land Development Ordinance, the developer shall have one (1) year within which to file for a zoning permit.

Within the one-year period, no subsequent change or amendment to the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge.

During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

§1013 Procedure to Obtain Preliminary Opinion

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under Section §1010 Time Limitations by the following procedure:

1. Submission of Plans and Other Materials: The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for a preliminary opinion as to their compliance with the applicable ordinance and maps.

Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a zoning permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

2. Public Notice of Compliance: If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough.

Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public.

The favorable preliminary approval under Section §1010 Time Limitations and the time therein specified for commencing a proceeding with the Zoning Hearing Board shall run from the time when the second notice thereof has been published.

ARTICLE 11

APPEALS TO COURT

- §1101** **Land Use Appeals**
- §1102** **Jurisdiction and Venue on Appeal; Time for Appeal**
- §1103** **Appeals to Court; Commencement; Stay of Proceedings**
- §1104** **Intervention**
- §1105** **Hearing and Argument of Land Use Appeal**
- §1106** **Judicial Relief**

ARTICLE 11 - APPEALS TO COURT**§1101 Land Use Appeals**

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

§1102 Jurisdiction and Venue on Appeal Time for Appeal

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

§1103 Appeals to Court; Commencement Stay of Proceedings

1. **Land Use Appeal Notice:** Land use appeals shall be entered as of course by the Clerk of Judicial Records upon the filing of a land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.
2. **Writ of Certiorari:** Upon filing of a land use appeal, the clerk of judicial records shall forthwith, as of course, send to the Borough Council, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said Borough Council, board or agency, within twenty (20) days after receipt thereof, to certify to the court its entire record in the matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the Borough Council, board or agency at the time it received the writ of certiorari.
3. **Appellant Other than Landowner:** If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven (7) days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the Borough and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

4. Stay of Proceedings

- a. Petition for Stay by Appellants: The filing of an appeal in court under this Section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay.
- b. Landowner's Petition for Appellant to Post Bond: If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal.
- c. Hearing to Determine if Filing of Appeal is Frivolous: After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- d. Petition for Granting Bond if Petition is Frivolous: The question of the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the respondent to the petition for posting a bond to post a bond shall be interlocutory.
- e. Appeal by Respondent to Petition for Granting Bond: If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petitioner and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

§1104 Intervention

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

§1105 Hearing and Argument of Land Use Appeal

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

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

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

§1106 Judicial Relief

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

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

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

ARTICLE 12

AMENDMENTS

- §1201** **Purpose**
- §1202** **Citizen Request for Amendment to Text or Map**
- §1203** **Planning Commission Request for Amendment to Text or Map**
- §1204** **Procedures of the Borough Council**
- §1205** **Procedures of the Planning Commission**
- §1206** **Procedures for Landowner Curative Amendments**
- §1207** **Procedures Upon Municipal Curative Amendments**
- §1208** **Public Notice and Hearings**
- §1209** **Publication, Advertisement and Availability of Ordinance**

ARTICLE 12 - AMENDMENTS

§1201 Purpose

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

§1202 Citizen Request for Amendment to Text or Map

Requests for changes in the Zoning Ordinance may be made by owners of land in the Borough or by their authorized agents.

1. Applications: All applications for amendments shall be made in writing by the owner or authorized agent, and shall be filed with the Zoning Officer on forms prescribed by him. Applications shall contain all information necessary to assure the fullest practicable presentation of facts for the record, and shall contain the following:
 - a. The applicant's name and address and that of his representative, and the interest of every person represented in the application;
 - b. The verification by at least one of the owners of property to be reclassified, if this be the nature of the request, attesting to the truth and correctness of facts and information presented with the application;
 - c. A plan showing the extent of the area to be rezoned, if this be the nature of the request, and showing the streets bounding and intersecting the area, and the use and zone classification of abutting districts; and
 - d. A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relies as reasons for supporting the proposed rezoning.

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 Borough Council.

§1203 Planning Commission Requests for Amendment to Text or Map

Amendments to the Zoning Ordinance text or map may be initiated by the Planning Commission by motion recommending adoption according to procedures enumerated in Section §1205, below, and be submitted to the Borough Council, who shall follow the procedures enumerated in Section §1204, below.

§1204 Procedures of the Borough Council

The Borough Council shall follow the procedures below for amending the Zoning Ordinance:

1. **Preparation of Amendments:** The Borough Council may request the Planning Commission to prepare amendments to the Zoning Ordinance using the same procedure as set forth in the Pennsylvania Municipalities Planning Code (Act 247 as amended) for the preparation of the Zoning Ordinance, itself, as described in Section §1205, below.
2. **Referral to the Planning Commission:** In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the public hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations. However, the Borough Council shall not be bound by the recommendations of the Planning Commission.
3. **Referral to County Planning Commission:** The Borough Council shall submit the proposed amendments to the County Planning Commission for its review and recommendations thirty (30) days prior to the public hearing on the amendment by the Borough Council. However, the Borough Council shall not be bound by the recommendations of the County Planning Commission.
4. **Public Hearing:** Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice, which notice shall be given in the manner prescribed in Section §1208, below.
5. **Revision of Amendment:** If, after the public hearing held upon the amendment, the proposed amendment is changed substantially or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing pursuant to public notice, which notice shall be given in the manner prescribed in Section §1208, below, before proceeding to vote on the amendment.
6. **Mediation Option:** The Borough may offer a mediation option as an aid in completing proceedings authorized by this Section. In exercising such an option, the Borough and mediation parties shall meet the stipulations and follow the procedures set forth in Article 10, Section §1003.
7. **Voting on Amendment:** The Borough Council shall consider the recommendations of the Borough Planning Commission, the County Planning Commission and testimony presented at the public hearing before voting on the proposed amendment at a public meeting.
8. **Notice of Decision:** The applicant and others requesting notice of the decision of the Borough Council shall receive such notice through the Zoning Officer.

9. Filing Copy of Amendment with County: Within thirty (30) days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the County Planning Commission.

§1205 Procedures of the Planning Commission

The Planning Commission shall follow the procedures set forth below for amending the Zoning Ordinance:

1. Preparation of Amendments: At the request of the Borough Council or on its own initiative the Planning Commission:
 - a. Shall prepare the text and map of the proposed zoning amendments as well as make all necessary studies and surveys preliminary thereto;
 - b. May hold a public meeting pursuant to public notice and may hold additional public meetings upon such notice as it shall determine to be advisable; and
 - c. Shall present to the Borough Council the proposed zoning amendment, together with recommendations and explanatory materials, upon the completion of its work.
2. Review Amendments: In the case of an amendment other than that prepared by the Planning Commission, the Commission shall review each such amendment submitted to it by the Borough Council. It shall consider whether or not such proposed amendment reflects, in the view of the Commission, the policy goals of the Borough as found in the statement of Community Development Objectives and the Comprehensive Plan upon which the Zoning Ordinance is based. The Commission shall submit its recommendations on the amendment to the Borough Council prior to the public hearing scheduled on the amendment by the Borough Council.

§1206 Procedures for Landowner Curative Amendments

A landowner shall follow the procedures below for challenging the validity of the Zoning Ordinance text or map:

1. Submission of Curative Amendment and Request for Hearing: A landowner who desires to challenge on substantive grounds the validity of the Ordinance or Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided for in Article 10 Section §1012 Validity of Ordinance: Substantive Questions.
2. Hearing Schedule: The Borough Council shall commence a public hearing thereon within sixty (60) days of the request as provided in Article 10 Section §1012.
3. Referral to the Planning Commission: The curative amendment and challenge shall be referred to the Planning Commission as provided for in Subsection 1205.2, above.

4. Referral to County Planning Commission: The curative amendment and challenge shall be referred to the County Planning Commission as provided for in Subsection 1204.3, above.
5. Notice of Public Hearing: Notice of the public hearing on the curative amendment shall be given as provided for in Section §1209 and Section §1012.
6. Hearing Procedures: The public hearing shall be conducted in accordance with Sections 1002 Hearings and all references therein to the Zoning Hearing Board shall, for the purposes of curative amendments, be references to the Borough Council.
7. Consideration for Evaluating Curative Amendments: The Borough Council shall consider the curative amendment, plans and explanatory material submitted by the landowner and shall also consider:
 - a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or Map;
 - c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
 - d. The impact of the proposed use on the site's soils, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resource to development and any adverse environmental impacts; and
 - e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
8. Rejection of Curative Amendment: If the Borough Council does not accept a landowner's curative amendment brought in accordance with this Section and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and Map, but only for those provisions which specifically relate to the landowners curative amendment and challenge.
9. Approval of Curative Amendment or Alternative: If the Borough Council determines that the validity challenge has merit, it may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defect.

§1207 Procedures Upon Municipal Curative Amendments

If the Borough Council determines that its Zoning Ordinance or any portion thereof is substantially invalid, it shall take the following actions:

1. **Declaration of Invalidity and Proposal for Curative Amendment:** The Borough Council, by formal action, shall declare its Zoning Ordinance or portions thereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal the Borough Council shall:
 - a. By resolution make specific findings setting forth the declared invalidity of the Zoning Ordinance which may include:
 - i) References to specific uses which are either not permitted, or not permitted in sufficient quantity,
 - ii) Reference to a class of use or uses which require revision, or
 - iii) Reference to the entire Ordinance which requires revisions.
 - b. Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.
2. **Time Limit for Enactment of Curative Amendment:** Within one hundred eighty (180) days from the date of the declaration and proposal, the Borough Council shall enact a curative amendment to validate, or reaffirm the validity of, its Zoning Ordinance pursuant to the provisions required by Section §1204, in order to cure the declared invalidity of the Zoning Ordinance.
3. **Similar Landowner's Curative Amendment Need Not be Considered:** Upon the initiation of the procedures, as set forth in Subsection 1207.1(a) above, the Borough Council shall not be required to entertain or consider any landowners curative amendment under Section §1206, nor shall the Zoning Hearing Board be required to give a report requested under Article 10, Subsection §1004.1 or Section §1012 subsequent to the declaration and proposal if the municipal curative amendment is based upon the grounds identical to or substantially similar to those specified in the resolution required by Subsection §1207.1 (a).

Furthermore, upon completion of the procedures as set forth in Subsections §1207.1 and §1207.2, above, no rights to a cure pursuant to the provisions of Section §1206 and Section §1012 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this section.

4. Frequency of Use of Municipal Curative Amendment: The Borough Council having utilized the procedures as set forth in Subsections §1207.1 and §1207.2, above, may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or a reaffirmation of the validity of its Zoning Ordinance, pursuant to Subsection §1207.2; Provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Borough by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Borough may utilize the provisions of this Section to prepare a curative amendment to its Ordinance to fulfill said duty or obligation.

§1208 Public Notice and Hearing

Before voting on the enactment of an amendment to the Zoning Ordinance, the Borough Council shall hold a public hearing for the purpose of informing the public and obtaining public comment on the proposed amendment. The public hearing shall be held pursuant to public notice as follows:

1. Description of Amendment: Public notices of a proposed Zoning Ordinance amendment shall include either the full text thereof or the title and a brief summary prepared by the Borough Solicitor setting forth all the provisions in reasonable detail. If the full text is not included:
 - a. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published;
 - b. A copy thereof shall be filed in the County Law Library; and
 - c. A public notice shall include a reference to the place within the Borough where copies of the proposed Zoning Ordinance amendment may be examined without charge or obtained for a charge not greater than the cost thereof.
2. Public Notice: A public notice of a proposed Zoning Ordinance amendment shall be published once each week for two (2) successive weeks, in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.
3. Posting of Property: In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough along the perimeter of the tract not more than every one hundred (100) feet apart and at least one (1) week prior to the date of the hearing to notify potentially interested citizens.

§1209 Publication, Advertisement and Availability of Ordinances:

1. **Notice of Proposed Enactment:** Proposed Zoning Ordinance amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to the place within the Borough where copies of the proposed Zoning Ordinance amendment may be examined without charge or obtained for a charge not greater than the cost thereof.

The Borough Council shall publish the proposed Zoning Ordinance amendment once in a newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage.

Publication of the proposed Zoning Ordinance amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor, and setting forth all the provisions in reasonable detail. If the full text is not included:

- a. A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published; and
 - b. An attested copy of the proposed Zoning Ordinance amendment shall be filed in the County Law Library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.
2. **Notice of Revision of Amendment:** In the event substantial amendments are made in the proposed Zoning Ordinance amendment, before voting upon enactment the Borough Council shall, at least ten (10) days prior to enactment, readvertise, in one newspaper of general circulation in the Borough, a brief summary of the revised amendment setting forth all the provisions in reasonable detail together with a summary of the amendment.
 3. **Incorporation into Official Ordinance Books:** This Zoning Ordinance and any amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

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SECTION 704 GENERAL STANDARDS

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

- A. The proposed use shall not jeopardize the community development objectives of the Comprehensive Plan or this Ordinance nor shall it adversely affect the health, safety and welfare of the public and/or the environment.
- B. Public services and facilities such as streets, sewage disposal, water, police and fire protection shall be adequate for the proposed use.
- C. Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion, and for providing for the safety and convenience of pedestrian and vehicular traffic.
- D. The proposed use shall be compatible with the adjoining development and the character of the zoning district where it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof with the adjoining development and the character of the zoning district.
- E. The proposed use shall not substantially impair the value of other property in the neighborhood where it is proposed to be located.
- F. The proposed use shall not be more objectionable in its operation in terms of noise, fumes, odors, vibration or lighting that would be the operations of any permitted use in the district.
- G. The submission of an Environmental Impact Statement in accordance with Section 706 of this Ordinance, and all subsections thereunder.
- H. The submission of any reports and/or studies within the context of the definition "Impact Analysis" as contained within Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Board of Supervisors including but not limited to the interest of protecting the health, safety and welfare of the public and environmental features and characteristics of the site and/or surrounding areas. In their review of an Impact Analysis, the Board of Supervisors shall have the discretion to retain the services of firms or agencies, which have expertise within the subject or subjects addressed therein.

SECTION 804 GENERAL STANDARDS

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

- A. The proposed use shall not jeopardize Community Development Objectives, and is generally consistent with those as set forth in Article 1 of this Ordinance.
- B. Public services and facilities such as streets, sewers, water, police, and fire protection shall be adequate for the proposed use and/or development.
- C. Existing streets and proposed access to the site shall be adequate regarding the width and pavement for emergency service vehicles.
- D. The proposed use shall not adversely affect the public health, safety and welfare due to changes in traffic conditions. Existing streets and proposed access to the site shall be adequate to accommodate anticipated traffic volumes in a manner that avoids undue traffic congestion, and provides for the safety and convenience of pedestrian and vehicular traffic. The proposed use shall not result in unsafe or dangerous traffic conditions .
- E. The proposed use shall be compatible with adjoining development and the character of the zoning district and neighborhood in which it is proposed to be located. The nature and intensity of the operation of the proposed use shall be considered regarding its compatibility or lack thereof.
- F. The proposed use shall not adversely affect neighborhood property values and aesthetic characteristics in the neighborhood where it is proposed to be located.
- G. The proposed use shall not adversely affect the public health, safety and welfare as related to drainage, air quality, noise and natural features of the land. The proposed use and/or development shall not be more objectionable in its operations in terms of noise, fumes, odors, vibration, or lights than would be the operations of any permitted use in the subject Zoning District.
- H. The submission of any reports and/or studies, required by the Borough Council within the context of the definition "Impact Analysis" as contained defined in Article 2 of this Ordinance, which conclusively demonstrates that the proposed use or development will not have a negative impact upon the particular subject or subjects as defined by the Borough Council, in requiring such reports and/or studies.
- I. The proposed use and/or development shall not be injurious to the public interest.

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